

1 Stipulation and Final Order and issuance and entry of the Stipulated Final Order below. This
2 Order sets forth the facts upon which the parties have agreed and the sanction to be imposed.
3 While Ms. Malizia disputes the finding that she deliberately struck a student with her cane, for
4 purposes of settlement she stipulates to the facts and conclusions of law set forth below. In
5 entering into this stipulation, Ms. Malizia waives the right to a hearing to contest the findings of
6 fact, conclusions of law and order set forth below.

7 **STIPULATION OF FACTS**

8 1. The Commission first licensed Ms. Malizia on August 29, 2007. Ms. Malizia's current
9 Initial I Teaching License, with an endorsement in Special Education, is valid through August 9,
10 2010.

11 2. During the 2007-2008 school year, Ms. Malizia was employed by Willamette ESD as a
12 Life Skills teacher at the Cozine Campus.

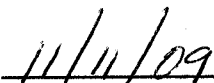
13 3. On or about April 24, 2008, Ms. Malizia was using an aluminum cane due to an
14 earlier incident in which she sustained an on the job injury. On this day, Ms. Malizia raised the
15 cane above a 10 year old special needs student as he lay on the ground kicking at her. While
16 Ms. Malizia was negotiating with the student to persuade him to discontinue his disruptive
17 behavior, the cane contacted the student's legs.

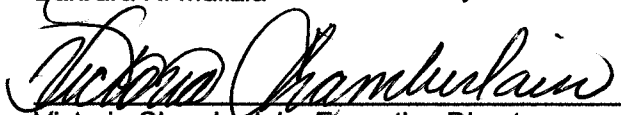
18 4. A teaching assistant who witnessed the incident reported that Ms. Malizia raised her
19 cane and hit the student with it.

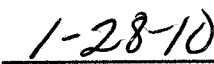
20 5. As a result of this incident, the district issued a Letter of Reprimand to Ms. Malizia on
21 June 18, 2008.

22 **IT IS SO STIPULATED AND AGREED TO:**

23 
24 Barbara K. Malizia


Date

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26 Victoria Chamberlain, Executive Director
27 Teacher Standards and Practices Commission
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Date

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CONCLUSIONS OF LAW

Ms. Malizia's conduct described in paragraph 3 and 4 above constitutes gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates 584-020-0025(2)(a) (establishing and maintaining classroom management that is conducive to learning); and OAR 584-020-040(4)(d)(unreasonable physical force against students, fellow employees, or visitors to the school, except as permitted under ORS 339.250), and OAR 584-020-0040(4)(n) as it incorporates 584-020-0010(5) (use professional judgment).

The Commission has the authority to impose discipline in this matter under ORS 342.120 through 342.430 and OAR Chapter 584.

FINAL ORDER


The Commission adopts and incorporates herein the above finding of facts, conclusions of law, and based thereon, imposes a Public Reprimand on Barbara K. Malizia. This Order shall serve as the Public Reprimand. Ms. Malizia will be placed on probation for two years beginning with the date this order is issued, subject to the following conditions:

1. Ms. Malizia shall at her own expense obtain an anger management assessment before December 1, 2009;
2. Ms. Malizia shall report in writing within ten days to the Executive Director of the Commission any arrest or citation for any felony, misdemeanor, major traffic violation or criminal probation; and
3. Ms. Malizia shall comply with the Standards for Competent and Ethical Performance of Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020. Violation of any term or condition of probation shall constitute an independent basis for the Commission to revoke Ms. Malizia's teaching license or otherwise impose discipline, after first providing Ms. Malizia with notice and opportunity for hearing.

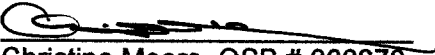
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1 Issued and dated this 16th day of February, 2010.
~~November, 2009.~~

2 **TEACHER STANDARDS AND PRACTICES COMMISSION**
3 **STATE OF OREGON**

4 By 
5
6 Victoria Chamberlain, Executive Director

7 Approved as to form:

8 
9 Christine Moore, OSB # 060270
10 Attorney for Barbara Malizia

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