

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

In re: certification application of)
JUSTIN MARSH) **DSE 2019-11**
) **SETTLEMENT AGREEMENT**

THIS AGREEMENT is hereby entered into by the South Dakota Department of Education (“Department”), represented by General Counsel Diane B. Roy and Justin Marsh (“Marsh”), who, having been advised he may seek independent counsel, and he has chosen to represent himself, regarding Marsh’s application for an initial teacher certificate. In the respective opinions of both parties, this Agreement is fair, reasonable and in the public interest.

The parties acknowledge and agree to the following:

1. This Agreement shall be effective from the date it is signed by both parties;
2. The parties acknowledge their agreement to the Stipulated Underlying Facts and Circumstances attached hereto as Exhibit “A” and made a part of this Agreement;
3. On or about July 31, 2019, Marsh applied for an initial teacher certificate with the Department. A copy of his Conduct Review questions and answers is attached hereto as Exhibit “B” and made a part of this Agreement;
4. Investigation into Marsh’s application revealed non-disclosed offenses: namely, Marsh failed to disclose an additional DUI, an Open Alcoholic Beverage Container Accessible in Vehicle, and a Failure to Appear in court to answer charges on four (4) separate minor traffic offenses. See the South Dakota Unified Judicial System Record Search Report of Justin Marsh attached hereto as Exhibit “C” and made a part of this Stipulation;
5. Investigation further revealed that the answer of “No” to Question No. 2 on the application which asks about convictions or pleas of guilty was a false answer. Marsh was convicted or

plead guilty to both DUI offenses;

The Department hereby agrees to issue a five-year teaching certificate to Marsh upon the following certain conditions being strictly adhered to by Marsh:

- a. As of the date of Marsh's signature to this Agreement, indicating his acknowledgment of all the terms of this Agreement, he is affirming that he has not committed any state, federal, tribal, county, or municipal law or ordinance not already referenced in Exhibit "C";
 - b. Marsh hereby agrees he understands the professional code of ethics for educators as stated in ARSD 24:08:03:02(8);
 - c. Marsh hereby agrees he will not violate any provisions of the code of ethics;
 - d. Marsh agrees he has the duty to immediately report any new citation or arrest to the Department along with a copy of the charging documents. Failure to report within a week of issuance of a citation or arrest will be a violation of this Agreement; and,
 - e. Marsh will comply with the requirements for certification as a teacher in South Dakota.
6. Marsh understands and agrees that the conditions herein are in effect throughout the entire five-year duration of the initial certificate and starting with the date upon which this Agreement is signed.
 7. Marsh understands that he has been afforded an opportunity to consult with a private attorney at his cost and has chosen not to do so.
 8. Marsh understands that any notice or other communication required from Marsh pursuant to this Agreement shall be in writing and mailed via first class mail to the following:

Ferne Haddock
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

9. This Agreement may only be modified in writing by both parties' agreement.
10. Both parties acknowledge they have the legal capacity to enter into this agreement and they understand each and every term and condition herein.
11. This Agreement shall constitute the entire agreement between the parties. This Agreement supersedes any other written or oral agreements between the parties. If any term or provision of the Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable or invalid provisions shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement.
12. Marsh acknowledges that counsel for the Department does not represent Marsh's interests and has not provided him with any legal advice. Marsh further acknowledges that he had the opportunity to retain an attorney in this matter to review this agreement before signing and he voluntarily chose not to do so.
13. Marsh fully and forever discharges the State of South of Dakota, and its officers, assigns, agents, and employees, from any and all liability whatsoever, including punitive damages, losses, costs, attorney's fees, or expenses of any nature, whether joint and several, on all claims, actions, and demands whatsoever that now exist or may hereafter arise, and including all claims, actions, and demands whatsoever based on matters ow unknown, as well as known, and unanticipated, as well as anticipated, in any manner whatsoever, directly or indirectly, resulting or to result of any matter related to the above-captioned action or this Settlement Agreement.

(SIGNATURES ON FOLLOWING PAGE)

THE FOREGOING SETTLEMENT AGREEMENT IS HEREBY ACKNOWLEDGED AND AGREED TO BY:

This the 4 day of December, 2019.

Justin Marsh
JUSTIN MARSH

State of South Dakota
County of Minnehaha

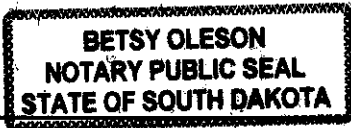
On this the 4 day of DEC, 2019, before me, the undersigned officer, personally appeared Justin Marsh, known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

In witness whereof, I set my hand and official seal.

Betsy Oleson
NOTARY PUBLIC SOUTH DAKOTA

My commission expires:

08/24/2024
(SEAL)



THIS the 6th day of January, ²⁰²⁰ ~~2019~~ BFS

Benjamin F. Jones
BENJAMIN F. JONES, PHD

State of South Dakota
County of Hughes

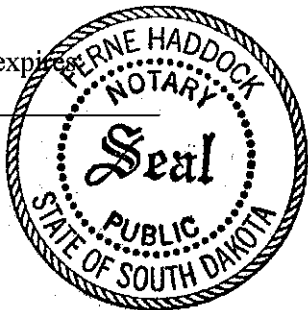
On this the 6th day of January, ²⁰²⁰ ~~2019~~ BFS, before me, the undersigned officer, personally appeared Benjamin F. Jones, known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

In witness whereof, I set my hand and official seal.

Jerme Haddock
NOTARY PUBLIC SOUTH DAKOTA

My commission expires:

01/16/2025
(SEAL)



STIPULATED UNDERLYING FACTS AND CIRCUMSTANCES

1. On or about July 31, 2019, an application for an initial educator teaching certificate for Justin Marsh (Marsh) was activated by the South Dakota Department of Education (Department).
2. On question 1 of the application, which asks if the applicant has 'ever been arrested or charged with any criminal offense', Marsh answered 'yes'. The remainder of the question asks the applicant to 'explain briefly by listing the offense and the date/year, it occurred, and to attach all certifier court documents relating to the criminal matter/offense. Marsh's answer was 'DUI 2012'.
3. On question 2 of the application, which asks if the applicant has 'ever been convicted or pleaded guilty to any criminal offense', Marsh answered 'no'.
4. A criminal history report was requested by the Department on or about 8/23/19. On the report, the Department found an undisclosed DUI first offense in 2005 for which Marsh plead guilty. The report showed another DUI first offense in 2010 for which Marsh plead guilty, which was not disclosed by Marsh on his application for teacher certification. The report also showed AN additional undisclosed offense of Open Alcoholic Beverage Container Accessible in Vehicle in 2010, which was dismissed by the prosecutor when Marsh plead guilty to the DUI arising out of the same arrest. In addition, Marsh failed to appear for four (4) initial appearances for minor traffic offenses. The following statement is on the Department application for teacher certification:

"Oath of Affirmation--I hereby authorize the Department of Education to review and inspect any and all records maintained by the State of South Dakota, Tribal entities



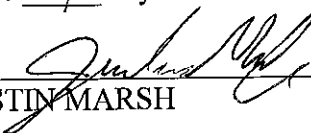
and/or the Federal Government for the purpose of verifying the answers submitted in this application.

I further agree to provide any additional documentation or records requested by the South Dakota Department of Education that pertains to information submitted as part of this application.

I declare and affirm under penalties of perjury pursuant to SDCL 22-29-9.1 that this application has been examined by me, and to the best of my knowledge and belief, is in all things, true, accurate, complete and correct. I understand that any intentional falsification, misrepresentation or omission of facts or falsification of statements on accompanying documents may result in criminal charges and/or the denial of certification and could affect the status of my educator certificate.”

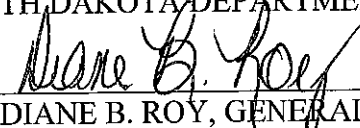
5. Marsh, by submitting his application and failing to disclose the offenses delineated in paragraph 4 herein, has violated the Oath of Affirmation.
6. Marsh, by answering “No” to question number 2 of the application which asked if he had ever been convicted of or plead guilty to a criminal offense, was a false answer. Marsh in fact plead guilty to both DUI’s.

So stipulated by agreement this the 4 day of ^{December} ~~October~~ 2019.



JUSTIN MARSH

SOUTH DAKOTA DEPARTMENT OF EDUCATION

BY: 

DIANE B. ROY, GENERAL COUNSEL

+ Demographic Information**+ Education****+ Other Certificates****+ Summary of Credits****+ Certificate Types (Renewal & Authorization Applications)****+ Endorsements (Renewal & Authorization Applications)****+ State Tests****- Conduct Review**

1. Have you ever been arrested or charged with any criminal offense?

The term **criminal offense** includes misdemeanor and felony offenses. It does not include petty offenses such as minor traffic offenses including but not limited to: Speeding tickets, stop sign violations, or careless driving offenses. If you are not sure whether the crime would be a minor offense, please include the offense. All Class I misdemeanor offenses and Class II non-traffic misdemeanor offenses must be disclosed.

Yes

Please explain briefly by listing the offense and the date/year, it occurred. Please attach all certified court documents relating to the criminal matter/offense to your application and mail to: Teacher Certification, Department of Education, 800 Governors Drive, Pierre, South Dakota 57501. For questions call 605-773-3553.
Dul 2012.

2. Have you ever been convicted or pleaded guilty to any criminal offense?

The term **conviction** includes a finding of guilt by a judge or jury, or admission of guilt or plea of guilty, or a plea without an admission of guilt. You must include those crimes where the sentence was stayed, suspended, executed or you received a suspended imposition of sentence.

All persons hired by a school district (either directly or by contract/agreement) shall submit to a criminal background check investigation by means of fingerprint checks by the Division of Criminal Investigation and Federal Bureau of Investigation. SDCL 13-10-12. Criminal convictions may be considered in hiring decisions. SDCL 13-10-13 Suspension or resignation of Employee for criminal conviction shall be reported to the Department of Education. SDCL 13-10-15.

No

3. Has it ever been determined by a judge or jury in South Dakota or elsewhere that a child or minor adult was abused or neglected through your actions or omissions?

No

4. Have you ever been in arrears or failed to pay child support in this state or elsewhere?

Certificates will not be issued to anyone in child support arrears according to SDCL 25-7A-56.

No

5. Have you ever had any credential, certificate or license authorizing school teaching or educational service suspended, revoked, voided, cancelled, denied, rescinded, rejected for cause and/or otherwise taken away in South Dakota or in any other state, commonwealth, territory or possession of the United States or elsewhere?

No

6. Is there any type of adverse action pending against any credential, license or certificate that you now hold or have ever held that authorizes school teaching or educational service?

No

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

No

8. Have you ever held a license, certificate or credential, other than as a teacher or administrator, which has been revoked, cancelled, rescinded, suspended or taken away in South Dakota or elsewhere?

No

9. Is there any information not disclosed by your answers concerning your background, history, experience, education or activities which may have some bearing on your character, moral fitness or eligibility to teach or hold an administrative position in South Dakota and which should be placed at the disposal or brought to the attention of the South Dakota Department of Education.

No

EXHIBIT

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South Dakota Unified Judicial System



Record Search Report

Name: MARSH, JUSTIN	[REDACTED]	Gender: M	Party ID: 4429232	UJS ID: 1702743
Aliases: MARSH, JUSTIN; MARSH, JUSTIN JODY; MARSH, JUSTIN J; MARSH, JUSTIN D				

Docket Number: 49POA14-017602 filed in Minnehaha County on 11/13/2014 Case Status: Terminated
 Filing Name: MARSH, JUSTIN JODY Arrest Date: Arrest Time: 12:00 AM PCN:
 Plaintiff: CITY OF SIOUX FALLS Prosecutor: RHETT BYE
 Speed Actual: 38 Zone: 30 Highway Type: CDL: N CMV: N HAZ: N MV: Unknown if offense took place in motor vehicle

Count of 99-1-125 (MO) MUNICIPAL SPEEDING

On 12/03/2014 the defendant pled Guilty by POA Disposed on 12/03/2014 Disposition: Judgment on Plea of Guilty
 Sentenced on 12/03/2014 Fine: \$45.00 Costs: \$60.00
 Fine Due Date:

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		12/02/2014	9:00AM	Failure to Appear

Docket Number: 49POA14-013236 filed in Minnehaha County on 09/02/2014 Case Status: Terminated
 Filing Name: MARSH, JUSTIN JODY Arrest Date: Arrest Time: 12:00 AM PCN:
 Plaintiff: CITY OF SIOUX FALLS Prosecutor: BONNIE J COSTAIN

Count of 99-2-177 (MO) FAILURE TO OBEY TRAFFIC CONTROL DEVICE

On 09/15/2014 the defendant pled Guilty by POA Disposed on 09/15/2014 Disposition: Judgment on Plea of Guilty
 Sentenced on 09/15/2014 Fine: \$60.00 Costs: \$60.00
 Fine Due Date:

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		09/15/2014	9:00AM	Failure to Appear

Docket Number: 49MAG13-005497 filed in Minnehaha County on 08/02/2013 Case Status: Terminated
 Filing Name: MARSH, JUSTIN JODY Arrest Date: Arrest Time: 12:00 AM PCN:
 Plaintiff: STATE OF SOUTH DAKOTA Prosecutor:

Count of 32-35-113 (M2) FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY

On 08/09/2013 the defendant pled No Plea Entered Disposed on 08/09/2013 Disposition: Dismissed-Motion by Court

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		08/06/2013	9:00AM	Failure to Appear

Docket Number: 49POA13-011738 filed in Minnehaha County on 08/02/2013 Case Status: Terminated



Filing Name: MARSH, JUSTIN JODY Arrest Date: Arrest Time: 12:00 AM PCN:
 Plaintiff: CITY OF SIOUX FALLS Prosecutor:

Speed Actual: 45 Zone: 40 Highway Type: CDL: N CMV: N HAZ: N MV: Driver of the Vehicle

Count of 99-1-125 (MO) MUNICIPAL SPEEDING

On 08/06/2013 the defendant pled Guilty by POA **Disposed on 08/06/2013 Disposition: Judgment on Plea of Guilty**

Sentenced on 08/06/2013 Fine: \$25.00 Costs: \$60.00

Fine Due Date: 08/06/2013

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		08/06/2013	9:00AM	Failure to Appear

Docket Number: 49399M1026618 filed in Minnehaha County on 09/20/2010 Case Status: Terminated

Filing Name: MARSH, JUSTIN J Arrest Date: 09/17/2010 Arrest Time: 7:32 PM PCN:
 Plaintiff: STATE OF SOUTH DAKOTA Prosecutor: States Attorney

Count of 32-35-113 (M2) FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY

On 09/24/2010 the defendant pled No Plea Entered **Disposed on 09/24/2010 Disposition: Dismissed-Motion by Prosecutor**

Fine: \$54.00 Costs: \$66.00

Count of 32-5-2.4 (M2) RENEWAL REGISTRATION DURING ASSIGNED MONTH

On 10/01/2010 the defendant pled Guilty by POA **Disposed on 10/01/2010 Disposition: Judgment on Plea of Guilty**

Sentenced on 10/01/2010

Fine Due Date: 10/01/2010

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		10/01/2010	9:00AM	Waived

Docket Number: 49C10003327A0 filed in Minnehaha County on 06/04/2010 Case Status: Terminated

Filing Name: MARSH, JUSTIN JODY Arrest Date: 05/31/2010 Arrest Time: 1:47 AM PCN: 106503514
 Plaintiff: STATE OF SOUTH DAKOTA Prosecutor: DONALD J HANSON
 Counsel Name: WALTER, SONNY Counsel Type: Retained (Private) Counsel

Count of 32-23-2 (M1) DRIVING UNDER INFLUENCE-1ST OF

On 08/25/2010 the defendant pled Guilty **Disposed on 08/25/2010 Disposition: Judgment on Plea of Guilty**

Sentenced on 10/01/2010 Fine: \$166.00 Costs: \$139.00

Incarcerated to Jail for 120 Day(s) Concurrent with 83 Day(s) suspended and credit for 0 Day(s) served.

License: Revoked DL for 1 Year(s) . Court Possession: Work Permit: Y

Conditions
10/01/2010 1 ASSIGNED 24/7 PROGRAM BUT SPECIFIC TYPE UNKNOWN

Count of 35-1-9.1 (M2) OPEN ALCOHOLIC BEV CONTAINER ACCESSIBLE IN VEHICLE

On 08/25/2010 the defendant pled No Plea Entered **Disposed on 08/25/2010 Disposition: Dismissed-Motion by Prosecutor**

Fine Due Date: 10/01/2010

*** Bond(s) Ordered ***	
Cash Bond Posted on 06/08/2010	Status: \$750.00 Inactive 10/01/2010 - Posted by MARSH, JUSTIN

Conditions	
1	NO LIKE OFFENSES Condition Expiration Date: 20110926 [COND-TIME] = 360 [COND-TIME-UNIT] = D
2	NO ALCOHOL RELATED TRAFFIC OFFENSES, LEAVING THE SCENE OF AN ACCIDENT, OR HIT AND RUN Condition Expiration Date: 20110926 [COND-TIME] = 360 [COND-TIME-UNIT] = D
3	NO DRINKING AND DRIVING Condition Expiration Date: 20110926 [COND-TIME] = 360 [COND-TIME-UNIT] = D
4	WORK PERMIT AUTHORIZED WITH NO VIOLATION OF 24/7[COND-TIME-UNIT] = N

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Initial Appearance		06/15/2010	9:00AM	Held
Dispositional Conference		06/29/2010	8:00AM	Held
Arraignment		06/29/2010	8:30AM	Held
Preliminary Hearing		06/29/2010	8:30AM	Waived
Change of Plea Hearing		08/25/2010	2:00PM	Held
Jury Trial		09/01/2010	8:30AM	Cancelled
Sentencing Hearing		10/01/2010	9:00AM	Held

Docket Number: 49C05003297A0 filed in Minnehaha County on 06/06/2005 Case Status: Terminated
 Filing Name: MARSH, JUSTIN JODY Arrest Date: 05/29/2005 Arrest Time: 7:40 AM PCN: 200530781
 Plaintiff: STATE OF SOUTH DAKOTA Prosecutor: CRYSTAL JOHNSON

Count of 32-23-2 (M1) DRIVING UNDER INFLUENCE-1ST OF

On 06/22/2005 the defendant pled Guilty **Disposed on 06/22/2005 Disposition: Judgment on Plea of Guilty**

Sentenced on 06/22/2005 Fine: \$347.00 Costs: \$108.00
 Incarcerated to Jail for 30 Day(s) Concurrent with 30 Day(s) suspended and credit for 0 Day(s) served.
 License: Revoked DL for 30 Day(s). Court Possession: 06/22/2005 Work Permit: Y
 Fine Due Date: 08/01/2005

*** Bond(s) Ordered ***	
Bondsman Bond Posted on 05/31/2005	Status: \$450.00 Inactive 06/22/2005 - Posted by A-1 BAIL BONDS

Conditions	
1	PAY FINE AND COSTS BY Condition Expiration Date: 20050801
2	NO ALCOHOL RELATED TRAFFIC OFFENSES; LEAVING THE SCENE OF AN ACCIDENT; OR HIT AND RUN Condition Expiration Date: 20070622 [COND-TIME] = 2 [COND-TIME-UNIT] = Y
3	PAY BLOOD TEST COSTS DUE Condition Expiration Date: 20050801
4	OBTAIN ALCOHOL ASSESSMENT WITH RESULTS SENT TO THE COURT AND STATES ATTORNEY'S OFFICE BY Condition Expiration Date: 20050806 [COND-TIME] = 45 [COND-TIME-UNIT] = D

Proceeding Description	Judge Name	Begin Date	Begin Time	Status Description
Sentencing Hearing		06/22/2005	9:00AM	Held

Arraignment
Initial Appearance
Preliminary Hearing

06/22/2005	9:00AM	Held
06/22/2005	9:00AM	Held
06/22/2005	9:00AM	Waived

The search you requested is a court records search based on information you provided. The search results may include criminal court data from January 1989 to present, civil court data from January 2006 to present, active money judgments for the past twenty years, and/or inactive money judgments since April 2004, **DEPENDING ON THE TYPE OF SEARCH REQUESTED**. Records returned are only those that precisely match this information. There may be instances where fine and cost information will appear immediately below a dismissed charge. The amounts indicated are accurate for a different charge but there should be no fine and cost information related to a dismissed charge. Based on the age of a case, not all financial information may be available in the case management system. You should contact the Clerk of Court office where an original action took place to correct any misinformation and collect any missing information.