

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

In re: Certification of)
JOANIE E. SCHIFFNER) DSE 2023-24
) ORDER REVOKING
) EDUCATOR 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:

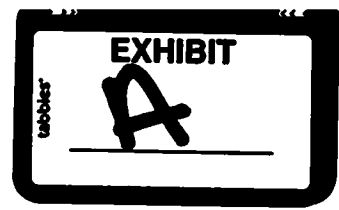
1. The Secretary affirms and adopts the Findings of Fact and Conclusions of Law of the Professional Teachers Practices and Standards Commission (“Commission”). These Findings and Conclusions, attached as Exhibit A, are hereby incorporated into this Order by this reference as if set forth in full.
2. The Commission found clear and convincing evidence Schiffner violated the following provisions of the South Dakota Code of Professional Ethics for Teachers—ARSD 24:08:03:02 (7), ARSD 24:08:03:02 (8).
3. Based upon the foregoing Findings of Fact and Conclusions of Law, the teaching certificate of Joanie Schiffner, Certificate #72887, issued on April 29, 2021, is hereby **permanently revoked**.
4. The Order and Findings of Fact and Conclusions of Law are a public record pursuant to SDCL § 13-42-17.1.
5. Notification of this revocation is to be placed on the NASDTEC registry and be placed in Schiffner’s permanent certification file within the South Dakota Department of Education.

This constitutes final agency action and may be appealed to circuit court.

Dated this the 10th of January, 2024.



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



STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES)

SOUTH DAKOTA PROFESSIONAL
TEACHERS PRACTICES AND
STANDARDS COMMISSION

<p>ANDREW FERGEN, Superintendent, Newell School District</p> <p>Complainant,</p> <p>v.</p> <p>JOANIE E. SCHIFFNER,</p> <p>Respondent.</p>	<p>PTPSC 2023-11</p> <p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER</p>
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This matter came on for a hearing pursuant to provisions of SDCL § 13-43-28 before the South Dakota Professional Teachers Practices and Standards Commission. A public hearing was held on November 9, 2023, in the Library Commons, McKay Building, 800 Governors Drive, Pierre, South Dakota.

The following members of the South Dakota Professional Teachers Practices and Standards Commission ("Commission") were present at the hearing: Chairperson, Joy Robbins, Nichole Bowman, Jean Gunderson, Alesha Limbo, Crystal McMachen, and Kaye Wickard. Paul Bachand, counsel for the Commission and Ferne Haddock, executive secretary of the Commission, were also present. Attorney Eric J. Nies was present on behalf of the Complainant, Newell School District. Respondent, Joanie E. Schiffner, failed to appear despite due and proper service.

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, Joanie E. Schiffner ("Schiffner") is the holder of a valid South Dakota Teacher's Certificate No. 72887 issued on April 29, 2021, and set to expire on July 1, 2026.
2. On or about August 14, 2023, Andrew Fergen, Superintendent of Newell School District ("District"), filed a Complaint against Schiffner with the Commission.
3. The Complaint alleged that Schiffner violated the following section(s) of the Code of Professional Ethics for Teachers:

- a. ARSD 24:08:03:02 (7) which provides that in fulfilling their obligations to the public, educators shall act as follows (7) engage in no act that results in a conviction.
 - b. ARSD 24:08:03:02 (8) which provides that in 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.
4. The Complaint was properly served on Schiffner on August 21, 2023.
5. Schiffner filed a response with the Commission on or about September 19, 2023.
6. A due and proper Notice of Hearing was served on the parties setting this hearing for November 9, 2023, at 9:00 a.m. CST.
7. A public hearing on this matter was held on November 9, 2023.
8. Attorney Nies advised that as of a couple weeks prior to the hearing, Andrew Fergen was no longer an employee of the District, and that Attorney Nies was present on behalf of District.
9. Schiffner failed to appear for the hearing. At the start of the hearing Attorney Nies advised he had received no communications from Schiffner. The Commission's Executive Secretary had also received no communication from Schiffner at the time of the Hearing.
10. Despite having the Commission's Executive Secretaries direct email Schiffner sent an email to the Department of Education's general email address on the day of the hearing at 8:22 a.m. CST recognizing that her hearing was set to start at 9:00 a.m. but alleged that she had to stay home because she was a close contact for covid.
11. This email was not received by the Commission Executive Secretary until several hours after the conclusion of the hearing.
12. Schiffner was employed with the District for at least three years as a Special Education Teacher.
13. Schiffner was terminated by the District in August of 2023.
14. An indictment was filed with the State of South Dakota on December 20, 2022, charging Schiffner with the crimes of Count 1: Grand Theft, a Class 4 Felony in violation of SDCL §§ 22-30A-1 and 22-30A-17; and Count 2: Identity Theft, a Class 6 Felony in violation of SDCL § 22-40-8(2).

15. A Change of Plea Hearing was held on July 17, 2023, at that time Schiffner entered a plea of guilty to Identify Theft in violation of SDCL § 22-40-8(2), a Class 6 Felony, which offense was committed between December 14, 2021, and July 30, 2022.
16. A Sentence Hearing was held on August 30, 2023, and an Order Suspending Imposition of Sentence was entered. Schiffner was placed on supervised probation for a period of eighteen (18) months.
17. In her Response to the Complaint, Schiffner recognizes that she plead guilty to Identify Theft and received probation for a period of eighteen (18) months.
18. Schiffner engaged in an act which resulted in a conviction.
19. Schiffner engaged in and became a party to such activities that resulted in fraud.
20. The evidence presented to the Commission and all reasonable inferences therefrom demonstrate that Schiffner violated ARSD 24:08:03:02(7) and (8).
21. 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

22. 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.
23. 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.
24. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 in that fulfilling their obligation to the public, educators shall act as follows:
 - (7) Engage in no act that results in a conviction.
25. Clear and convincing evidence exists that Schiffner violated ARSD 24:08:03:02(7).
26. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 in that 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.

27. Clear and convincing evidence exists that Schiffner violated ARSD 24:08:03:02(8).

28. 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 teaching certificate of Schiffner 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 Teachers Education and Certification (NASDTEC) clearinghouse and that it remains with the South Dakota Department of Education's permanent certification file. It is further:

ORDERED that a copy of the findings of Fact, Conclusion 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 the respondent holds or applies for a certificate.

Dated this 14th day of December 2023.

PROFESSIONAL TEACHER PRACTICES
AND STANDARDS COMMISSION

By: Joy Robbins
Joy Robbins, Chair