

STATE OF SOUTH DAKOTA) OFFICE OF THE SECRETARY
) :SS
COUNTY OF HUGHES) SOUTH DAKOTA DEPT. OF EDUCATION

PROFESSIONAL TEACHERS)
PRACTICES AND STANDARDS)
COMMISSION,)
800 Governors Drive)
Pierre, SD 57501) Case No. TR 2010-07
)
COMPLAINANT,) ORDER
) REVOKING RESPONDENT'S
v.) SOUTH DAKOTA TEACHER CERTIFICATION
)
JONI ADELE KANABLE,)
)
)
)
RESPONDENT.)

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 13-42-10, following receipt of a Complaint for the Revocation or Suspension of a Teacher's Certificate dated July 26, 2010, from the Professional Teachers Practices and Standards Commission, and after review of the entire record of the hearing before the Commission, the Secretary of Education hereby issues the following:

IT IS HEREBY ORDERED that after review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, the attached Findings of Fact and Conclusions of Law of the Commission dated July 26, 2010, are hereby affirmed and adopted by the Secretary and incorporated into this Order by this reference as if set forth in full.

IT IS FURTHER ORDERED that based upon a review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, there is clear and convincing evidence that Respondent violated the South Dakota Code of Ethics for Teachers established under SDCL 13-43-25, namely ARSD 24:08:03:01(7).

IT IS FURTHER ORDERED that pursuant to SDCL 13-42-9 and 13-42-10, the Teacher Certificate No. 57368-2 issued to Respondent on January 4, 2007, shall be permanently revoked for violation of the South Dakota Code of Ethics for Teachers, namely ARSD 24:08:03:01(7).

IT IS FURTHER ORDERED that notification of Respondent's permanent revocation information be placed on the NASDTEC registry and be placed in her permanent certification file within the South Dakota Department of Education. This Order will be sent to the Professional Teachers Practices and Standards Commission and its counsel, the complainant and their counsel, and the respondent and her counsel, if any. This Order does not restrict the Secretary of Education from forwarding this file to anyone that has the authority to employ Respondent, if requested in writing.

IT IS FURTHER ORDERED that pursuant to SDCL 13-42-15, Respondent has **ten (10) days** after receipt of this notice to surrender her original South Dakota Teacher certificate No. 57368-2 to Ferne Haddock, South Dakota Department of Education, MacKay Building, 800 Governors Drive, Pierre, SD 57501. As stated in SDCL 13-42-15.1, failure to surrender the certificate may be subject to a civil penalty.

This constitutes final agency action. Respondent has the right to appeal from this Order to circuit court as provided by law unless such appeal has been waived.

Dated this 10 day of August, 2010



Tom Oster
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

3. The complaint alleged that Kanable violated sections of the South Dakota Code of Professional Ethics for Teachers.
4. The complaint was served on Kanable on or about March 31, 2010.
5. A notice of hearing was served on Kanable on or about May 3, 2010. The notice of hearing advised Kanable that a hearing had been set for Tuesday June 15, 2010 at 9 a.m. or as soon thereafter as may be heard at Conference Room 1, McKay Building (State Library), 800 Governors Drive, Pierre, South Dakota.
6. On June 15, 2010 Kanable did not appear at the hearing.
7. Kanable has been employed by the Wilmot school district since 1996.
8. On or about March 9, 2010 the mother of a 16 year old male high school student made a report to the school district of possible inappropriate action between her son and Kanable.
9. The mother provided documentation to the school district including emails and messages from Facebook.
10. One of the messages between Kanable and her 16 year old student included Kanable stating:

“And I told u size does not matter!!! I think that’s like a guy thing, I truly don’t get it..... Honestly it’s not my fav thing to do but...hey its for u!!!Cripes do I need to list alllllllll ur hot qualities again??? Ok; your totally buff (yum), ur frickin eyes (amazing), ur smile is dreamy (especially when its for me), ur funny (except when ur messing with me), u have a nice butt (I looked), ur sweet caring, and smart.....enuf said!!!! :)”
11. Kanable sent additional similar type messages to the 16 year old male student.
12. Wilmot reported this information to the Roberts County Sheriff’s department and an investigation ensued.
13. Wilmot was informed by law enforcement that both the student and Kanable admitted to having sexual contact with each other.
14. Wilmot examined Kanable’s school computer and recovered numerous emails between Kanable and the 16 year old male student.
15. Kanable constantly emailed the 16 year old male student on school time.
16. The emails involved inappropriate matters for a student and a teacher.

17. The emails contain sexual overtones indicating a sexual relationship existed between Kanable and the 16 year old male student.
18. The emails document Kanable and the student discussing arrangements to meet.
19. In an email dated Friday, February 19, 2010 between 2:10 PM and 2:12 PM, the following exchange occurred:

Student: ok we can talk after school then and i have to give u something to ;)

Kanable: Okayyyy.....should I be frightened???? Or excited????

Student: well uhmm not sure i guess but im gonna have us sit in ur chair and close ur eyes and hold ur hand out :)

Kanable: Okayyy then.....stuttering again☺

20. In an email dated Thursday, February 25, 2010 between 10:33 AM and 10:55 AM the following exchange occurred:

Kanable: No, im just messing with you.....)

Student: ugh now I am crabby.....jk relax im just trying to be "flirty" with out being so obvious

Kanable: ☺

Student: glad u like that so am I gonna get a little something tonight? :)

Kanable: Hey, school email keep it clean herewe'll see....

Student: ik ik im sorry :(...hope that's a yes tho :D

21. Kanable failed to maintain a professional relationship with her student.
22. Kanable exploited her student for her own personal gain.
23. Inappropriate sexual contact occurred between Kanable and her 16 year old male student.
24. On or about March 12, 2010, as a result of these acts, Kanable submitted her resignation as a teacher with the Wilmot School District.

25. Kanable's actions violate ARSD 24:08:03:01(7) in that she failed to maintain a professional relationship with her student without exploitation of her student for her own personal gain.
26. Any finding of fact improperly denoted as a conclusion of law is hereby incorporated as a finding of fact.

CONCLUSIONS OF LAW

27. The Commission has jurisdiction over this matter pursuant to SDCL 13-43-28 and 13-43-28.1, SDCL Ch. 1-26, and the Administrative Rules of South Dakota, Chapters 24:08:03 and 24:08:04.01.
28. The burden of proof in this matter is clear and convincing. In Re: Setliff, 202 SD 58, 645 N.W.2d 601, 605.
29. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:01 that in fulfilling their obligations to the students, educators shall act as follows:
 - (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage;
30. Clear and convincing evidence exists that Kanable violated ARSD 24:08:03:01 (7).
31. Kanable violated the South Dakota Code of Professional Ethics for Teachers, ARSD 24:08:03:01(7), by engaging in sexual contact with her student and by exchanging sexually suggestive emails with her student.
32. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing findings and conclusions, it is hereby

ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the teaching certificate of Kanable as provided for in SDCL 13-43-28. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be sent to parties herein. 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

NASDTEC clearing house and that it remain with the Department's permanent certification file.

Dated this 26th day of July, 2010.

PROFESSIONAL TEACHERS PRACTICES
and STANDARDS COMMISSION

By Joseph Harrison
Joseph Harrison Ed.D. Chair
700 Governors Drive
Pierre, SD 57501-2291