

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

In re: Certification Application of)
BRADLEY JAY MIEDEMA)
)
DSE 2019-09
ORDER DENYING
TEACHING CERTIFICATE

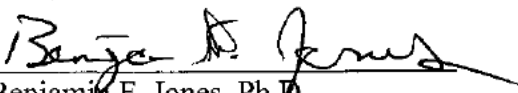
TO: Bradley Jay Miedema
[REDACTED]

In accordance with and pursuant to the authority granted to the Secretary by SDCL §13-42-4, 13-42-7, 13-42-9, and ARSD article 24:18, and after review of the record herein, the Secretary issues the following ORDER:

1. The Secretary accepts the allegations of the Notice of Intent to Deny Teaching Certificate as true and enters the attached Findings of Fact and Conclusions of Law.
2. The application of Bradley Jay Miedema for a teaching certificate is DENIED permanently.
3. 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.
4. 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 27th of January, 2020.


Benjamin F. Jones, Ph.D.
Secretary
Department of Education
800 Governors Drive
Pierre, SD 57501

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

In re: certification application of)
BRADLEY JAY MIEDEMA) DSE 2019-09
) NOTICE OF INTENT TO DENY
) TEACHING CERTIFICATE

TO: Bradley Jay Miedema


Carla Leingang, Administrator of the Office of Certification of the South Dakota Department of Education (Department), hereby provides notice of intent to deny the certification application of Bradley Jay Miedema (Miedema) submitted to the Department.

You may request a hearing on this matter **within 30 days after service of this notice.**

This request must be in writing and include a description of the action being appealed. Requests must be mailed to:

Division of the Secretary ATTN:
Ferne Haddock
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

If you fail to request a hearing within 30 days after service of this notice, then the allegations of this Notice of Intent to Deny the Application for Teaching Certificate will be accepted as true by the Secretary of the Department of Education, and your application for a teaching certificate will be denied. An Order of Denial and associated Findings of Fact and Conclusions of Law by the Secretary are public documents pursuant to SDCL §§ 1-27, 1-26-2, and 13-42-17.1. The Record of denial may be served on the school at which you were last employed or entered into an employment contract pursuant to ARSD24:18:02:05. Record of denial will also be placed in your permanent certification file

and provided to the National Association of State Directors of Teacher Education and Certification (NASDTEC) clearinghouse.

The reasons for this Notice are as follows:

1. Miedema filed an Application for an Out of State Initial Certification which was activated on August 5, 2019. On August 7, 2019, the Department received a letter from Miedema providing an explanation regarding his release from his previous employment with Drott College, now known as Dordt University in Sioux Center, IA in the fall of 2018. Miedema admitted in this letter that he used a *“college-owned laptop to access pornography and inappropriate material, culminating in electronic communication with a college student”*. He further admitted that he had *“other extra-marital activity with a consenting adult outside of the college community”*. See attached copy of the letter labeled Exhibit 1. He stated that these admissions led to the college terminating Miedema’s employment for breach of contract.

2. Miedema answered ‘yes’ to Question 7 of the Applicant Conduct Review Statement portion of the application, which asked:

“Have you ever left employment, been discharged, terminated or resigned to avoid dismissal or disciplinary action?”

3. Miedema’s answer to Question 7. was as follows:

“I was released from my previous teaching position for breach of contract related to accessing pornography on a school-owned laptop computer.”

4. Due to the "yes" answer on Miedema's application, the Department investigated Miedema’s application. Grounds for the denial or non-renewal of a teacher's certificate are provided in SDCL Chapter 13-42.

5. The Secretary of the Department of Education has the power and authority to refuse to issue or renew a certificate for violation of the code of professional ethics governing teachers. SDCL §§ 13-42-7 and 13-42-9 (2).

6. The Professional Teachers Practices and Standards Commission for South Dakota has the authority and obligation to promulgate rules for a code of professional ethics for the teaching profession in South Dakota. SDCL § 13-43-25. This code of professional ethics is found in ARSD Chapter 24:08:03.

7. The Code of Ethics requires a teacher to "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." ARSD 24:08:03:02(8). Miedema's actions admitted to by his letter to the Department that he accessed pornography and inappropriate material online, culminating in electronic communication with a college student, constitutes a violation of this rule.

8. The Code of Ethics requires a teacher to "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." ARSD 24:08:03:02(8). Miedema's actions admitted to by his letter to the Department that he accessed pornography and inappropriate material online, culminating in electronic communication with a college student is constitutes a violation of the Code of Ethics.

9. The Code of Ethics requires an employee to "not misuse or abuse school equipment or property". ARSD 24:08:03:02(9). Miedema, in his letter to the Department, also admitted that he used the college laptop to access the pornography and inappropriate material that culminated in an electronic communication with a college student. This action is a violation of the Code of Ethics

regarding misuse or abuse of school equipment or property.

10. In addition to the prior authorities, SDCL § 13-42-9 (5) gives the Secretary of Education the power and authority to refuse to issue or renew a certificate for moral turpitude. Moral turpitude is defined by Black's Law Dictionary as "Conduct that is contrary to justice, honesty, or morality". Morality is defined by Black's Law Dictionary as "the character of being virtuous, especially in sexual matters. Miedema's actions, admitted to by himself in his letter to the Department indicating that he accessed pornography and inappropriate material online, culminating in electronic communication with a college student is conduct identified as a reason to refuse to issue a certificate.

THEREFORE, notice is hereby provided of the intent to deny Miedema's application for a teaching certificate pursuant to SDCL §§ 13-42-9 (2) and (5) and ARSD 24:08:03:02(8) and 24:08:03:02(9). Based upon the nature of the violations contained in this Notice of Intent to Deny, the Office of Certification will recommend that Miedema's application be denied and that Miedema be prohibited from reapplication for a certificate in the state of South Dakota for a minimum of three (3) years.

Dated this 26th day of 2019.



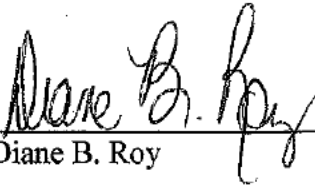
Carla Leingang
Administrator for the Office of Certification
Department of Education
800 Governors Drive
Pierre, SD 57501

CERTIFICATE OF SERVICE

Diane B Roy, General Counsel for the South Dakota Department of Education, hereby certifies that on the 26th day of August, 2019, the above and foregoing Notice of Intent to Deny Teaching Certificate was served on the following at his last known address via certified mail, US mail, and email:

Bradley Jay Miedema





Diane B. Roy

RECEIVED

AUG 07 2019

August 5, 2019

Ferne Haddock, Legal Assistant
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501-2284

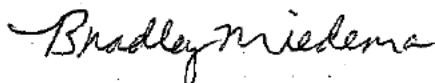
Dear Ferne,

I would like to provide an explanation for why I was released from my previous teaching position, as indicated in one of the questions listed under the 'Conduct Review' section of the online application for Educator Certification in South Dakota. This happened at Dordt College (now Dordt University), located in Sioux Center, Iowa, in the fall of 2018.

On October 8, I reported myself to the college president for having used a college-owned laptop computer to access pornography and inappropriate material online, culminating in electronic communication with a college student. This anonymous communication gradually revealed our identities, prompting my decision to meet with the college president. I was placed on leave while the college looked into the matter, and I cooperated fully with all aspects of the process. No charges were filed because nothing criminal or illegal transpired. Although no physical contact occurred with the student, I did admit to the college administration that other extra-marital activity had taken place previously with a consenting adult outside of the college community. As an institution of Christian higher education, that was a direct breach of contract and against Dordt's expectations for faculty and staff members alike. The college terminated my employment on October 22.

If you have any questions or need additional information, please don't hesitate to be in touch with me by e-mail ([REDACTED]) or by phone ([REDACTED]). I greatly appreciate your consideration, and trust that my application for Educator Certification in South Dakota will be able to proceed.

Sincerely,



Bradley Miedema



JAN 23 2020

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF HUGHES)

DIVISION OF THE SECRETARY

S.D. DEPT. OF EDUCATION

<p>In re: Certification Application of BRADLEY JAY MIEDEMA</p>	<p>DSE 2019-09 FINDINGS OF FACT AND CONCLUSIONS OF LAW</p>
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Bradley Jay Miedema (Miedema) made a timely request for hearing in regard to a written "Notice of Intent to Deny Teaching Certificate" which notice was dated August 26, 2019.

A hearing on Miedema's timely request was held before Robert B. Anderson, duly appointed independent hearing examiner, on November 13, 2019, at 9:00 o'clock a.m. CST in Conference Room 1, MacKay Building, First Floor, 800 Governor's Drive, in Pierre, South Dakota. The hearing was a private hearing and was held pursuant to written Notice of Hearing dated October 4, 2019.

The South Dakota Department of Education appeared through Diane B. Roy, General Counsel for the South Dakota Department of Education, and Carla Leingang, Administrator for the Office of Educator Certification of the Department of Education, State of South Dakota. Bradley Jay Miedema appeared personally and without counsel. The hearing was held before the duly appointed independent hearing examiner and a verbatim record was made. After hearing the arguments of counsel and the parties, and all the testimony and having reviewed the exhibits and other evidence offered and received into evidence, as well as a written transcript of the November 13, 2019 hearing, as independent hearing examiner I now make and enter the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Miedema was born on October 22, 1970.
2. At the time of the hearing, Miedema held a Master Educator license for K-8 Music and 5-12 Music issued by the State of Iowa, with issue date of November 30, 2018, and expiration date of October 31, 2024.
3. Miedema has an undergraduate degree in music education, an M.M. degree in instrumental conducting, and a PhD degree in instrumental conducting.
4. As of the date of the hearing, Miedema had never been certified in the State of South Dakota at any time by the South Dakota Department of Education.
5. Miedema applied for an out-of-state initial application to be certified as a teacher in the State of South Dakota. The application had an activation date of August 5, 2019.

6. At the time of the hearing, Miedema was employed at the Frederick Area School District as a K-12, band and chorus instructor. He was first employed at Frederick beginning in August 2019. He was initially employed under a teaching contract and paid accordingly but later, the method of payment changed, and he was paid as a substitute when it was discovered that he was not and would not soon be certified in the State of South Dakota.

7. At the time of his application in August 2019, Miedema listed his residential address as Sioux Center, Iowa.

8. South Dakota has adopted a Code of Ethics for Teachers who are certified in South Dakota. *See* SDCL 13-43-25 and ARSD 24:08:03.

9. Teachers certified in South Dakota are expected and required to follow the Code of Ethics for Teachers.

10. Teachers certified in South Dakota are expected to act as role models for students.

11. Teachers who are certified in other states must file an application to become certified in South Dakota. That application includes a questionnaire, which, among other things, asks information concerning the applicant's character and fitness.

12. If an applicant answers "yes" to a character and fitness question on the application, it triggers a character and fitness review by the Department of Education character and fitness review team.

13. Hearing exhibit 2 is a summary of the applicant summary completed in regard to the application submitted by Miedema.

14. Question 7 on the application completed by Miedema asked: "Have you ever left employment, been discharged, terminated, or resigned to avoid dismissal or disciplinary action?". Miedema truthfully answered yes to question 7.

15. To further explain his answer to question 7, Miedema stated on his application: "I was released from my previous teaching position for breach of contract related to accessing pornography on a school-owned laptop computer". This answer triggered a character and fitness review by the character and fitness review team.

16. After conducting their investigation in regard to Miedema, the character and fitness review team met and determined that the facts relating to Miedema's answer to question 7 on the application were extreme enough, so they felt that his application for a teaching certificate in South Dakota should be denied.

17. Among other things, the investigation conducted by the team found numerous articles on media sites on the internet discussing Miedema's termination at Dordt University. A number of those articles were offered and admitted as hearing exhibits numbers 3, 4, and 5.

18. Miedema's prior termination from employment which led to his answer on question 7 on the application was as a music instructor at Dordt University in Sioux Center, Iowa.

19. After completing their investigation, the character and fitness review team's decision to deny Miedema's application was strengthened based on what they discovered.

20. The Department of Education determined that Miedema had violated the South Dakota Code of Ethics for Teachers. They were correct. Miedema did violate the Code of Ethics in that he failed to exemplify high moral standards, he engaged in activities which constituted moral turpitude, gross immorality, and although he had no direct sexual contact with any student, he initiated communications that were prohibited and whether or not they ultimately led to physical contact with a student, the communications apparently had some impact on one or two students regardless..

21. The Department of Education determined that Miedema further violated the Code of Ethics by misusing school property. They were correct. Miedema did misuse school property in that he utilized a laptop computer belonging to his employer Dordt University, in an improper and prohibited manner, and based on his own admission contrary to his contract with his employer.

22. In exhibit 1 to hearing exhibit 1 (a letter dated August 5, 2019, written by Miedema to the Department of Education), Miedema admitted that he had used a college-owned laptop computer to access pornography and inappropriate material online culminating in electronic communication with a college student.

23. In exhibit 1 to hearing exhibit 1, Miedema further admitted that he self-reported his activities to the college President when the anonymous electronic communication gradually revealed his identity and the identity of the college student.

24. One interpretation of Miedema's letter, exhibit 1 to hearing exhibit 1, reflects that he may not have self-reported this activity to the college President absent the fact that his identity and the identity of the college student with whom he was communicating had been or would be revealed. The hearing officer makes no determination one way or another as to what Mr. Miedema's intent was in self-reporting his activity, although it is clear that he chose to do so.

25. In regard to the character and fitness of an applicant for a South Dakota teacher's certificate, the South Dakota Code of Ethics applies regardless of where and when acts violative of that code were committed.

26. The investigation by the Department of Education revealed no other similar history on Miedema's part.

27. Miedema has no criminal record.

28. Other than his termination at Dordt, Miedema has no other disciplinary history as a teacher.

29. The reasons given for Miedema's termination in the various media reports can generally be described as moral dereliction and professional irresponsibility regarding inappropriate solicitation and illicit conduct with students. Although Miedema does not disagree with the statements made in the various media releases, he had no input on the preparation of those materials and believes that they may include or omit information necessary to gain a clear understanding of his conduct.

30. A Title IX investigation was conducted in regard to Miedema's termination at Dordt and his related activities.

31. The electronic communication referred to in exhibit 1 to hearing exhibit 1 was electronic communications in regard to a Craig's List ad. Those communications eventually involved a student and Miedema.

32. Subsequent to his termination, Miedema and Dordt signed some type of termination or severance agreement which, among other things, provided some financial payment to Miedema, prohibited him from being on campus for a period of time, assisted him in obtaining counseling, and possibly other things.

33. Although Dordt paid some counseling expenses and assisted Miedema in finding counseling services, Miedema continues to participate in counseling at the present time at his own expense.

34. During the week, Miedema lives in a basement apartment located in the home of the Superintendent of the Frederick Area School District.

35. The administration at the Frederick Area School District has been impressed by Miedema's performance since his employment. No one at the Frederick Area School District, including parents or other staff, have expressed any concern about Miedema's interaction with students.

36. When Miedema was interviewed for the Frederick job he now holds, members of the administration felt he was upfront and honest with them concerning his history.

37. However, the Frederick District Superintendent believed Miedema to be certified at the time he applied for the Frederick job because he was certified previously in Iowa. He did know there was a process to go through in South Dakota.

38. When the Frederick District School Board took the first action to hire Miedema, Miedema had not yet applied for certification in South Dakota, and he was presented to the Board as a certified teacher. This was not true. It is true that Mr. Miedema opened an account with the South Dakota Department of Education in preparation for his application, and that the account was opened on July 23, 2019. He was clearly taking steps to seek certification in South Dakota as of that date. However, his application was not activated until August 5, 2019.

39. When the Frederick District learned that Miedema's certification application was denied, they treated him as a substitute teacher and paid him a daily wage rather than the initially agreed upon contract.

40. Miedema violated the Code of Ethics for South Dakota Teachers by accessing pornography and inappropriate material online contrary to ARSD 24:08:03:02(8).

41. Miedema violated the Code of Ethics for South Dakota Teachers by improper use of school equipment or property – i.e. the laptop computer owned by Dordt University. This violated ARSD 24:08:03:02(9).

42. Miedema's activities in utilizing the Dordt laptop computer, including activities which led to communications with a college student (whether intended or unintended) constituted moral turpitude, gross immorality, and could have led to sexual contact with a student. This violated ARSD 24:08:03:02(8).

43. Overall, Miedema's admitted conduct constitutes moral turpitude as that term is utilized in SDCL 13-42-9(5).

44. Miedema is incapable of testifying as to whether he advised the licensing authority in the State of Iowa of the facts relating to his termination at Dordt. He is uncertain whether Iowa is aware of that incident. There is nothing in the record to indicate whether the licensing authorities in the State of Iowa are aware of the circumstances relating to Miedema's termination at Dordt University.

45. Other than the behavior which led to his termination at Dordt, there is no evidence whatsoever of any criminal activity on the part of Miedema or any type of disciplinary action taken against him in his capacity as a teacher over the many years he has been employed as a teacher.

46. With the assistance of Dordt University, Miedema participated in counseling and continues to participate in counseling at his own expense today.

47. Miedema has exhibited a sincere effort to deal with the issues and problems which led to his inappropriate use of the Dordt computer.

48. By all accounts, Miedema is a dedicated and capable music instructor.

49. There is nothing in the record to indicate that any criminal charges were brought against Miedema as a result of the behavior which led to his termination at Dordt University.

50. Miedema did not live up to the standards required of those individuals holding a teaching certificate in South Dakota during the time when he accessed inappropriate material and improperly used the Dordt University laptop computer. Such behavior constitutes a violation of the South Dakota Code of Ethics for Teachers.

CONCLUSIONS OF LAW

1. Robert B. Anderson was duly designated and appointed as independent hearing officer, pursuant to ARSD 24:18:02:03 by the South Dakota Secretary of Education, and thereby designated to preside over the contested case relating to the denial of Miedema's application for a South Dakota teacher's certificate dated August 5, 2019.
2. The Department of Education has jurisdiction over the parties and the subject matter of this proceeding.
3. A South Dakota teaching certificate may be revoked, suspended, or not issued for violations of the Teachers Code of Ethics as set forth by the South Dakota Administrative Rule SDCL 13-42-9(2).
4. The South Dakota Department of Education had the burden of going forward and had the burden of proof on whether Miedema committed acts or omissions which justified the denial of his application for a South Dakota teaching certificate.
5. The South Dakota Department of Education had the burden of proof on the issue whether Miedema violated the South Dakota Teachers Code of Ethics by preponderance of the evidence.
6. The South Dakota Department of Education has met its burden of proof and shown by a preponderance of the evidence that Miedema violated the South Dakota Teachers Code of Ethics as set forth in the Findings of Fact above and that pursuant to SDCL 13-42-9, good cause existed for the Department's refusal to issue Miedema a teaching certificate based on his character and fitness.
7. The South Dakota Department of Education has met its burden of going forward.
8. The South Dakota Department of Education has met its burden of proof that Miedema engaged in acts that constituted a violation of the South Dakota Teachers Code of Ethics.
9. The South Dakota Department of Education has met its burden of proof that Miedema engaged in acts that constituted moral turpitude.
10. The South Dakota Department of Education has met its burden of proof that Miedema violated the terms of his contract with Dordt University.
11. The South Dakota Department of Education had good cause in issuing its Notice of Intent to Deny Miedema's application for a South Dakota teacher's certificate which was activated August 5, 2019.
12. The South Dakota Department of Education has the power and authority to refuse to issue a teacher's certificate for violations of the South Dakota Teachers Code of Ethics and other statutory violations. Such violations, however, do not necessarily permanently render an

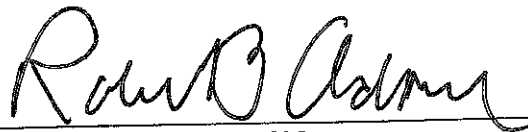
applicant such as Miedema unfit to hold a South Dakota teaching certificate. Although the factors in their totality support the Department of Education's intent to deny Miedema the opportunity to receive or reapply for a teacher's certificate for some finite period, they do not support a decision to permanently prohibit Miedema from doing so. This is based on a consideration of all the facts in their totality and Miedema's history as a teacher. Miedema has shown a sincere effort to obtain counseling and remedy the behavior which led to his termination from Dordt and, at least for some period of time, has had a degree of success in doing so.

13. It is both the finding and conclusion of this hearing officer that the Department of Education's decision to deny Miedema's application for a South Dakota teacher's certificate be upheld but that Miedema be permitted in the future to reapply for a South Dakota teaching certificate at some later date. If and when such an application occurs, Miedema's behavior and other appropriate circumstances occurring on and after the date of any final decision in this proceeding should and shall be considered in the decision to grant such an application.

14. Having heard all the testimony and having reviewed all the exhibits admitted into evidence at the hearing, having reviewed the transcript of the hearing, having reviewed oral and written arguments and statements made by the parties and based on a review of the record in its entirety including a determination as to the credibility and sincerity of the witnesses who testified live (all witnesses testified live), I conclude as the duly appointed hearing examiner that Miedema should be prohibited from holding or applying for a South Dakota teaching certificate through midnight, December 31, 2025. After that date, Miedema shall have the right to reapply for the issuance of a South Dakota teaching certificate, and the factors relied on by the Department of Education may not themselves be relied on as a basis for denial of such application. Those facts, however, may be relied on to show a pattern or practice of behavior if Miedema's behavior after January 1, 2020, reflects a continuance or reoccurrence of any prior behavior which was of concern to the South Dakota Department of Education.

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

Dated this 21st day of January 2020.



ROBERT B. ANDERSON
Independent Hearing Examiner