

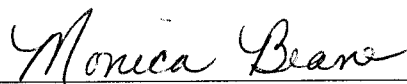
**BEFORE THE
TEACHER STANDARDS AND PRACTICES COMMISSION
STATE OF OREGON**

IN THE MATTER OF :) **FINAL ORDER**
)
)
 MICHAEL JOHN ALLISON) OAH Case No.: 1403652

This matter came before the Commission during its regularly scheduled meeting of June 21, 2016 to consider the Proposed Order issued by Senior Administrative Law Judge (ALJ) Monica Whitaker. Respondent did not file exceptions to the proposed order.

Based on the foregoing, The Commission adopts the attached Proposed Order as the Final Order and denies Michael Allison's February 13, 2013 Application for Reinstatement.

It is so Ordered this 8th day of July, 2016.



Monica Beane, Executive Director
Teacher Standards and Practices Commission

NOTICE OF APPEAL RIGHTS

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provision of ORS 183.482 to the Oregon Court of Appeals.

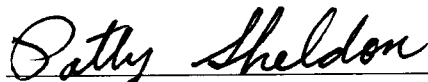
CERTIFICATE OF MAILING

On July 11th, 2016, I mailed the foregoing Ruling on Motion for Summary Determination and Amended Proposed Order in OAH Case No. 1403943 to:

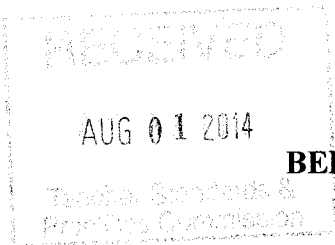
By: U.S. First Class Mail and Certified Mail Return Receipt Requested 7015 3010 0002 3171 0913
Michael John Allison
11728 54th Drive SE
Everett, WA 98208

By: Shuttle
Raul Ramirez
Senior Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem OR 97301-4096

Monica Whitaker
Office of Administrative Hearings
7995 SW Mohawk St.
Tualatin, OR 97062



Patty Sheldon
Investigative Assistant



**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
TEACHER STANDARDS AND PRACTICES COMMISSION**

In the Matter of:) **PROPOSED ORDER**
)
MICHAEL JOHN ALLISON) OAH Case No.: 1403652

HISTORY OF THE CASE

On October 31, 2013, the Teacher Standards and Practices Commission (Commission) issued a Notice of Denial of Licensure Reinstatement and Opportunity for Hearing to Michael John Allison. On December 16, 2013, Mr. Allison requested a hearing. On April 4, 2014, the Commission referred the case to the Office of Administrative Hearings (OAH).

The OAH assigned the case to Senior Administrative Law Judge (ALJ) Rick Barber. ALJ Barber convened a telephone prehearing conference on June 3, 2014. Senior Assistant Attorney General Raul Ramirez represented the Commission. Mr. Allison represented himself.

The OAH reassigned the case to Senior ALJ Monica A. Whitaker on or about June 20, 2014. ALJ Whitaker convened a hearing in Salem, Oregon, on July 21, 2014. Mr. Ramirez represented the Commission. Mr. Allison represented himself. The following witnesses testified during the hearing: Mr. Allison; Commission Legal Liaison Jeffery VanLaanen; Fran Ferder, Ph.D.; and Catherine Kouchakji.

ALJ Whitaker left the hearing record open to allow the Commission to submit a copy of Exhibit A40. ALJ Whitaker received Exhibit A40 on July 22, 2014 and closed the record on that date.

ISSUES

1. Whether Michael John Allison established his fitness to serve as an educator. ORS 342.143(2), *former*¹ OAR 584-050-0005(1)(a) and (b), and *former* OAR 584-050-0018(4)(d).
2. Whether Michael John Allison's application for reinstatement of his basic teaching license should be granted or denied. ORS 342.175(4) and *former* OAR 584-050-0006(1) and (3)(d).

¹ The versions of the rules cited herein were amended by the Commission effective November 13, 2013. The versions cited herein were in effect at the time the Commission issued the Notice of Denial of Licensure Reinstatement and Opportunity for Hearing.

EVIDENTIARY RULINGS

Exhibits A1 through A40, offered by the Commission, were admitted into the record without objection. Exhibits R1 through R138, offered by Mr. Allison, were admitted into the record without objection.

FINDINGS OF FACT

1. Mr. Allison became licensed by the Commission on April 1, 2002. Prior to becoming licensed, he taught at Marist High School in Eugene, a private Catholic school, from 1996 through 2004. Thereafter, he began working at Gresham High School (GHS). In 2005, Mr. Allison received endorsements from the Commission in Basic Health Education and Basic Physical Education. (Ex. A36 at 4.)

2. On July 9, 2009, School Resource Officer Taaca, a Gresham police officer, received a report from the GHS principal of a possible inappropriate physical relationship between Mr. Allison and a 16-year-old female student, SC.² The principal had been contacted by another educator, DD, who was the parent of student HD. HD's parents had seen a Facebook exchange between HD and another student, BS, about an intimate relationship between Mr. Allison and SC. The school district began to investigate the allegations, but at the request of the Gresham Police Department, delayed its investigation so that the police investigation could take precedence. (Ex. A36 at 4.)

3. Mr. Allison resigned from his teaching position at GHS on August 24, 2009. In the spring of 2010, when the Commission began its investigation into the allegations, Mr. Allison decided to voluntarily surrender his teaching license. (Ex. A36 at 5.)

4. On April 5, 2010, Mr. Allison voluntarily signed a Stipulation of Facts, Surrender and Final Order of Revocation of Licensure (Stipulation). (Ex. A2.) The Stipulation contained the following findings of fact:

- The Commission has licensed Mr. Allison since April 1, 2002. [Mr.] Allison currently holds a Standard Teaching License, with endorsements in Basic Health and Basic Physical education, issued May 5, 2005 and valid through October 8, 2010.
- On or about July 9, 2009, the Gresham-Barlow School District officials received information regarding alleged inappropriate conduct between Mr. Allison and a female student.
- Friends of the female student reported to school officials that Mr. Allison communicated with the female student via text message and cell phone calls. Friends of the female student characterized this correspondence as flirtatious.
- Friends of the female student alleged various intimate physical contact between Mr. Allison and the female student. Mr. Allison denied making

² All students are referred to by their initials in this Proposed Order to protect their identities.

inappropriate physical conduct.

- A school district investigation uncovered allegations that Mr. Allison was often alone with the female student during athletic training.
- Mr. Allison did not report to school district officials the romantic notes left on his car by this female student.
- Gresham-Barlow School District placed Mr. Allison on administrative leave pending the outcome of the district's investigation. Mr. Allison subsequently resigned from the Gresham-Barlow School District on August 24, 2009.

(*Id.* at 3.)

5. After surrendering his teaching license, Mr. Allison worked as an assistant football coach for Rex Putnam High School and Portland State University, and then, in 2011, began teaching and coaching at Archbishop Murphy High School in Seattle, Washington. (Ex. A36.) Mr. Allison is no longer employed at Archbishop Murphy High School. (Test. of Allison.)

6. On March 30, 2011, and again on May 20, 2011, Mr. Allison filed applications to reinstate his teaching license with the Commission. (Ex. A36 at 6; *See also* Exs. A31 and A32.)

7. On April 1, 2011, Mr. Allison underwent a "Fitness for Work Evaluation" with psychiatrist Don R. Wiesner, M.D. Mr. Allison discussed boundary issues with Dr. Wiesner, but did not disclose the circumstances of his resignation from GHS or the circumstances surrounding the surrender and revocation of his teaching license. (Ex. A33.)

8. On November 16, 2011, the Commission issued a Notice of Denial of License Reinstatement to Mr. Allison. Mr. Allison requested a contested case hearing. On January 9 and 10, 2013, ALJ Rick Barber of the OAH conducted a contested case hearing. The hearing record closed at the conclusion of the hearing on January 10, 2013. (Ex. A36 at 1.)

9. On February 7, 2013, Mr. Allison met with licensed psychologist Terry Copeland, Ph.D. (Ex. A35 at 2-5.) On February 20, 2013, Dr. Copeland prepared a written summary of the meeting. The summary was based on a two-hour interview of Mr. Allison. (*Id.* at 2.) In addition, Dr. Copeland reviewed the Stipulation. (*Id.*) Dr. Copeland did not review the police reports, the Commission's investigative reports, or the school's investigative reports. (Test. of Allison.)

10. Dr. Copeland's summary states, in part:

You had contacted me about your teacher's license that was revoked in Oregon in 2009. You are now a coach and a teacher * * * and they have asked for a 'risk assessment' and "Fitness for Duty" evaluation based on the revocation in 2009. The following is a summary of the two hour interview we had on February 7, 2013. * * * * *. You underwent a polygraph examination with [Rick] Minnich on February 14, 2013 and his report is at the end of this evaluation. You had also provided various

documents, including the 'stipulation of facts, surrender and final order of revocation of licensure' from the state of Oregon, dated May 24, 2010. The following evaluation is written to be reviewed by organizations of your choice.

* * * * *

I think Mr. Allison failed in a way that many teachers might fail by being overly friendly and available to students. At the worst I think what Mr. Allison might be guilty of is boundary violations by allowing cell phone contact with students he coached or taught or by talking with students about very personal issues that would have been better left to a mental health professional.

Regardless, at this point in his life, he seems to have learned many lessons about setting appropriate boundaries with students and has developed ways to avoid communications that are solely between himself and his students, such as using emails and having emails sent to the sports 'team mother' and to the athletic director. For example, using the school voice mail system instead of using his cell phone.

There were stipulations from the State of Oregon for Mr. Allison to receive a Fitness for Duty Evaluation in order to have his license back, including seeking a counselor. Mr. Allison gave me a copy of a letter from a psychologist that he met with about boundary issues and it appears he successfully concluded his counseling with Dr. Nelson. This Fitness for Duty Evaluation was more focused on whether or not Mr. Allison has a history of sexual compulsiveness and more to the point of this evaluation, whether or not Mr. Allison has a history of any sexual contact with minors in any form or had communicated with minors with sexual intent. At this point, there is no evidence of Mr. Allison having any sexual contact with any minor or attempting to have sexual contact with any minor. I believe that there is no reason why Mr. Allison cannot continue to be an effective teacher and coach and presents a very low risk for any inappropriate contact.

(Ex. A35 at 2, 5.)

11. Dr. Copeland's summary contains an extensive section that reiterates the information Mr. Allison self-reported to Dr. Copeland. The summary states, in part:

I asked Mr. Allison about the circumstances regarding the revocation of his license and he stated,

*In 2009, I was a coach and a teacher in Gresham, Oregon. I was falsely accused of an inappropriate relationship with a female student. * * * * **

*[The allegations were that] I had inappropriate communication with students through my cell phone. [SC] was one of the students that I allowed to communicate with me on my cell phone, in addition to over 100 kids, mostly my football players. It was found though that there was never anything communicated that was inappropriate. * * * * **

*TAs were often the girlfriends of football players and the girls would often talk to me about their personal problems. Occasionally sexual issues came up, like one of the girls thought she was pregnant. I never referred them on to their parents or a counselor. At the review hearing, they found that I was 'counseling' without a license. I'm aware that this was a boundary violation and that I was wrong. There were other times when the kids would ask me questions about my past that were sexual in nature and I would respond by telling them not to make the same mistakes I made or witnessed others make. I realize that those types of interactions with students are inappropriate. There has to be clearly defined boundaries of communication at all times. Also, I'd joke, play stunts. * * * * *. A lot of my jokes were perhaps misunderstood as 'dirty jokes,' almost sexual in nature. * * * * *.*

* * * * *

Mr. Allison has worked with three schools since his time in Gresham, Oregon. He was recruited and worked as a volunteer at Rex Putnam high school in Oregon. He again was recruited to work in a paid position at Portland State University and worked from the spring of 2011 until May 2012, when he was offered his current job at Archbishop Murphy. * * * * *. Mr. Allison reflected on the above investigation and said,

I should not have allowed the kids to call or text me by phone. (Question: How else could you do this?) I could use the school email system or the school's voicemail system to leave a paper trail. Now any email I write, I send a copy to the 'team mother' and to the athletic director...I've also made a decision to not have any female TAs, have any personal conversations with students involving their extra[.]curricular lives, or be in any compromising situations.

(Ex. A35 at 3-4; italics in original.)

12. Dr. Copeland's summary contains the following information regarding the polygraph examination Mr. Allison underwent on February 14, 2013:

The test consisted of the following three relevant questions, to all of which he responded "NO":

- 1) *Have you engaged in sexual contact with anyone under the age of 18 since your 20th birthday?*
- 2) *Have you even communicated sexually with anyone under the age of 18 since your 20th birthday?*
- 3) *Have you masturbated to thoughts of anyone under the age of 18 since your 20th birthday?*

After scoring the polygraph charts, it was my [Dr. Copeland's] opinion that the physiological responses indicated Mr. Allison answered truthfully to the questions. NO DECPETION WAS INDICATED.

(Ex. A35 at 5; italics and emphasis in original.)

13. On February 11, 2013, the OAH issued a Proposed Order, in which ALJ Barber affirmed the Commission's November 16, 2011 Notice of Denial of License Reinstatement. (Ex. A36 at 3-12)

14. On or about February 27, 2013, Mr. Allison submitted an Application for Education License or Registration – Form C-1 (Application) to the Commission. (Ex. A34.) On the Application, Mr. Allison noted that he wanted his revoked teaching license reinstated. (*Id.* at 2.)

15. On March 14, 2013, the Commission received a letter from Mr. Allison regarding his Application. (Ex. A34 at 6-4.) In the letter, Mr. Allison stated, in part:

I never violated any laws of the State of Oregon, and was not arrested, charged, or convicted of any crime. However, I do feel there were communication boundaries that were broken with students, and for that I take full responsibility. In my efforts to mentor and help kids with problems they were dealing with, the means of communication I was using was not the method I should've used as an educator. Although there was never any inappropriate material communicated to students, I can see now how students, parents, and educators can take communications with students thru cell phone use in the wrong way. It isn't professional and the communication can be misinterpreted and/or misunderstood. I have learned that although this is how kids communicate these days, there should never ever be any communication with cell phone use between teachers and students. The perception alone of this kind of communication can lead to a number of different problems, which is the case here. There has to be clearly defined boundaries between a teacher and his/her students. I realize that now and will never allow students to communicate with me in that manner again.

(*Id.* at 6.)

16. Along with the letter, Mr. Allison submitted a "Plan of Action" (Plan). (Ex. A34.) The Plan proposed the following:

1. After my teaching license is reinstated, I will continue to receive additional counseling on a quarterly basis (every 3 months) to demonstrate and monitor that my conduct is in good standing, and that I clearly understand and have established/maintained professional communication boundaries with student (i.e. no communication thru private cell phone, no verbal bantering, no conversations w/students about private life, always refer students to counseling office when appropriate, etc.).
2. While employed as a teacher, I will recommend to the administration of the school to be assigned to a mentor teacher to also monitor my progress conduct to make sure everything is going well. The mentor teacher will be older than me and will be someone that can offer me advice on any given situation within the educational realm.
3. I will never again be assigned to any female teacher's aides during the remainder of my teaching career. If I need a TA, it will be male students only (preferably my football players).
4. Forms of communication with students/parents will only be done thru my school server email address and will be CC'd to a parent and/or school administrator. And, any phone calls that need to be made will be done thru the school phone. If students/parents need to leave me a message they can call my school extension and leave a voicemail there. Or they can email me through my school email.
5. I am open to any other parameters that Executive Director Victoria Chamberlain, the Commission, and TSPC would like to add to this plan of action.

(*Id* at 11.)

17. On May 31, 2013, the Commission issued a Final Order adopting ALJ Barber's Proposed Order in its entirety and denying Mr. Allison's application for reinstatement of licensure. (Ex. A36 at 1.)

18. In the Proposed Order, ALJ Barber following pertinent findings of fact:

5. During the investigations by school district personnel and by Gresham Police, several students and former students were interviewed about Allison and SC, and also about Allison's interactions with other female students. Students told police and district investigators the following:

- Student BS stated that SC told her Allison flirted with her (SC), making inappropriate comments and touching her (rubbing her shoulders, rubbing against her playing basketball). SC told BS that Allison "liked it hard;"
- Student HD had seen "really inappropriate" text messages between SC and Allison, and had been told by another friend, AR, that Allison made AR get her hall pass from his lap/crotch area where he had placed it;
- Student SR refused to become a TA for Allison because her friends told

her Allison was a “creeper;”

- Student NJ relayed a conversation with SC, where SC stated she “almost got kissed” by Allison. Then, in another conversation, SC told NJ that Allison had “fingered her;”
- Student LC relayed that SC told her that Allison had kissed and “fingered” her;
- Students NH and MG stated that Allison often talked about sex. One time, he put a piece of paper in NH’s bra, then pulled it out, brushing her breast. He told NH that he would date her if she was older. Allison showed them sexual images on his cell phone and on the weight room computer. He would talk about past sexual experiences with MG and NH, and ask about their sex lives with the boyfriends. MG stated that, after she showed Allison her belly button piercing, he later told her “I wanted to lay you down on the floor and fuck the shit out of you.” MG stopped coming to class after that conversation;
- Student PD stated that Allison told her she was cute, with a perfect-sized body, and that her breasts were a nice size;
- Student AF, when discussing her boyfriend with Allison, reported that Allison said that some guy in college would “treat [her] like a lady and then fuck the shit out of [her].” She stated that Allison also told her that he would help her select what to wear for senior pictures if AF would do a “strip tease” for him;
- Student AR stated that Allison was always joking about sexual things. One time, when he was giving her two dollars, she put her hand out for the money but he put it in her shirt pocket “right by my boob.”
- Student AS stated that Allison’s comments were usually sexual. One time he pulled her into the coach’s office, told her she was beautiful, and said she could have any guy that she wanted. Allison showed her nude pictures on his phone, including one where the punch line (in a photo involving two persons in a strange sexual position) was about flexibility. Allison asked AS if she was flexible, too.

(Ex. A36 at 5.)

19. In the Proposed Order, ALJ Barber opined, in part:

The Commission’s challenge to Allison’s fitness at the present time is essentially two-pronged, focusing on the alleged inappropriate physical contact between Allison and two students * * *, as well as on the sexually charged communications with female students that came to light during the investigations. For both reasons, the Commission would not reinstate Allison’s license without strong assurances that he is not a danger to students. Among other things, the Commission would require a psycho[]sexual evaluation and some boundary training by experts who are aware of the circumstances and allegations made against Allison. For the reasons that follow, I agree that such evaluations would be essential for

the Commission to consider reinstating Allison's license to teach.

* * * * *

Under a preponderance standard, the evidence of intimate physical contact between Allison and the two students, JB and SC, is substantial but inconclusive. SC and Allison deny any contact in 2009. JB said there was physical contact at Marist [High School] in 2001, but did not contact the school or the police at that time. Allison denies the inappropriate physical contact claimed by JB.

The Commission contends that Allison may not deny having a relationship with SC because the stipulated facts at the time of the 2010 license surrender establish that there was inappropriate physical contact between Allison and SC. I disagree that Allison stipulated to having such contact * * *, but agree that the practical effect of the stipulate license surrender, under the cloud of that investigation, means that the Commission may assume that the contact took place [footnote omitted].

Thus, the Commission has a valid basis to require a psycho[sexual] evaluation of Allison before granting another license. Even the possibility that such conduct took place between Allison and a student is a sufficient basis for the Commission to require assurances that Allison is fit to teach. There is no question, under these facts, that the Commission needs professional assurances that Allison is not a threat and is fit to teach. While the testing does not guarantee the granting of [the] license, it is a reasonable requirement by the Commission.

* * * * *

At hearing, Allison acknowledged that he had crossed boundaries in his communications with his students. The context of his admission seemed to focus only on the use of text messages and cell phones with students. * * *

However, the evidence from a surprising number of female students, both his teaching assistants and others, establish that the boundary violations were more sexually-oriented than Allison has admitted. A large portion of Allison's conversations with them were sexual in nature. Several students testified to the sexual nature of his communications * * *. Some of the comments attributed to him raise serious concerns. Thus, even if there was never any physical contact with SC, the statements of several unrelated students indicate a pattern of Allison sexualizing many, if not most, conversations with his female students.

Allison denies that he made such comments to his female students, but the

evidence comes from so many independent sources and contains so many similarities that I find his denials to be unreliable. Although it is possible that some of the specific comments were remembered incorrectly, the strong preponderance of the evidence indicates that Allison was inappropriately sexual in his conversations with his female students.

For this reason, the Commission again appropriately wants assurances that such boundary violations would not happen in the future if Allison's license were reinstated. Allison has not presented sufficient evidence of his current fitness to teach, so the denial must be affirmed.

(Ex. A36 at 8-10.)

20. Fran Ferder received her master's degree in psychology and her Ph.D. in clinical psychology from Loyola University. Dr. Ferder served as a licensed clinical psychologist in the state of Washington from 1987 until she retired her license there in 2014. She has been a licensed psychologist in the state of Oregon since 1990. She served on the Ethics Committee for the Board of Psychologists in Washington. In 2010, she was appointed by the Governor of Oregon to the Oregon Board of Psychologist Examiners (Board). In June 2013, she was elected Board chair. (Ex. A39 at 1.) Dr. Ferder provides psychotherapy to adults and victims of sexual abuse and conducts psychosexual assessments. (Test. of Ferder.)

21. In Dr. Ferder's professional opinion, a psychosexual assessment includes consideration of the history of allegations, extensive interviewing of the individual being assessed (typically two to four hours), a polygraph examination with a minimum of 10 questions, and psychiatric testing, including examinations such as the MMPI-2.³ In addition, an assessment may include interviewing the alleged victim(s). (Test. of Ferder.)

22. The Association for Treatment of Sexual Abusers (ATSA), an internationally recognized organization, publishes a series of standards for evaluators and those providing treatment to sex offenders and victims of sexual offenses. Those standards include reviewing a complete history, conducting an interview, and performing psychometric testing (which could include a polygraph). Following standards, such as those set by ATSA, make an assessment more credible. (Test. of Ferder.)

23. In preparation for this contested case hearing, Dr. Ferder reviewed the Commission's exhibits, including Dr. Copeland's report, the police interviews, the transcript from the January 9 and 10, 2013 contested case hearing, the applications for reinstatement submitted by Mr. Allison, the Plan he submitted, and the Final Order of May 30, 2013. (Test. of Ferder.)

24. In Dr. Ferder's professional opinion, the February 20, 2013 report prepared by Dr. Copeland is not a psychosexual assessment. Dr. Ferder reached this conclusion because the report does not contain any indication that Dr. Copeland reviewed the entire history of the case, including police reports and the investigational interviews; the report is very brief; it appears that Dr. Copeland accepted Mr. Allison's answers to his questions as fact and wrote them down

³ Minnesota Multiphasic Personality Inventory.

without any independent verification; and the polygraph questions are very generic rather than specific to the allegations against Mr. Allison. In addition, Dr. Copeland's report does not state that it is intended as a psychosexual assessment. (Test. of Ferder.)

25. In Dr. Ferder's professional opinion, Mr. Allison minimized the events that led to the revocation of his license to Dr. Copeland and made no reference or statements to show empathy towards his alleged victims. Dr. Ferder believes that Mr. Allison has engaged in a great deal of "reflect and deflect" by avoiding discussing topics related to the revocation of his license that make him feel uncomfortable. In addition, Dr. Ferder believes that Mr. Allison blames his alleged victims for his situation and engages in narcissistic behavior by making statements that are self-focused (e.g. he wants to have his teaching license reinstated because he is passionate about teaching). Based on Dr. Ferder's impressions, these are the characteristics of a sex offender. (Test. of Ferder.)

26. During the hearing, Mr. Allison testified and maintained that he is a good teacher and coach, and acknowledged that he should not have allowed students to communicate with him via text messaging. He continued to disagree with the statements the students gave to Gresham Police Department officers during the 2009 investigation. (Test. of Allison.)

CONCLUSIONS OF LAW

1. Michael John Allison has not established his fitness to serve as an educator.
2. Michael John Allison's application for reinstatement of his basic teaching license should be denied.

OPINION

The Commission has denied Mr. Allison's application to reinstate his basic teaching license. The Commission alleges that Mr. Allison failed to establish his fitness as an educator. Pursuant to *former* OAR 584-050-0018, Mr. Allison bears the burden to establish, by a preponderance of the evidence, that he is fit for reinstatement of his teaching license. Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

ORS 342.143(2) provides:

The Teacher Standards and Practices Commission may require an applicant for a teaching, personnel service or administrative license or for registration as a public charter school teacher or administrator to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness to serve as a teacher or administrator.

ORS 342.175(4) provides:

Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (5) of this section, any person whose license or registration has been suspended or revoked or whose privilege to apply for a license or registration has been revoked may apply to the commission for reinstatement of the license or registration after one year from the date of the suspension or revocation. The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as it considers necessary upon approving an application for reinstatement.

Pursuant to the authority granted to the Commission in ORS 342.143(2), the Commission has adopted an administrative rule, OAR 584-050-0005, which lists the necessary criteria for the granting of licenses. *Former* OAR 584-050-0005 provided, in part:

(1) The Executive Director may issue licenses or registrations, grant reinstatements, and renew licenses or registrations when each of the following conditions exists:

* * * * *

(a) All requirements established by law and rules have been met;

(b) The applicant has attained at least eighteen years of age and has furnished evidence satisfactory to TSPC of fitness to serve as an education[.]

Former OAR 584-050-0006 provided, in part:

(1) The Executive Director may deny * * * reinstatement of a license * * * under the conditions set forth in subsection (3) below:

* * * * *

(3) Notice of denial and right to a hearing may be issued by the Executive Director when any of the following conditions exist:

* * * * *

(d) The Executive Director has evidence that the applicant may lack fitness to serve as an educator.

Former OAR 584-050-0018(4) provided, in part:

The application for reinstatement must include:

* * * * *

(d) Any additional documentation, sufficient to establish convincingly that the educator possesses all of the qualifications required for first licensure or reinstatement of a license, certificate or registration. Letters of recommendation from educator colleagues are insufficient alone to establish fitness for licensure following a revocation. The educator must be clear regarding what proactive steps have been taken to ensure to the Commission that the conduct that resulted in the revocation is highly unlikely to occur again.

In support of his application for reinstatement of his teaching license, Mr. Allison offers what he purports is a psychosexual assessment from Dr. Copeland. This report, which was prepared after the conclusion of the January 2013 administrative hearing, but before the Commission issued a Final Order, was based in large part on the self-reported statements Mr. Allison made to Dr. Copeland. Mr. Allison characterized the allegations against him as having "inappropriate communication with student through my cell phone." Exhibit A35 at 3. He reported that he acted as a counselor to his students and that this was a boundary violation.

The Commission offered the testimony of an expert, Dr. Ferder, who persuasively testified that a psychosexual assessment includes consideration of the history of allegations, extensive interviewing of the individual being assessed, a polygraph examination, and psychiatric testing, including examinations such as the MMPI-2. Dr. Ferder also testified that ATSA, an internationally recognized organization, publishes a series of professional standards for evaluators and those providing treatment to sex offenders and victims of sexual offenses. Those standards include reviewing a complete history and interview and performing psychometric testing. As Dr. Ferder explained, following standards such as those published by ATSA make an assessment more credible.

Particularly troubling with Dr. Copeland's report is that it does not indicate that he reviewed, in any detail, the police reports, the Commission's investigative reports, or the school's investigative reports. It appears that the only document Dr. Copeland reviewed was the Stipulation. Other than the polygraph, the report does not contain any evidence that Dr. Copeland conducted any other testing, such as the MMPI-2. The report contains numerous statements Mr. Allison made to Dr. Copeland, many of which are self-serving. Dr. Ferder testified, and I agree, that it appears Dr. Copeland accepted Mr. Allison's answers to his questions as fact and wrote them down in the report without any independent verification. In his statements to Dr. Copeland, Mr. Allison minimized the allegations that led to his voluntary surrender and revocation of his teaching license. He was not forthright and candid with Dr. Copeland regarding the reasons for the surrender and revocation of his teaching license. He self-reported only limited information to Dr. Copeland regarding the reasons for the surrender and

revocation of his license.⁴

For the aforementioned reasons, I agree with Dr. Ferder's opinion that Dr. Copeland's report is not a psychosexual assessment. Additionally, Dr. Copeland's conclusions are not persuasive in light of the limited information he gathered and because his conclusions were primarily based on Mr. Allison's self-serving statements that are not supported by the evidentiary record.

In the Commission's May 31, 2013 Final Order, the Commission adopted ALJ Barber's Proposed Order. That Proposed Order concluded that the "evidence from a surprising number of female students, both his teaching assistants and others, establish that the boundary violations were more sexually-oriented than Allison has admitted. * * * * *. Thus, even if there was never any physical contact with SC, the statements of several unrelated students indicate a pattern of Allison sexualizing many, if not most, conversations with his female students" Exhibit A36 at 9. In his written statement to the Commission in March 2013, Mr. Allison continued to minimize the allegations against him. He maintained that "[i]n my efforts to mentor and help kids with problems they were dealing with, the means of communication I was using was not the method I should've used as an educator. Although there was never any inappropriate material communicated to students, I can see now how students, parents, and educators can take communications with students thru cell phone use in the wrong way." Exhibit A34 at 6. Mr. Allison seems to believe that the only boundary violation in which he engaged centered on communicating with students via text messaging. Mr. Allison is incorrect, and the Commission's Final Order makes it clear that he engaged in inappropriate, sexually explicit conversations with his female students.

By continuing to minimize the behavior in which he engaged, Mr. Allison fails to demonstrate an ability to take proactive steps to ensure to the Commission that his prior conduct is highly unlikely to occur again. He continues to maintain that the allegations against him are false, that the Stipulation he voluntarily signed contained errors, and that he deserves a second chance from the Commission. He continues to maintain his innocence and blames his alleged victims and the Commission for his current situation. At the hearing, Mr. Allison testified that he lost his job at Archbishop Murphy because the Commission would not reinstate his license. He blamed his former students and offered various hypotheses for the reasons they would allege that he behaved inappropriately toward them. Mr. Allison only acknowledges that he should not have given his cell phone number to students or communicated with them via text messaging. However, he takes no other responsibility for his communications with the students.

Finally, in support of his Application, Mr. Allison submitted numerous letters from educators, parents, and former students. The majority of these letters are dated prior to the January 2013 administrative hearing and attest to Mr. Allison's ability to serve as an educator. While it is unclear whether the Commission considered these letters when it rendered the May

⁴ When Mr. Allison underwent the "Fitness for Work Evaluation" in April 2011 with Dr. Wiesner, Mr. Allison did not disclose to Dr. Wiesner the reasons for his resignation from GHS or the surrender of his license. This further demonstrates Mr. Allison's unwillingness to be forthright and candid with an evaluating professional regarding the circumstances that led to the surrender and revocation of his teaching license.