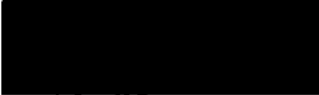


STATE OF SOUTH DAKOTA            )  
  )  
COUNTY OF HUGHES                )    **DIVISION OF THE SECRETARY**  
  )    **SOUTH DAKOTA DEPT. OF EDUCATION**

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**In re: Certification Application of**    )  
**ERIQ SWIFTWATER**                    )    **DSE 2020-04**  
  )    **ORDER DENYING**  
  )    **TEACHING CERTIFICATE**

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**TO:** Eriq Swiftwater  


In accordance with and pursuant to the authority granted to the Secretary by SDCL § 13-42-4, 13-42-7, 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 Eriq Swiftwater for an Alternative Preliminary Initial Application for a teaching certificate is DENIED.
3. Eriq Swiftwater is prohibited from reapplication for teaching certificate in the State of South Dakota for a minimum of five (5) years.
4. 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.
5. 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 16<sup>th</sup> of June 2020.

A handwritten signature in black ink that reads "Benjamin F. Jones". The signature is written in a cursive style and is positioned above a horizontal line.

Benjamin F. Jones, Ph.D.

Secretary

South Dakota Department of Education

800 Governors Drive

Pierre, SD 57501

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

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**In re: Certification Application of**        )  
**ERIQ SWIFTWATER**                            )  
  )   **DSE 2020-04**  
  )   **FINDINGS OF FACT and**  
  )   **CONCLUSIONS OF LAW**

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Eriq Swiftwater filed an Alternative Preliminary Initial Application for a teaching certificate which was activated on March 10, 2020. After a review of the entire file, the Secretary enters the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. On or about April 21, 2020, the South Dakota Department of Education Office of Educator Certification (hereinafter “Department”) served a Notice of Intent to Deny Teaching Certificate and attached exhibits on Eriq Swiftwater (hereinafter “Swiftwater”) via certified mail and email. See Exhibit A attached hereto and made a part of this document.
2. The Notice of Intent informed Swiftwater that if he failed to request a hearing within 30 days after service of the notice, the allegations of the Notice would be accepted as true by the Secretary.
3. The Department received no request for hearing from Swiftwater within the 30-day period, which ended on or about May 21, 2020.
4. On or about March 10, 2020, Swiftwater filed an Alternative Preliminary Initial Application for a teaching certificate. During the process of reviewing the documentation required for the certificate, the Department discovered that Swiftwater failed to disclose his complete criminal history. Swiftwater’s lengthy and constant criminal history involving theft, alcohol-related offenses, and failure to appear in court.


**CONCLUSIONS OF LAW**

5. Grounds for the denial or non-renewal of a teaching certificate are provided in SDCL § 13-42.

6. 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).
7. 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.
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).
9. Swiftwater’s failure to disclose his complete criminal history constitutes false or misleading statements and violates ARSD 24:08:03:02 (8). The Department does recognize some of Swiftwater’s pending criminal charge may have been filed after he submitted his application for teaching certificate; however, there are a number of charges/convictions Swiftwater failed to disclose excluding his pending charges.
10. Further, Swiftwater’s lengthy and constant criminal history involving theft, alcohol-related offenses, and failure to appear in court violates ARSD 24:08:03:02 (8) in that it does not exemplify an applicant of “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”.
11. Any Conclusion of Law more properly designated as a Finding of Fact is hereby so designated.
12. Swiftwater’s application should be denied for violations of the code of ethics. SDCL § 13-42-9 (2); ARSD 24:08:02 (7).

13. Swiftwater should be prohibited from reapplication for a teaching certificate in the State of South Dakota for a minimum of five (5) years.

Dated this the 16<sup>th</sup> of June 2020.

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