

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


In re: Certification Application of) **DSE 2022-16**
HELENA DANIELSON) **ORDER DENYING**
) **EDUCATOR CERTIFICATE**

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 affirms and adopts the Findings of Fact and Conclusions of Law of the Independent Hearing Examiner, Robert B. Anderson. These Findings and Conclusions, attached as Exhibit A, are hereby incorporated into this Order by this reference as if set forth in full.
2. The application of Helena Danielson for an initial educator certificate is DENIED.
3. Helena Danielson is prohibited from reapplication for an educator certificate in the State of South Dakota through and including December 31, 2025.
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 26th of May, 2023.



Dr. Joseph Graves
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF HUGHES)

DIVISION OF THE SECRETARY

S.D. DEPT. OF EDUCATION

In Re:	DSE 2022-16
Certification Application of HELENA DANIELSON	FINDINGS OF FACT AND CONCLUSIONS OF LAW

Helena Danielson (Danielson) made a timely request for hearing in regard to a written “Notice of Intent to Deny Educator’s Certificate” which notice was dated November 8, 2022.

A hearing on Danielson’s timely request was held before Robert B. Anderson, duly appointed independent hearing examiner, on March 3, 2023, at 10:00 o’clock a.m. CST in the Library Commons of the MacKay Building, First Floor, 800 Governor’s Drive, in Pierre, South Dakota. The hearing was a private hearing pursuant to the request of Danielson. The hearing was held pursuant to written Notice of Hearing.

The South Dakota Department of Education (Department) appeared through Kathryn Blaha, Director of the Accreditation and Certification Division of the South Dakota Department of Education, and Amanda LaCroix, Senior Staff Attorney for the South Dakota Department of Education. Danielson appeared personally and without legal counsel. The hearing was held before the duly appointed independent hearing examiner, and a verbatim record was made. After hearing the arguments of counsel and the parties, and all the testimony, and having reviewed the exhibits and other evidence offered and received into evidence, as well as a written transcript of the March 3, 2023 hearing, as independent hearing examiner, I now make and enter the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Danielson initiated her Application for an Educator’s Certificate with the South Dakota Department of Education some time in 2021 but did not complete the submission of her required information to the Department of Education until September 2022.
2. Danielson’s academic credentials are not at issue and are not the basis for the Department’s Notice of Intent to Deny her application for an Educator’s Certificate.
3. On her application, Danielson responded “Yes” to two questions in the Character and Fitness section of the Application which indicated that she had previously been arrested or charged with one or more criminal offenses and that she had been convicted of forgery and non-sufficient funds checks.
4. Because of her answers to portions of the Character and Fitness section of the Application, the Department conducted a Character and Fitness Review.



5. During the Character and Fitness Review, the Department determined that Danielson had not completely and accurately described her criminal history in her responses to the Character and Fitness section of the Application.

6. Because of the result of the Character and Fitness Review, the Department conducted a telephonic interview with Danielson to gain a better understanding of her criminal history and have her explain her criminal background.

7. There is no absolute prohibition imposed by the Department or otherwise which prevents a convicted felon from obtaining educator's certification.

8. Danielson did not fully and accurately disclose the entirety of her criminal history to the Department in her Application.

9. The legal basis as set forth in SDCL § 13-42-9 for the denial of Danielson's Application was that she engaged in "moral turpitude".

10. Danielson did, in part, truthfully respond to questions number 1 and 2 in the Character and Fitness section of her Application in that she admitted that she had been arrested or charged and convicted with certain criminal offenses.

11. At the time of the hearing in this proceeding, Danielson resided in New Underwood, South Dakota, and was unemployed.

12. Danielson was most previously employed at the Rockyford School but gave notice to her employer when she received the Department's Notice of Intent to Deny, and her employment terminated at that time.

13. At the hearing, Danielson admitted, under oath, that her responses to questions 1 and 2 in the Character and Fitness section of her Application did not include and refer to every arrest or charge that she had experienced in the past. She also admitted that her answers did not include every conviction for criminal offenses in the past. Danielson did not list charges relating to passing checks against a non-existent account, identity theft, grand theft, inhumane treatment of animals, and driving under suspended license because all of them were dismissed. However, given the plain and straightforward language of the question included on the Application, she should have responded "Yes" and made an explanation.

14. Danielson was arrested for burglary in December 2002. She later entered a guilty plea but received a suspended imposition of sentence. She also had other terms and conditions of sentence.

15. As a condition of her suspended imposition of sentence, Danielson did serve jail time with school release.

16. The burglary conviction involved Danielson breaking into a friend's apartment without permission and by activating the lock on the door without a key.

17. Despite Danielson's explanations, her responses to certain questions in the Character and Fitness portion of her Application were not truthful, accurate, or complete.

18. In 2003, Danielson was charged with grand theft more than \$500.00, forgery, identity theft, and being a habitual criminal due to her use of a false name and false personal identification information to purchase a motor vehicle. The vehicle was confiscated, and she was arrested shortly thereafter.

19. Danielson was held in jail on the grand theft and related charges described in the preceding finding and ultimately entered a plea of guilty. She was sentenced to five years with one year suspended, and she served approximately thirteen months.

20. Danielson did not disclose the charges described in findings 18 and 19 above on her Application. Any reasonable person with an understanding of the English language should have disclosed those charges and her conviction.

21. On or about September 3, 2009, Danielson was arrested and charged with grand theft relating to a rental car. Danielson did not disclose those charges on her current Application, but any reasonably intelligent person should have done so.

22. Since her most recent conviction, Danielson has regularly attended church and believes that she has turned her life around.

23. Danielson acknowledges that she made poor choices and would have been a poor candidate to receive an Educator's Certificate at one time in her life but believes her circumstances are now different.

24. Danielson has endeavored to advance her education and volunteered in various capacities that she believes will help her to give back to the community and become a better person.

25. Other than for speeding, Danielson was last arrested for any criminal offense in 2009 – which related to the alleged theft of a rental car by her.

26. Danielson no longer drinks alcohol and has not done so since approximately 2010.

27. Danielson does not use illegal drugs now but has experimented with them in the past.

28. Danielson was very emotional during portions of the hearing but, overall, presented herself well and appeared to be a thoughtful and intelligent person.

29. Danielson failed to adequately disclose her complete criminal history including the charges of burglary in 2003, a number of charges in 2008 which were dismissed, and an unauthorized use of vehicle charge of which she was convicted in 2010.

30. Although the charges in 2003 and 2004 cannot be overlooked or ignored, they were significant, and Danielson neglected to disclose them to the Department.

31. The charges in 2010 were also serious, and they occurred approximately seven years after her initial charges in 2002/2003. That is troubling since she had recurring criminal problems some years later.

32. Danielson's failure to adequately identify and disclose a long-standing pattern of criminal behavior involving dishonesty or false statements constitutes moral turpitude and meets the definition of that term as utilized in SDCL 22-1-2.

33. Despite the preceding finding of fact, Danielson has not engaged in serious criminal behavior since approximately 2010 and has shown clear improvement in her ability to cope with her own problems and the requirements of society.

34. Danielson appears sincere about becoming a teacher and contributing to society in that fashion.

CONCLUSIONS OF LAW

1. Robert B. Anderson was duly designated and appointed as Independent Hearing Officer pursuant to ARSD 24:18:02:03 by the South Dakota Secretary of Education, and thereby designated to preside over the contested case relating to the denial of the Danielson Application for an Alternative Preliminary Initial Certificate with the South Dakota Department of Education.

2. The Department of Education has jurisdiction over the Parties and the subject matter of this proceeding.

3. SDCL 13-42-9 provides that the Secretary of the Department of Education has the power and authority to refuse to issue an Educator's Certificate for a variety of reasons including but not limited to violation of the Code of Ethics, failure to fulfill any requirement for certification imposed pursuant to SDCL 13-42 or 13-43 or Administrative Rules promulgated thereto, or moral turpitude as defined in SDCL 22-1-2.

4. The South Dakota Department of Education has the burden of going forward and the burden of proof on whether Danielson's actions as described in the Notice of Intent to Deny justifies denial of her Application by a preponderance of the evidence.

5. The South Dakota Department of Education had the burden of proof and the burden of going forward to show by a preponderance of the evidence that it is justified in denying Danielson's Application for the issuance of an Educator's Certificate.

6. The South Dakota Department of Education met its burden of proof and its burden of going forward as to why it denied the issuance of the Educator's Certificate applied for by Danielson.

7. Danielson has the support of individuals involved in the educational field who have worked with her and known her since her last serious criminal behavior in approximately 2010.

8. It is this Hearing Officer's determination that the evidenced proffered by the Department of Education is credible and persuasive.

9. The South Dakota Department of Education had a good cause in issuing its Notice of Intent to Deny Danielson's Application for Educator's Certificate.

10. It is both the finding and conclusion of this Hearing Officer that the Department of Education's decision to deny the Application of Danielson for an Educator's Certificate be upheld and that Danielson be precluded from applying for such certification in the State of South Dakota for a period of time up through and including December 31, 2025. Thereafter, Danielson may apply for any type of Educator's Certificate in the state of South Dakota, through the Department of Education, and the events described in these Findings of Fact and Conclusions of Law may not be utilized to deny such application.

An Order should be entered consistent with these Findings of Fact and Conclusions of Law.

Dated this 23rd day of May, 2023.



Robert B. Anderson
Independent Hearing Examiner