


STATE OF SOUTH DAKOTA	)	DIVISION OF THE SECRETARY
	)	
COUNTY OF HUGHES	)	SOUTH DAKOTA DEP. OF ED.
	)	
In re: Revocation of the	)	DSE 2023-15
Teaching Certificate of	)	ORDER REVOKING
NATHAN FRISCH	)	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 the 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 Professional Teachers 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 Frisch violated the following provisions of the South Dakota Code of Professional Ethics for Teachers—ARSD 24:08:03:01 (4), ARSD 24:08:03:02 (8), and ARSD 24:08:03:03 (13).
3. Based upon the foregoing Findings of Fact and Conclusions of Law, the teaching certificate of Nathan Frisch, Certificate #69663, issued on July 15, 2019, is hereby **immediately and permanently revoked**.
4. Notification of this revocation will be placed on the NASDTEC registry and be placed in Frisch’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 18<sup>th</sup> of October, 2023.

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



from conditions harmful to learning, physical and emotional well-being, health, and safety.

- b. ARSD 24:08:03:02 (7) which provides that in fulfilling their obligation to the public, educators shall act as follows: (7) engage in no act that results in a conviction.
  - c. ARSD 24:08:03:02 (8) which provides that in fulfilling their obligation 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.
  - d. ARSD 24:08:03:03 (13) which provides that in fulfilling their obligation to the profession, educators shall act as follows: (13) perform duties in accordance with local, state, and federal rules and laws.
4. The complaint was served upon Frisch on May 1, 2023.
  5. Frisch did not file a response with the Commission.
  6. A due and proper Notice of Hearing was served on the parties setting this hearing for September 14, 2023.
  7. Frisch failed to appear for the September 14, 2023, Hearing.
  8. A public hearing on this matter was held.
  9. On March 23, 2023, Frisch was indicted by the United States District Court, District of South Dakota, Western Division, for receipt of child pornography and possession of child pornography.
  10. At the time of the indictment, Frisch was employed at Rapid City Christian School.
  11. Rapid City Christian School subsequently released Frisch as an employee.
  12. The Department of Education became aware of this charge when it was publicized by the Rapid City Journal.
  13. Frisch is currently released and is not being held in custody and has not yet entered a plea. A jury trial has been scheduled for October 31, 2023.
  14. The Department of Education received a voicemail from Frisch in August indicating he wished to forfeit his certificate. The Department has not had any further communications with Frisch.

15. Frisch's failure to act or appear acts is subsequently a default as to the allegations contained in the Complaint.
16. The facts surrounding Frisch's charges are contained in the Redacted Indictment attached to the Complaint in this matter.
17. On or about between September 4, 2022, and December 30, 2022, Frisch knowingly received child pornography and such child pornography was present on Frisch's Google Drive account.
18. On or about December 30, 2022, Frisch knowingly possessed images of child pornography on his cellular phone.
19. The evidence presented to the Commission and all reasonable inferences therefrom demonstrate that Frisch violated ARSD 24:08:03:01(4), ARSD 24:08:03:02 (8), and ARSD 24:08:03:03(13).
20. Any findings 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**

21. The Commission has jurisdiction over this matter pursuant to SDCL §§13-43-28, 13-43-28.1, SDCL Ch. 1-26, and the Administrative Rules of South Dakota, Chapters 24:08:03 and 24:08:04:01.
22. 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.
23. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:01 that in fulfilling their obligation to students, educators shall act as follows:
  - (4) Make a reasonable effort to maintain discipline and order in the classroom and the school system to protect the students from conditions harmful to learning, physical and emotional well-being, health, and safety.
24. Clear and convincing evidence exists that Frisch violated ARSD 24:08:03:01 (4).
25. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 in fulfilling their obligation to the public, educators shall act as follows:
  - (7) Engage in no act that results in a conviction.

26. Clear and convincing evidence does not exist that at the time of the hearing that Frisch violated ARSD 24:08:03:02(7).
27. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligation 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.
28. Clear and convincing evidence exists that Frisch violated ARSD 24:08:03:02(8).
29. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:03 that in fulling their obligation to the profession, educators shall act as follows:
- (13) Perform duties in accordance with local, state, and federal rules and laws.
30. Clear and convincing evidence exists that Frisch violated ARSD 24:08:03:03(13).
31. Any conclusions 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 permanently revoke the teaching certificate of Nathan Frisch 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 of 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 respondent holds or applies for a certificate.

Dated this 5<sup>th</sup> day of October 2023.

PROFESSIONAL TEACHER PRACTICES  
AND STANDARDS COMMISSION

By: Joy Robbins  
Joy Robbins, Chair