

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

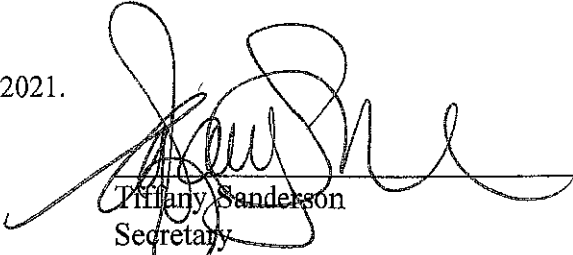
In re: Revocation of the) DSE 2021-13
Teaching Certificate of)
EMILY AYRES) **ORDER REVOKING**
) **TEACHING CERTIFICATE**

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 Emily Ayres, Certificate #78129, issued on April, 17, 2020, is hereby **immediately and permanently revoked**.
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Ayres' 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 16 of September, 2021.



Tiffany Sanderson
Secretary
Department of Education
800 Governors Drive
Pierre, SD 57501



STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

SOUTH DAKOTA PROFESSIONAL
TEACHERS PRACTICES AND
STANDARDS COMMISSION

Brian Field, Superintendent; and)
Dustin Degen, Middle/High School Principal)
Beresford School District)
Beresford SD,)
)
Complainant,)
)
vs.)
)
Emily Ayres,)
)
Respondent.)

Case No. PTPSC 2021-04

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

This matter came on for a 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 29, 2021, in the Library Commons, MacKay Building, 800 Governors Drive, Pierre, South Dakota pursuant to a due and proper Notice of Hearing.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Ann Noyes, Valena Baker, David Christian, Joy Robbins Crystal McMachen and Paula McMahan. Paul Bachand, counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. The Complainants were personally present along with attorney Samuel J. Nelson. The Respondent was personally present with her attorney Anne Plooster.

At the commencement of the hearing, and after being sworn in, the Respondent admitted to the violations of the code of ethics for teachers as provided for in the Complaint. Based upon the admissions of the Respondent and along with the evidence presented at the hearing, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about April 17, 2020, Respondent Emily Ayres ("Ayres") was issued South Dakota teaching certificate number 78129. The certificate is valid until July 1, 2025. A copy of the certificate is attached hereto as Exhibit 1.
2. On or about May 3, 2021, Brian Field, Beresford School District Superintendent and Dustin Degen, Beresford Middle School and High School Principal, filed a complaint against Ayres with the Commission.
3. The complaint alleged that Ayres violated the following sections of the Code of Professional Ethics for teachers:
 - a. ARSD 24:08:03:01(7) which states that in fulfilling their obligations to students, educators shall maintain professional relationships without exploitation of a student for personal gain or advantage.
 - b. ARSD 24:08:03:01(10) which states that in fulfilling their obligations to students, educators shall not engage in or be a party to any sexual activity with students including sexual intercourse, sexual contact, sexual photography, or illicit sexual communication.
 - c. ARSD 24:08:03:02(7) which states that in fulfilling their obligations to the public, educators shall engage in no act that results in a conviction;
 - d. ARSD 24:08:03:02(8) which states that in fulfilling their obligations to the public, educators shall 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;
 - e. ARSD 24:08:03:03(13) which states that in fulfilling their obligations to

the profession, educators shall perform duties in accordance with local, state, and federal rules and laws.

4. The complaint was served on Ayres on or about May 6, 2021.
5. Ayres through her attorney, responded to the complaint on or about June 3, 2021.
6. A due and proper Amended Notice of Hearing was served on the parties on June 23, 2021.
7. At the commencement of the hearing, Ayres admitted that in August 2019, she provided a Beresford High School student ("Student") with alcohol at her residence in Beresford, South Dakota prior to the start of Student's senior year in high school.
8. In addition, Ayres admitted that she engaged in consensual sexual acts at her home with Student prior to the start of Student's senior year in high school.
9. Ayres admitted that she was convicted of the criminal offense of Maintaining a Place for Violation of Beverage Laws, in violation of SDCL 35-10-17.
10. Ayres admitted that her conduct violated the following sections of the Code of Ethics for Teachers: Chapter 24:08:03:01(7) and (10); 24:08:03:02(7) and (8); and 24:03:03:03(13).
11. Ayres was employed with the Beresford School District from August 2015 to April 2021.
12. Ayres taught vocal music to students in grades 6-12.
13. The extracurricular activity Ayres engaged in while a teacher for the Beresford School District included choir concerts, middle school musicals, high school musicals, assistant marching band director, and high school student council.
14. Student had previously been in Ayres classes and Student was to be in Ayres class during Student's senior year.

15. Ayres indicated that the incident in August 2019 wasn't the only incident with Student and that Student "probably came over three or four more times that year, but it wasn't like necessarily sex, just make out or something."
16. Ayres was 26 years old when the above-mentioned incidents occurred, and Student was 18 years old.
17. The night Ayres engaged in sexual activity with Student, Ayres had been drinking at her house. Two male recently graduated Beresford high school students came to her house and later invited Student over.
18. Ayres stated that she engaged in sexual activity with Student after Student graduated.
19. On or about June 3, 2021, Ayres was charged with the criminal offenses of: Count 1, Maintaining Place Used for Violation of Beverage Laws in violation of SDCL 35-10-17; and Count 2, Furnishing Beverage to Person Eighteen to Twenty-one in violation of SDCL 35-9-1.1.
20. On July 15, 2021, Ayres pled guilty to the offense of Maintaining a Place Used for Violation of Beverage Laws.
21. The Affidavit in Support of the Issuance of Arrest Warrant for the criminal offenses provides that the police report surrounding the incident in August 2019 indicates that Student consumed six of seven Captain Morgan drinks that Ayres provided Student.
22. Ayres violated the following subsections of the Code of Ethics for Teachers found in ARSD 24:08:03:01 (obligations to students):
 - (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage.
 - (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.

- (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.
29. Clear and convincing evidence exists that Ayres violated ARSD 24:08:03:01(7) and (10).
30. 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:
- (7) Engage in no act that results in a conviction.
- (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.
31. Clear and convincing evidence exists that Ayres violated ARSD 24:08:03:02(7) and (8).
32. The South Dakota Code of Professional Ethics for Teachers as provides at ARSD 24:08:03:03 that in that fulfilling their obligations to the profession, educators shall act as follows:
- (13) Perform duties in accordance with local, state, and federal rules and laws.
33. Clear and convincing evidence exists that Ayres violated ARSD 24:08:03:03(13).
34. 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 Ayres 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 remains 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 23rd day of August, 2021.

PROFESSIONAL TEACHERS PRACTICES
AND STANDARDS COMMISSION

By: Paula McMahan
Mrs. Paula McMahan, Chair