



1 2. On April 22, 2011, an educational assistant witnessed Miller access sexually explicit  
2 materials on a school district computer. Also present in the computer lab at this time were  
3 several students watching a movie on a separate computer.

4 **CONCLUSIONS OF LAW**

5 Herbert Dwane Miller's above described conduct constitutes gross neglect of duty in  
6 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-  
7 0010(5) (*Use professional judgment*); OAR 584-020-0040(4)(b) (*Knowing and substantial*  
8 *unauthorized use of employment time or school resources for private purposes*), and OAR 584-  
9 020-0040(4)(q) (*Knowing and unauthorized use of school computer equipment to receive, store,*  
10 *produce or send sexually explicit materials*).

11 The Commission's authority to impose discipline in this matter is based upon ORS  
12 342.175.

13 **FINAL ORDER**

14 The Commission hereby denies Herbert Dwane Miller's application for renewal and suspends  
15 his right to apply for a teaching licensure for a period of one year from the date of this order.

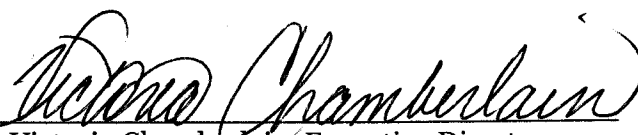
16 Herbert Dwane Miller will be placed on probation for a period of four (4) years from the  
17 date of reinstatement subject to the following condition:

18 Mr. Miller shall comply with the Standards for Competent and Ethical Performance of  
19 Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.

20 Violation of any term or condition of probation shall constitute an independent basis for  
21 the Commission to revoke Mr. Miller's teaching license, revoke his right to apply for a license, or  
22 otherwise impose discipline, after first providing Mr. Miller with notice and opportunity for  
23 hearing.

24 IT IS SO ORDERED THIS 6<sup>th</sup> day of January, 2012.

25 TEACHER STANDARDS AND PRACTICES COMMISSION

26  
27  
28 By:   
29 Victoria Chamberlain, Executive Director  
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**NOTICE OF APPEAL OR RIGHTS**

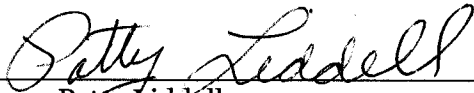
**YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS.**

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing notice of final order, certified by me as such, by mailing U.S. First Class Mail and U.S. Certified Mail—Return Receipt Requested, addressed to:

Herbert Dwane Miller  
2335 NE Smith Rock Way  
Terrebonne, OR 97760-9707

Dated this 10<sup>th</sup> day of January, 2012.

By:   
Patty Liddell  
Investigative Assistant