

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                    )                    DSE 2022-01  
Teaching Certificate of                    )                    **ORDER REVOKING**  
**THAD CALDWELL**                    )                    **TEACHING CERTIFICATE**

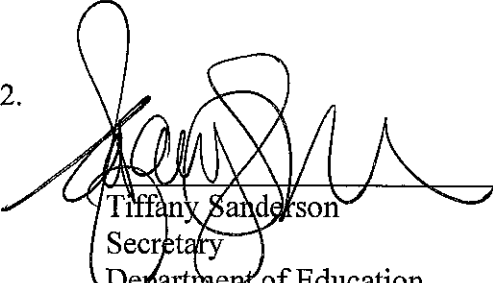
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Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL §§ 13-43-28.1, 13-42-9, and 13-42-15, following receipt of a Complaint seeking revocation of a certificate from the South Dakota Professional Teachers 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 Thad Caldwell, Certificate #49058, issued on January 15, 2016, is hereby **immediately and permanently revoked**.
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Caldwell'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 20 of January, 2022.

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

STATE OF SOUTH DAKOTA )  
 )  
COUNTY OF HUGHES )

**SOUTH DAKOTA PROFESSIONAL  
TEACHERS PRACTICES AND  
STANDARDS COMMISSION**

The Rapid City Area School District and )  
Martin and Jodi Kost, individually )

Case No. PTPSC 2021-03

Complainants, )

vs. )

THAD CALDWELL, )

Respondent. )

**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 December 6, 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, Kay Wickard, David Christian, Joy Robbins and Paula McMahan. Paul Bachand, counsel for the Commission, Jenna Schweiss, attorney for Bachand & Hruska, P.C., and Ferne Haddock, executive secretary of the Commission, were also present. The Rapid City Area School District was present through its attorney Kelsey Parker. Martin and Jodi Kost were personally present. The Respondent was personally present with his attorney Robert Konrad.

At the commencement of the hearing, counsel for the Respondent indicated that Respondent was waiving his right to a hearing, surrendering his certificate and not contesting the allegations as contained in the complaints. Based upon the waiver of hearing and uncontested allegations



contained in the complaint 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 January 15, 2016, Respondent Thad Caldwell (“Caldwell”) was issued South Dakota teaching certificate number 49058. The certificate had an expiration date of July 1, 2021.
2. On or about April 1, 2021, the Rapid City Area School District, Director of Human Resources, (“District”) filed a complaint against Caldwell with the Commission.
3. The complaint alleged that Caldwell violated the following sections of the Code of Professional Ethics for teachers:
  - a. 24:08:03:01, which provides that in fulfilling their obligations to students, educators shall act as follows:
    - i. (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage.
    - ii. (9) Maintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment.
    - iii. (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.
  - b. 24:08:03:02 in fulfilling their obligations to the public, educators shall act as follows:

- i. (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.
4. The complaint was served on Caldwell on or about April 7, 2021.
5. On or about May 5, 2021, Caldwell provided the Commission with a response to the Complaint indicating: "Even though I do not agree with the complaints filed against me, I will not be renewing my Teaching Certificate, which expires this summer. I will not be pursuing another teaching or coaching position."
6. On or about August 10, 2021, Martin and Jodi Kost (Kost) filed a complaint with the Commission. The complaint alleged the same allegations as contained in the complaint filed by the District.
7. Due to the similar nature of the complaints and the agreement of the parties, these matters were joined for a hearing.
8. On August 31, 2020, two students on the cross-country team disclosed inappropriate behavior by Kost, including massages to the glute area.
9. On August 31, 2020, Caldwell was placed on administrative leave.
10. On September 1, 2020, Attorney Lammers Bogard, based upon a request from counsel for the District, commenced an investigation in to the allegations against Caldwell.
11. Attorney Lammers Bogard interviewed five student victims, the parents of the victims, the athletic director and Caldwell.
12. Attorney Lammers Bogard determined the allegations by the victims were credible.
13. On September 11, 2020, Caldwell was placed on unpaid administrative leave, pending a

final written report by Attorney Lammers Bogard.

14. On September 18, 2020, Caldwell submitted a letter of resignation.
15. Student A was in student's 6<sup>th</sup> year of high school cross country.
16. Caldwell, on multiple occasions when student was in 7<sup>th</sup> grade and 8<sup>th</sup> grade, "massaged" student in the glute area.
17. These "massages" occurred on the bed in Caldwell's hotel room at cross country outings when no one else was present.
18. As Student A got older, Student A learned the "massages" were not appropriate, and Student A made a conscious effort to see that younger students on the cross-country team were not alone with Caldwell.
19. Student B was in student's 5<sup>th</sup> year of cross country.
20. When Student B was in 7th grade, Caldwell offered to massage her back, and while doing so Caldwell kept moving his hands downward toward Student B's glute area. When Caldwell reached Student B's glute area, he indicated that all of the older girls liked glute massages and he then proceeded to massage Student B's glutes.
21. These "massages" occurred multiple times when Student B was in 7th grade.
22. These "massages" occurred on the bed in Caldwell's hotel room on cross-country outings and on the activity center floor at school when no one else was present.
23. Student B, on multiple occasions, received "massages" from Caldwell under Student B's shirt, but not under Student B's sports bra, and under Student B's shorts touching Student B's bare butt with Caldwell's hands.
24. Caldwell commented to Student B that all the other students love it when he "massages" out their glutes.

25. Student B believed the “massages” must be acceptable since Caldwell told Student B that the older Students were ok with the “massages”.
26. These inappropriate massages occurred with other students, but the students were afraid to report what Caldwell did.
27. Student C began receiving glute “massages” during Student C’s freshman year.
28. Student C witnessed older Students receiving glute “massages,” so Student C considered the “massages” acceptable.
29. The “massages” occurred about one time per week.
30. Student D described an incident when Student D was a freshman and Caldwell was trying to get a knot out of Student D’s shoulder. Caldwell was moving his hands down below her shoulder blades when she pulled away.
31. Student E described an incident when Student E was a freshman and Caldwell was giving her a “massage” and he slowly moved his hands down to Student E’s butt.
32. Student E believed Student E could not do anything because Caldwell was an “authoritative figure” in Student’s E life and in charge of Student E’s running opportunities.
33. Caldwell was not truthful and forthcoming with Attorney Lammers Bogard when she interviewed him concerning his conduct with Students.
34. Caldwell made efforts to “normalize” his glute massages in order to get Students to believe his actions were appropriate when in fact his actions constituted grievous acts of moral turpitude, gross immorality and illicit sexual activity.
35. The Commission accepts the uncontested statements by Students as contained in the Exhibits presented to the Commission as true.

36. The statements by the victims share common elements as described in these Findings.
37. All Students were conditioned by Caldwell to believe the “massages” were appropriate.
38. All Students provided specific details regarding the location of the “massages” and comments made by Caldwell to induce Students into receiving the “massages”.
39. When Students became older, Caldwell would push them away and take a liking to younger students who would not necessarily understand boundaries between a coach and an athlete.
40. The incidents, as described by Students, occurred over the prior five years from the date of the District’s investigation.
41. The Commission acknowledges the courage it took Students to describe these incidents of abuse.
42. Caldwell engaged in the activities described in these Findings and the Exhibits from the hearing in private settings so that other adults and coaches were not aware of what he was doing.
43. The Assistant Coach was not aware of Caldwell’s inappropriate activity.
44. Upon learning of the facts regarding Caldwell, the District took immediate and appropriate steps to investigate, ensure Caldwell had no further contact with students, and report the matter to the Commission.
45. The Kosts, a party to this matter, provided sworn testimony to the Commission on December 6, 2021, regarding the impact of Caldwell’s actions.
46. The information provided to the Commission by the Kosts was both informative and compelling.
47. Caldwell abused his position of authority and manipulated Students into believing his

actions by giving “massages” were legitimate and appropriate.

### CONCLUSIONS OF LAW

1. 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.
2. 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.
3. 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:
  - (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.
4. Clear and convincing evidence exists that Caldwell violated ARSD 24:08:03:01(7), (9) and (10).
5. 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:
  - (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.

6. Clear and convincing evidence exists that Caldwell violated ARSD 24:08:03:02(8).
7. 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 Caldwell 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 a copy of the Findings of Fact, Conclusions of Law, and Order be sent to the parties herein. 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 12<sup>th</sup> day of January 2022.

PROFESSIONAL TEACHERS PRACTICES  
AND STANDARDS COMMISSION

By: Mrs. Paula McMahan  
Mrs. Paula McMahan, Chair