

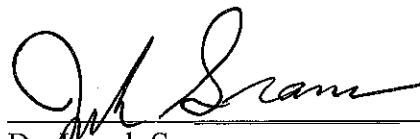
STATE OF SOUTH DAKOTA)	DIVISION OF THE SECRETARY
)	
COUNTY OF HUGHES)	SOUTH DAKOTA DEP. OF ED.
)	
In re: Revocation of the)	DSE 2023-10
Administrator Certificate of)	ORDER REVOKING
LANNY GABBERT)	ADMINISTRATOR CERTIFICATE

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 the receipt of a Complaint seeking revocation of a certificate from the South Dakota Professional Administrators 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 Professional Administrators Practices and Standards Commission (“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. The Commission found clear and convincing evidence Gabbert violated the following provisions of the South Dakota Code of Professional Ethics for Administrators—ARSD 24:11:03:01 (1), (3), (5), (6), (7), (8), (11), (12), and (13).
3. Based upon the foregoing Findings of Fact and Conclusions of Law, the administrator certificate of Lanny Gabbert, Certificate #74198, issued on July 31, 2018, is hereby **immediately and permanently revoked.**
4. Notification of this revocation will be placed on the NASDTEC registry and be placed in Gabbert’s permanent certification file within the South Dakota Department of Education.
5. The Order and incorporated Findings of Fact and Conclusions of Law are 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 23rd of August, 2023.



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



STATE OF SOUTH DAKOTA)
SS
COUNTY OF HUGHES)

SOUTH DAKOTA PR
ADMINISTRATORS PRACTICES AND
STANDARDS COMMISSION

<p>KATHRYN BLAHA, Director, Accreditation and Certification, S.D. Dept. of Education,</p> <p>Complainant,</p> <p>v.</p> <p>LANNY GABBERT</p> <p>Respondent.</p>	<p>PAPSC 2023-03</p> <p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER</p>
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This matter came on for a hearing pursuant to the provisions of SDCL § 13-43-48 before the South Dakota Professional Administrators Practices and Standards Commission. A public hearing was held on June 21, 2023, in the Library Commons, MacKay Building, 800 Governors Drive, Pierre, South Dakota.

The following members of the South Dakota Professional Administrators Practices and Standards Commission ("Commission") were present at the hearing: Chairperson Peter Books, Linda Heerde, Jennifer Knecht, Chantal Ligtenberg, and Daniel Martin. Paul Bachand, counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. Kathryn Blaha, Complainant, was personally present along with law student, Chandler Bureson, and supervising attorney, Amanda LaCroix. The Respondent failed to appear despite due and proper notice.

Based upon 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. Respondent, Lanny Gabbert ("Gabbert") is the holder of a valid South Dakota Teacher's Certificate No. 74198, issued on July 31, 2018, and expired on July 1, 2023.
2. On or about March 3, 2023, Kathryn Blaha, Director, Accreditation and Certification, South Dakota Department of Education ("Complainant"), filed a complaint against Gabbert with the Commission.
3. The Complaint alleged that Gabbert violated the following section(s) of the Code of Professional Ethics for administrators:

- a. ARSD 24:11:03:01, which provides that in fulfilling their obligation to students, educators shall act as follows:
 - i. (1) Make the well-being of the students the basis of decision making and actions;
 - ii. (3) Exemplify high moral standards by not engaging in or becoming a party to such activities as fraud, embezzlement, deceit, moral turpitude, gross immorality, illegal drugs, or use of misleading or false statements;
 - iii. (5) Interpret, accurately represent, and implement the policies and administrative regulations of the appropriate educational governing board;
 - iv. (6) Distinguish personal politics, attitudes, and opinions from stated policies of the appropriate educational governing board;
 - v. (7) Fulfill professional responsibilities with honesty and integrity;
 - vi. (8) Maintain professional relationships which are free from vindictiveness, willful intimidation, and disparagement;
 - vii. (11) Avoid preferential treatment and conflicts of interest;
 - viii. (12) Honor all contracts until fulfillment, release, or dissolution by mutual agreement of all parties;
 - ix. (13) Apply for, accept, offer, or assign a position of responsibility on the basis of professional preparation and legal qualifications.

4. The Complaint was served on Gabbert on March 13, 2023.
5. Gabbert did not file a Response.
6. A due and proper Notice of Hearing was served on the parties setting this hearing for June 21, 2023.
7. Gabbert failed to appear for the June 21, 2023, Hearing and subsequently a public hearing was held.
8. Gabbert was employed at Williston High School in Williston, North Dakota for approximately ten years.
9. Gabbert received several reprimands while employed at Williston High School.
10. In 2010, Gabbert received a letter concerning his unprofessional behavior to staff.

11. In 2013, Gabbert received a reprimand for yelling, "God Dam it, Brenna!" to a student and failing to apologize to her after he was directed to do so.
12. In 2013, Gabbert received a reprimand for inappropriate comments made to his supervisor.
13. On October 16, 2019, Gabbert received a formal letter of reprimand from the Williston High School Principal for inappropriate behavior.
14. The October 16, 2019, letter stated that it was reported that Gabbert said the "n" word approximately six times during class, annunciating the hard "r" at the end of the word. He then told students not to tell anyone and that if they felt uncomfortable, they needed to talk with him. Gabbert admitted to saying the "n" word multiple times but said that it wasn't directed towards anyone.
15. On December 3, 2019, Gabbert received a formal letter of reprimand from the Williston High School Principal for his history of inappropriate and unprofessional behavior.
16. The December 3, 2019, letter stated it has been reported that Gabbert said the "f" word to students in class and that he had been routinely falling asleep while the class watched movies. Gabbert admitted to cursing at students because he was frustrated. Gabbert denied sleeping in class. The Principal reviewed the video and confirmed that Gabbert had been asleep in class on at least two separate incidents.
17. Gabbert was placed on a performance improvement plan on December 3, 2019.
18. On October 19, 2020, Gabbert received a formal letter of reprimand, placement of administrative leave, and recommendation to the board to contemplate discharge for cause, from the Williston High School Superintendent.
19. The October 19, 2020, letter stated Gabbert had made comments to his class about the district's mask requirement, discussed his opposition to the requirement for twenty-four minutes, and compared the mask requirement to Jewish people having to wear the Star of David.
20. Gabbert resigned from the Williston School District on or about October 22, 2020.
21. Gabbert was employed as a math teacher at Alexander Public School in Alexander, North Dakota from on or about January 4, 2021, until May 20, 2021.
22. On January 29, 2021, Gabbert received a letter from the Alexander PK-12 Principal expressing concerns about statements he was making in class and his lack on instruction.
23. On April 6, 2021, Gabbert received a formal letter of reprimand from the Alexander PK-12 Principal.

24. The April 6, 2021, letter stated that Gabbert had failed to leave adequate lesson plans or appropriate homework for substitute teachers, he had shown an inability to adequately prepare for his classes, was losing student's assignments, was not grading student's assignments, and overall not supporting students.
25. A list of directives and strategies was put into place on April 6, 2021.
26. Gabbert was released from the Alexander Public School because he did not receive his credentials to teach math after he failed the required Praxis.
27. Gabbert was employed at the Ray Public School in Ray, North Dakota from August until October of 2021.
28. On October 6, 2021, Gabbert received a formal letter of reprimand from the Ray Public School Superintendent for insubordination, conduct unbecoming a teacher, and failure to perform contracted duties without justification.
29. The October 6, 2021, letter stated that despite Gabbert only having worked there for two months, the school had received several reports from students and parents concerning conduct by him. This conduct included swearing multiple times in the classroom, telling students to shut up and sit down, calling the 7th grade class idiots, talking to 8th grade students about using marijuana over alcohol, offensive conversations about how men view women, and unprofessional conversations about sanitation and handwashing.
30. Gabbert was placed on Administrative Leave on October 6, 2021.
31. Gabbert resigned from the Ray Public School District on or about October 8, 2021.
32. On January 13, 2022, The Education Standards and Practices Board (ESPB) in North Dakota reviewed Gabbert's file.
33. The ESPB decided to suspend Gabbert's license until the end of the school year, July 31, 2022, and to require completion of courses in classroom management, curriculum, instruction, and assessment, and the NASDTEC ethics course with the essay to come back to the ESPB at his expense.
34. As of the date of the hearing, Gabbert had not complied with the ESPB requirements.
35. Gabbert failed to make the well-being of his students the basis of his decision making and actions.
36. Gabbert failed to exemplify high moral standards.
37. Gabbert failed to implement and comply with the policies implemented by his governing school boards.

38. Gabbert failed to distinguish between his personal opinions and those from the stated policies of his governing school boards.
39. Gabbert did not fulfill his professional responsibilities with honesty and integrity.
40. Gabbert failed to maintain professional relationships.
41. Gabbert failed to avoid preferential treatment and conflicts of interest.
42. Gabbert failed to correct his behavior despite several formal reprimands.
43. The evidence presented to the Commission and all reasonable inferences therefrom demonstrated that Gabbert violated ARSD 24:11:03:01 (1), (3), (5), (6), (7), (8), (11), (12), and (13).
44. 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

45. The Commission has jurisdiction over this matter pursuant to SDCL §§ 13-43-48, 13-43-49, SDCL Ch. 1-26, and the Administrative Rules of South Dakota, Chapters 24:11:03:01 and 24:18:03.
46. 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.
47. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(1) that professional administrators shall make the well-being of the students the basis of decision making and action.
48. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(1).
49. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(3) that professional administrators shall exemplify high moral standards by not engaging in or becoming a party to such activities as fraud, embezzlement, deceit, moral turpitude, gross immorality, illegal drugs, or use of misleading or false statements.
50. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(3).
51. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(5) that professional administrators shall interpret, accurately represent, and

implement the policies and administrative regulations of the appropriate educational governing board.

52. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(5).
53. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(6) that professional administrators shall distinguish personal politics, attitudes, and opinions from stated policies of the appropriate educational governing board.
54. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(6).
55. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(7) that professional administrators shall fulfill professional responsibilities with honesty and integrity.
56. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(7).
57. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(8) that professional administrators shall maintain professional relationships which are free from vindictiveness, willful intimidation, and disparagement.
58. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(8).
59. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(11) that professional administrators shall avoid preferential treatment and conflicts of interest.
60. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(11).
61. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(12) that professional administrators shall honor all contracts until fulfillment, release, or dissolution by mutual agreement of all parties.
62. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(12).
63. The South Dakota Code of Ethics of Professional Administrators provides at ARSD 24:11:03:01(13) that professional administrators shall apply for, accept, offer, or assign a position of responsibility on the basis of professional preparation and legal qualifications.
64. Clear and convincing evidence exists that Gabbert violated ARSD 24:11:03:01(13).
65. The South Dakota Certificate Denial and Discipline Procedures provides at ARSD 24:18:03:02 that if the certificate of an applicant in another jurisdiction has been revoked or suspended by that jurisdiction, the order of revocation or suspension is prima facie evidence that the applicant does not meet the requirements of certification in this state.

66. The North Dakota Education and Practices Board's suspension of Gabbert's teaching license is prima facie evidence that Gabbert does not meet the requirement of certification in this state.

67. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission hereby issues the following Order:

ORDER

ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the administrator certificate of Gabbert as provided for in SDCL § 13-43-49. 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 certificate office of any state in which Gabbert holds or applies for a certificate.

Dated this 27th day of July 2023.

PROFESSIONAL ADMINISTRATOR
PRACTICES AND STANDARDS
COMMISSION

By: Peter Books
Peter Books, Chair