

STATE OF SOUTH DAKOTA)	OFFICE OF THE SECRETARY
	SS:	
COUNTY OF HUGHES)	SOUTH DAKOTA DEPT. OF EDUCATION
DR. MELODY SCHOPP,)	
SECRETARY, SOUTH DAKOTA)	
DEPARTMENT OF EDUCATION,)	OSE 2012-03
)	
PETITIONER,)	SETTLEMENT AGREEMENT AND
)	AND ORDER
v.)	
)	
SUSAN M. BARTSCHER,)	
)	
<u>RESPONDENT.</u>)	

This Settlement Agreement is hereby entered into by the Petitioner (Secretary) and the Respondent (Bartscher) and is intended to settle and resolve all claims brought in the above-entitled action. This Agreement has been negotiated by the parties in good faith to avoid the costs and risks of prolonged and complicated litigation and to resolve their differences. In the respective opinions of the parties, this Agreement and the settlement embodied herein is fair, reasonable, and in the public interest.

The parties agree as follows:

1. This Agreement shall be effective from the date when it is signed by both parties through July 1, 2020.
2. Bartscher admits to the allegations of paragraphs 1-16 of the Complaint for Revocation, Suspension or Non-Renewal of Teacher's Certificate. Bartscher does not dispute the validity of any DUI conviction referenced in the Complaint.

3. Pursuant to SDCL 13-42-7, 13-42-9, and ARSD 24:08:03:02(7), Bartscher's South Dakota Teacher Certificate No. 47702 will be suspended from July 1, 2012, to July 1, 2013.

4. If Bartscher wishes to be considered for a teaching certificate at the end of the suspension period, then she must re-apply.

5. During the suspension period, Bartscher will abide by the following conditions:

a. She will not violate any state, federal, tribal, county, or municipal law or ordinance.

b. She will immediately provide notice of any citation or arrest for any violation of state, federal, tribal, county, or municipal law or ordinance and will provide a copy of any charging documents.

c. She will abide by all conditions of her parole agreement, attached hereto as Exhibit A and incorporated herein. If the conditions of her parole are modified in any respect, then she will immediately provide a copy of the amended parole agreement.

d. She hereby consents to her parole officer discussing her parole compliance status with the South Dakota Department of Education and consents to her parole officer providing the Department with written documentation of any violation of her parole conditions.

e. She will continue to regularly attend alcoholics anonymous or another suitable twelve step program for recovery from alcoholism and provide written documentation of attendance to the Department of Education upon request.

f. She will abide by the provisions of the code of ethics governing teachers in ARSD Chapter 24:08:03.

6. If Bartscher violates any of the conditions listed in paragraph 5, then the Secretary or the Secretary's designee may consider that violation and the entirety of Bartscher's criminal record when considering any certification application referenced in paragraph 4. Nothing in this paragraph is intended to abrogate or avoid any other applicable licensing requirements.

7. If, at the end of the suspension period, Bartscher has abided by all conditions in paragraphs 4 and 5 and fulfilled all requirements for certification required by law, then the Secretary will not use the offenses referenced in paragraph 2 as a basis to deny her a one year teacher certificate, hereinafter referred to as the "first one year certificate."

8. During the period of the first one year certificate, Bartscher will continue to abide by the conditions in paragraph 5. If she fails to abide by any of these conditions, then the Secretary or the Secretary's designee may consider that violation and the entirety of Bartscher's criminal record in a revocation, suspension, or non-renewal proceeding. Nothing in this paragraph is intended to abrogate or avoid any other applicable licensing requirements.

9. If, upon expiration of the first one year certificate, Bartscher has applied for renewal of her certificate, abided by all conditions in paragraph 5, and fulfilled all other requirements for certification required by law, then the Secretary will not use the offenses referenced in paragraph 2 as a basis to deny her another one year teacher certificate, hereinafter referred to as the "second one year certificate."

10. During the period of the second one year certificate, Bartscher will continue to abide by the conditions in paragraph 5. If she fails to abide by any of these conditions, then the Secretary or the Secretary's designee may consider that violation and the entirety of Bartscher's criminal record in a revocation, suspension, or non-renewal proceeding. Nothing in this paragraph is intended to abrogate or avoid any other applicable licensing requirements.

11. If, upon expiration of the second one year certificate, Bartscher has applied for renewal of her certificate, abided by all conditions in paragraph 5, and fulfilled all other requirements for a five year certificate required by law, then the Secretary will not use the offenses referenced in paragraph 2 as a basis to deny her a five year teacher certificate.

12. During the period of her five year teacher certificate, Bartscher shall abide by the following conditions:

a. She will not consume any beverage containing alcohol.

b. She will continue to regularly attend alcoholics anonymous or another suitable twelve step program for recovery from alcoholism and provide written documentation to the Department of Education upon request.

c. She will abide by the provisions of the code of ethics governing teachers in ARSD Chapter 24:08:03.

If Bartscher fails to abide by any of these conditions, then the Secretary or the Secretary's designee may consider that violation and the entirety of Bartscher's criminal record in a revocation, suspension, or non-renewal proceeding. Nothing in this paragraph is intended to abrogate or avoid any other applicable licensing requirements.

13. Notification of Bartscher's suspension will be placed on the NASDTEC registry, be listed on the Teacher 411 website, and be placed in her permanent certification file within the South Dakota Department of Education.

14. Any notice or other communication required from Bartscher pursuant to this Agreement shall be in writing and mailed via first class mail to the following:

Ferne Haddock
South Dakota Department of Education
800 Governor's Drive
Pierre, SD 57501

15. Bartscher fully and forever discharges the State of South Dakota, and its officers, assigns, agents, employees, from any and all liability whatsoever, including punitive damages, losses, costs, attorney's fees, or expenses of any nature whatsoever, whether joint or several, on all claims, actions and demands whatsoever that now exist or may hereafter accrue, and including all claims, actions and demands whatsoever based on matters now unknown, as well as known, and unanticipated as well as anticipated, in any manner whatsoever, directly or indirectly, resulting or to result of any matter related to the above-captioned action or this Settlement Agreement.

16. Bartscher agrees that by entering into this Agreement, she has waived all rights to appeal any matter addressed in this Agreement and Order.

17. Each party to this Agreement shall bear their own costs and attorney's fees.

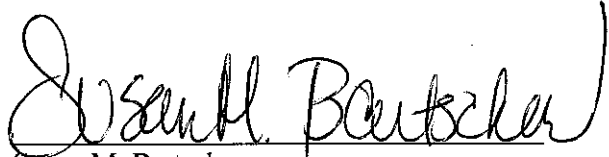
18. The terms of this Agreement may be modified only by a subsequent written agreement signed by the parties, and their respective heirs, representatives, executors, administrators, successors and assigns.

19. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized to enter into this Agreement and each of the terms and conditions hereof, and to execute and legally bind such party to it.

20. This Agreement shall constitute the entire agreement between the parties. This Agreement supersedes any other written or oral agreements between the parties. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable or invalid provisions shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement.

21. Under the requirements of SDCL ch. 1-27 and 1-26-2, this Settlement Agreement and Order are public documents.

Dated this 30 day of ^{Aug}~~July~~, 2012.

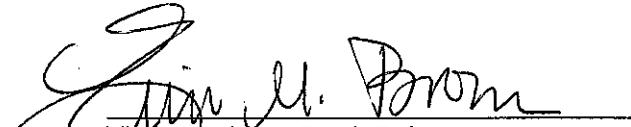

Susan M. Bartscher

State of South Dakota

County of Bruce

On this 30 day of ^{Aug}~~July~~, 2012, before me, the undersigned officer, personally appeared Susan M. Bartscher, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

In witness whereof, I hereby set my hand and official seal.


Notary Public - South Dakota

My commission expires:

11/19/14

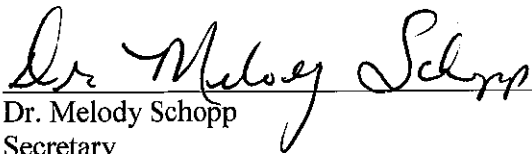
(Seal)

APPROVED BY:

 8/31/12

David W. Siebrasse
Siebrasse Law Office
Counsel for Respondent

Dated this 4 day of ~~August~~ ^{Sept}, 2012.


Dr. Melody Schopp
Secretary
South Dakota Department of Education

State of South Dakota

County of Hughes

On this 4th day of ~~August~~ ^{Sept.}, 2012, before me, the undersigned officer, personally appeared Dr. Melody Schopp, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

In witness whereof, I hereby set my hand and official seal.

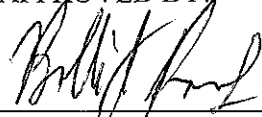

Notary Public - South Dakota

My commission expires:

2-4-2013

(Seal)

APPROVED BY:

 9/4/12
Bobbi J. Rank
DOE Legal Counsel
Counsel for Petitioner

ORDER

On June 11, 2012, a Complaint for Revocation, Suspension or Non-Renewal of Teacher's Certificate and Notice of Intent to Not Renew Teacher's Certificate was filed and properly served on Susan Bartscher by the Secretary of the Department of Education. On June 21, 2012, Susan Bartscher filed and properly served an Answer to the Complaint and requested a hearing. Robert B. Anderson was appointed as an independent hearing officer. On July 10, 2012, a Notice of Hearing was filed and properly served, setting a contested case hearing for July 20, 2012. The parties reached a settlement, and the contested case hearing was cancelled.


It appears to the undersigned Hearing Officer that all matters in controversy have been compromised by and between the parties, as evidenced by the signed Settlement Agreement attached hereto. It is therefore

ORDERED that pursuant to SDCL 13-42-7 and 13-42-9 and ARSD 24:08:03:02(7), Bartscher's South Dakota Teacher Certificate No. 47702 is suspended from July 1, 2012, to July 1, 2013. It is further

ORDERED that all other provisions of the attached Settlement Agreement are hereby incorporated into this Order as if set forth in full. It is further

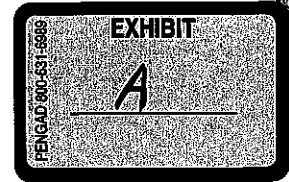
ORDERED that as all matters herein between the parties have been settled, the above-captioned action is hereby dismissed without costs to either party.

Dated this 7th day of September, 2012, nunc pro tunc July 1, 2012.



Robert B. Anderson
Hearing Examiner

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
BOARD OF PARDONS AND PAROLE
COMMUNITY SUPERVISION AGREEMENT



Name: BARTSCHER, SUSAN M

Primary ID: 55674 Sentence ID: 55674
55675

I have been made aware that SDCL § 23A-27-19 provides that: Any person whose sentence is suspended pursuant to this section is under the supervision of the Board of Pardons and Paroles. Also, I understand and agree that in the event I violate parole prior to my suspended sentence commencing, the Board has the authority to revoke the suspended portion, impose the entire sentence; and I may not be given credit for time spent on suspended sentence. The Board is charged with the responsibility for enforcing the conditions imposed by the sentencing judge and the Board retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of the suspension.

In consideration of Parole and/or Suspended Sentence/Supervision being granted me, I agree to the following:

1. I will obey all Municipal, County, State, Tribal, and Federal Laws.
2. I will not purchase, possess or use marijuana, hallucinatory drugs, narcotics, controlled substances, and mood altering drugs/chemicals or drug paraphernalia. I will not purchase, possess or use unauthorized prescription medications and/or abuse prescribed or over-the-counter medications.
3. I will not gamble or enter places where gambling is practiced.

4. **WEAPONS:**

I will not own, purchase or have under my control, possess, transport or use weapons (includes stun guns, tazers, mace, pepper spray) or explosives considered dangerous by my parole agent, or any type of firearm. (Title 7, P.1.90-618, Gun control Act of 1968) (SDCL § 22-14-15).

A. Knives are considered dangerous. Exceptions are knives used for work and must be left at work, household knives properly placed in the kitchen of the home.

5. **SEARCH and SEIZURE:**

I will submit my person, property, place of residence, vehicle and personal effects to search and seizure at any time, with or without a search warrant, whenever reasonable suspicion is determined by a parole agent or law enforcement.

I agree to such a search and seizure at any place within or outside of the boundaries of the State of South Dakota, and at any place within or outside of "Indian country" as defined by 18 USC 1151.

6. **ADVANCED APPROVAL:**

I will secure advance approval from my supervising agent if at any time I wish to:

- a. Buy or drive an automobile or any other vehicle.
 - b. Incur debts, either by borrowing or installment buying.
 - c. Open or use a checking account of any kind.
 - d. Change employment or place of residence.
 - e. Pawning.
7. I will avoid those companions with criminal influences and keep the hours specified by my Parole Agent.
 8. I will not leave my assigned Agent's area or the State of South Dakota without permission, keeping my parole agent informed of my whereabouts and activities and submit such reports as required.
 9. I will allow my Parole Agent to visit me in my home, my employment site, or elsewhere.

- 7
10. I will comply with all instructions in matters affecting my supervision, and cooperate by promptly and truthfully answering inquiries directed to me by a Parole Agent.
 11. I will take advantage of the opportunities offered me by supervision, secure suitable employment of beneficial occupation and support myself and dependants as directed.
 12. I understand that violation of any institutional rule before my actual release from the institution may be considered a violation of my supervision agreement.

13. SPECIAL LIMITATIONS:

I will faithfully comply with special limitations and conditions imposed by the Court, the Board of Pardons and Paroles, and my Parole Agent as follows:

- a. I will not purchase, possess or consume any beverage containing alcohol, to include beer, wine and those beverages labeled as "non-alcohol". (Non-alcohol beer, champagne, etc.)
- b. I will not enter establishments where a primary business is the sale of intoxicating beverages.
- c. I will make regular and consistent payments as ordered by the Court/Board/Department of Corrections in the amount that will be determined by my parole agent. (All court costs, fines restitution, and attorney's fees, child support, etc.)
- d. \$20.00 :Monthly supervision fees.
- e. I will participate, cooperate and complete any programs as directed.
- f. I will not use, view, purchase or have in my possession any form of pornography or erotica including, but not limited to, books, magazines, photographs, films, video tapes, live entertainment or computer internet.
- g. **Special Conditions:**

Cooperate with Law Enforcement. If requested submit to PBT or UA.

14. I will not engage in any assaultive, abusive or violent behavior, including stalking, or threats of violence.

I have read or have had read to me, fully understand, and agree to abide by the conditions of supervision. I understand and agree that any parole agent has the authority to place me in custody any time and begin revocation proceedings if I am alleged to be in violation of any conditions of this agreement, and that my supervision may be revoked. I may be returned to an institution (lose any or all good time and/or any or all of the time spent on supervision). I do also hereby voluntarily waive extradition to the State of South Dakota from any state or foreign nation, if I am charged with a violation. I further voluntarily waive extradition from the State of South Dakota from any Indian Tribe or Indian Reservation or from any place within Indian country as defined by 18 USC 1151, if I am charged with a violation.

Susan Bartsch
(Person being supervised)

[Signature]
(Witness)

Date: 1/3/12

Date: 1/3/12

Susan M. Bartsch