

1 BEFORE THE TEACHIS STANDARDS AND PRACTICES COMMISSION

2 OF THE STATE OF OREGON

3 In the Matter of the) STIPULATION OF FACTS
4 Teaching License of) AND
5 MARK ANDREW MCKELVEY) FINAL ORDER OF REPRIMAND

6 On March 6, 2008, the Teacher Standards and Practices Commission (Commission) received
7 a report from B.J. Hollensteiner, Superintendent, North Bend School District, indicating that Mark
8 Andrew McKelvey (McKelvey) played songs and music videos for students, via the internet, that were
9 not age appropriate.

10 Mr. McKelvey fully cooperated with the Commission’s investigation. After review of the
11 matters alleged, Mr. McKelvey and the Commission agree that their respective interests, together with
12 the public interest, are best served by a stipulation to certain facts and a public reprimand.

13 This document sets forth the facts upon which the parties have agreed and the stipulated
14 sanction to be imposed. Mr. McKelvey stipulates that there is sufficient evidence in the Commission’s
15 files and records to support the findings of fact, conclusions of law, and order set forth below.

16 By signing below, Mr. McKelvey acknowledges, understands, stipulates, and agrees to the
17 following: (i) he has been fully advised of his rights to notice and a hearing to contest the findings of
18 fact, conclusions of law, and order set forth below, and fully and finally waives all such rights and any
19 rights to appeal or otherwise challenge this Stipulation of Facts and Final Order of Reprimand
20 (Stipulation and Final Order); (ii) this Stipulation and Final Order is a public document and disclosed to
21 the public upon request by the Commission; (iii) this Stipulation and Final Order is contingent upon
22 and subject to approval and adoption by the Commission. If the Commission does not approve and
23 adopt this Stipulation and Final Order, then neither Mr. McKelvey nor the Commission are bound by
24 the terms herein; (iv) he has fully read this Stipulation and Final Order, and understands it completely;
25 (v) he voluntarily, without any force or duress, enters into this Stipulation and Final Order and
26 consents to issuance and entry of the Stipulated Final Order below; (vi) he states that no promises or
27 representation has been made to induce him to sign this Stipulation and Final Order; and (vii) he has
28 consulted with an attorney regarding this Stipulation and Final Order and has been fully advised with

1 regard to his rights thereto, or waives any and all rights to consult with an attorney prior to entering
2 into this Stipulation and Final Order and issuance and entry of the Stipulated Final Order below. This
3 Order sets forth the facts upon which the parties have agreed and the sanction to be imposed. Mr.
4 McKelvey stipulates that there are sufficient facts contained in the Commission's files and records to
5 support the findings of fact and conclusions of law set forth below. In entering into this stipulation, Mr.
6 McKelvey waives the right to a hearing to contest the findings of fact, conclusion of law and order set
7 forth below.

8 **STIPULATION OF FACTS**

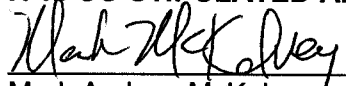
9 1. The Commission has licensed Mr. McKelvey since October 10, 1996. Mr. McKelvey
10 currently holds a Standard Teaching License valid April 30, 2006, through April 29, 2011, with
11 endorsements in Basic Social Studies and Basic Language Arts.

12 2. Mr. McKelvey worked as a substitute teacher for the North Bend School District.


13 3. On February 14, 2008, during a Valentines Day party with students at North Bend Middle
14 School, Mr. McKelvey showed students videos that they requested via the web site
15 www.youtube.com.

16 4. Some of the music videos the students requested contained inappropriate language and
17 imagery. Although Mr. McKelvey stopped a requested video as soon as he perceived it to be
18 inappropriate, he did not stop the activity altogether when students continued to request videos he
19 deemed to be inappropriate.

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

21 
22 _____
Mark Andrew McKelvey

6-21-08
Date

23 
24 _____
25 Victoria Chamberlain, Executive Director
26 Teacher Standards and Practices Commission

6-10-08
Date

27 **CONCLUSIONS OF LAW**

28 Mark Andrew McKelvey failed to exercise good judgment by not stopping the activity of
29 showing music videos on a school computer when students continued to request videos with

1 inappropriate content. This conduct constitutes Gross Neglect of Duty in violation of OAR 584-020-
2 0040(4)(n) as it incorporates OAR 584-020-0010(5) and OAR 584-020-0040(4)(o) as it incorporates
3 OAR 584-020-0035(2)(e). The Commission has the authority to impose discipline in this matter under
4 ORS 342.120 through 342.430 and OAR Chapter 584.

5 **FINAL ORDER**


6 The Commission adopts and incorporates herein the above finding of facts, conclusions of
7 law, and based thereon, imposes a Public Reprimand on Mark Andrew McKelvey. This Order shall
8 serve as the Public Reprimand.

9 Issued and dated this 3 day of July, 2008.

10 **TEACHIS STANDARDS AND PRACTICES COMMISSION**
11 **STATE OF OREGON**

12 By 
13 Victoria Chamberlain, Executive Director
14

15 Approved as to form:

16 
17 Aruna Masih OSB# 97324
18 Aruna Masih OSB# 97324
19 Attorney for Mark Andrew McKelvey

[052008]