

STATE OF SOUTH DAKOTA

) DIVISION OF THE SECRETARY

)  
COUNTY OF HUGHES

) SOUTH DAKOTA DEPT. OF EDUCATION

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In re: Revocation of the  
Teaching Certificate of  
**DAYLAN SCOTT FARGO**

) DSE 2020-09  
) **ORDER REVOKING**  
) **TEACHING CERTIFICATE**

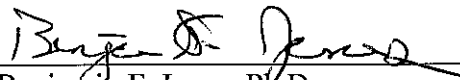
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Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL §§13-43-28.1, 13-42-9, and 13-42-15, following receipt of a Complaint seeking revocation of a certificate from the South Dakota Professional Practices and Standards Commission, and after review of the entire file herein, the Secretary enters the following ORDER:

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 teaching certificate of Daylan Scott Fargo, Certificate #80745, issued on August 8, 2019, is hereby **immediately and permanently revoked.**
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Fargo's permanent certification file within the South Dakota Department of Education.
4. The Order and incorporated Findings of Fact and Conclusions of Law are a public record pursuant to SDCL 13-42-17.1.

This constitutes final agency action and may be appealed to circuit court pursuant to SDCL § 13-42-16.

Dated this the 25<sup>th</sup> of August, 2020.

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

STATE OF SOUTH DAKOTA	)	PROFESSIONAL TEACHERS
	)	PRACTICES AND STANDARDS
COUNTY OF HUGHES	)	COMMISSION

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CARLA LEINGANG, Administrator,	)	PTPSC 2020-03
Office of Educator Certification,	)	
S.D. Dept. of Education,	)	
	)	
Complainant,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
v.	)	AND ORDER
	)	
DAYLAN SCOTT FARGO,	)	
	)	
Respondent.	)	

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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. A hearing was held on July 28, 2020 in Library Commons, MacKay Building, 800 Governors Drive, Pierre, South Dakota.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Valena Baker, David Christian, Joy Robbins Crystal McMachen, Kay Wickard and Paula McMahan. Paul Bachand, counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. The Complainant was personally present along with attorney Amanda LaCroix. The Respondent was not present.

Based upon failure of the Respondent to appear at the hearing, along with the evidence presented at the hearing and documents contained in the official file, the Commission makes the following Findings of Fact and Conclusions of Law:



## FINDINGS OF FACT

1. On or about August 8, 2019, Respondent Daylan Scott Fargo (“Fargo”) was issued renewed South Dakota teaching certificate number 80745. The certificate is valid until July 1, 2024. A copy of the certificate is attached hereto as Exhibit 1.
2. On or about February 14, 2020, Carla Leingang, Administrator, Office of Educator Certification, South Dakota Department of Education, filed a complaint against Fargo with the Commission.
3. The complaint alleged that Fargo violated the following sections of the Code of Professional Ethics for teachers:
  - a. ARSD 24:08:03:01(5), which states that in fulfilling their obligations to students, educators shall “[c]onduct professional business in such a way that they do not expose the students to unnecessary intimidation, embarrassment, or disparagement[.]”
  - b. ARSD 24:08:03:01(7), which states that in fulfilling their obligations to students, educators shall “[m]aintain professional relationships with students without exploitation of a student for personal gain or advantage[.]”
  - c. ARSD 24:08:03:01(9), which states that in fulfilling their obligations to students, educators shall “[m]aintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment[.]”
  - d. ARSD 24:08:03:01(10), which states that in fulfilling their obligations to students, educators shall “[n]ot engage in or be a party to any sexual activity with students including sexual intercourse, sexual contact, sexual photography or illicit sexual communication[.]”

- e. ARSD 24:08:03:02 (6) which states that in fulfilling their obligations to the public, educators shall “[n]either accept nor offer any gratuities, gifts, services, or things of value that impair professional judgment, offer special advantage, or provide personal benefit[.]”
  - f. ARSD 24:08:03:02 (8) which states that in fulfilling their obligations to the public, educators shall “[e]xemplify 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[.]”
4. The complaint was served on Fargo on or about March 2, 2020.
  5. Fargo, through his attorney, responded to the complaint on or about March 5, 2020, indicating in part:
    - a. “Please accept this letter as formal notice of our receipt of the complaint and attached letter dated February 28, 2020. Please provide my office with any notice of subsequent hearings that may arise in reference to this Complaint. It is our intention not to contest the allegations and voluntarily surrender Mr. Fargo’s teaching certificate. Neither Mr. Fargo, nor I, intend on appearing for any hearings on this matter.”
  6. A due and proper Amended Notice of Hearing was served on the parties on July 14, 2020.
  7. Fargo failed to appear at the hearing.
  8. Fargo’s failure to appear at the hearing constitutes a default and the allegations in the complaint are deemed admitted.
  9. Fargo was previously employed by the Sioux Falls School District.

10. Commencing during the 2017-2018 school year, Fargo engaged in a sexual relationship with a student.
11. Fargo sent unclothed photos of himself to the student.
12. Fargo touched student's genitals.
13. On or about January 29, 2020 officers with the Sioux Falls police department met with Fargo and Fargo indicated in part, the following:
  - a. That he was engaged in a "loving relationship" with the victim and expressed that he has not had a relationship of this depth with any other person other than the student.
  - b. That he sent unclothed photos of himself to the student and received photos from the student.
  - c. That it was "consensual love" and "we let our emotions get controls of us for a little bit."
  - d. That they stopped sending images to each other in approximately March of 2018.
  - e. That he sent up to 20 pictures to the victim that included "unclothed parts." And that included "private parts."
14. Attached hereto as Exhibit 2 and incorporated herein as if fully set out, is the Affidavit in Support of Application for Arrest Warrant for Daylan Scott Fargo setting forth the factual information regarding Fargo's actions with the student.
15. On or about February 3, 2020, Fargo was charged with the following three criminal counts in Minnehaha County, South Dakota: (1) Sexual Contact with a Child Under 16 (SDCL § 22-22-7), class 3 felony; (2) Sexual Exploitation of a Minor (SDCL §22-22-24.3(2)), class 6 felony; (3) Solicitation of a Minor (SDCL § 22-24A-5(1)), class 4 felony.

The criminal case is still pending. Fargo is facing 27 years in the penitentiary and/or \$54,000 fine.

16. The charges referenced in the preceding paragraph were as a result of a sexual relationship between Fargo and a fourteen-year-old student in the Sioux Falls School District, between November 1, 2017 and March 31, 2018.
17. On or about January 31, 2020, the student by and through student's parent, petitioned and was granted a temporary protection order, pending a hearing for a permanent protection order, against Fargo as a result of Fargo's attempts to continue a relationship with the student.
18. Fargo has violated the following subsections of the Code of Ethics for Teachers found in ARSD 24:08:03:01 (obligations to students):
  - (5) Conduct professional business in such a way that they do not expose the students to unnecessary intimidation, embarrassment, or disparagement.
  - (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage.
  - (9) Maintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment.
  - (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.
19. Fargo has violated the following subsections of the Code of Ethics for Teachers found in ARSD 24:08:03:02 (obligations to the public):
  - (6) Neither accept nor offer any gratuities, gifts, services, or things of value that impair professional judgment, offer special advantage, or provide personal benefit.
  - (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.

20. Fargo's employment with Sioux Falls School District ended as a result of the charges referred herein.
21. 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

22. 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.
23. 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.
24. The South Dakota Code of Professional Ethics for Teachers as provides at ARSD 24:08:03:01 that in that fulfilling their obligations to students, educators shall act as follows:
  - (5) Conduct professional business in such a way that they do not expose the students to unnecessary intimidation, embarrassment, or disparagement.
  - (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage.
  - (9) Maintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment.
  - (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.

25. Clear and convincing evidence exists that Fargo violated ARSD 24:08:03:01(5), (7), (9) and (10).

26. The South Dakota Code of Professional Ethics for Teachers as provides at ARSD 24:08:03:02 that in that fulfilling their obligations to the public, educators shall act as follows:

(6) Neither accept nor offer any gratuities, gifts, services, or things of value that impair professional judgment, offer special advantage, or provide personal benefit.

(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.

27. Clear and convincing evidence exists that Fargo violated ARSD 24:08:03:02(6) and (8).

28. 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 Fargo as provided for in SDCL 13-43-28.1. 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 (NASDTEC) 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 14<sup>th</sup> day of August, 2020.

PROFESSIONAL TEACHERS PRACTICES  
AND STANDARDS COMMISSION

By: Paula McMahan  
Mrs. Paula McMahan, Chair

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

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In re: Revocation of the                    )  
Teaching Certificate of                    )  
**DAYLAN SCOTT FARGO**                        )  
  )     DSE 2020-09  
  )     **CERTIFICATE OF SERVICE**

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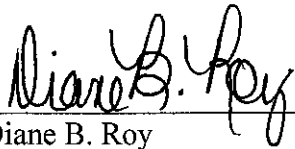
Diane B. Roy, General Counsel for the South Dakota Department of Education, hereby certifies that on the 26<sup>th</sup> day of August, 2020, the Order Revoking Teaching Certificate and attached Findings of Fact and Conclusions of Law and accompanying Notice of Entry for the above-captioned matter was served on the following via first-class mail:

Koln B. Fink  
Attorney for Daylan Fargo  
P.O. Box 1085  
Sioux Falls, SD 57104

Ferne Haddock  
PTPSC Secretary  
800 Governors Dr.  
Pierre, SD 57501

Jane Stavem  
Superintendent of Sioux Falls School District  
201 E 38<sup>th</sup> St.  
Sioux Falls, SD 57105-5898

Amanda LaCroix  
Attorney for Complainant  
800 Governors Dr.  
Pierre, SD 57501



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Diane B. Roy  
General Counsel  
South Dakota Department of Education  
800 Governors Dr.  
Pierre, SD 57501

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In re: Revocation of the                    )  
Teaching Certificate of                    )  
**DAYLAN SCOTT FARGO**                    )     DSE 2020-09  
  )     **NOTICE OF ENTRY**

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**TO:**

Koln B. Fink  
Attorney for Daylan Fargo  
P.O. Box 1085  
Sioux Falls, SD 57104

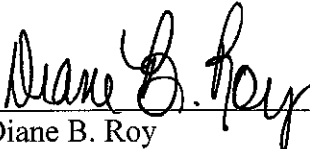
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Sioux Falls, SD 57105-5898

Amanda LaCroix  
Attorney for Complainant  
800 Governors Dr.  
Pierre, SD 57501

You are hereby notified that on the 25<sup>th</sup> day of August, 2020, Dr. Benjamin F. Jones, Secretary for the South Dakota Department of Education, entered the Order Revoking Teaching Certificate and attached Findings of Fact and Conclusions of Law in the above-referenced case. Copies of these documents are being served upon you with this Notice.

Dated this 26<sup>th</sup> day of August, 2020.

  
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Diane B. Roy  
General Counsel  
South Dakota Department of Education  
800 Governors Dr.  
Pierre, SD 57501