

1 any force or duress, enters into this Stipulation and Final Order and consents to issuance and
2 entry of the Stipulated Final Order below; (vi) he states that no promises or representation has
3 been made to induce him to sign this Stipulation and Final Order; and (vii) he has consulted with
4 an attorney regarding this Stipulation and Final Order and has been fully advised with regard to
5 his rights thereto, or waives any and all rights to consult with an attorney prior to entering into
6 this Stipulation and Final Order and issuance and entry of the Stipulated Final Order below.

7 This stipulation is contingent upon approval and adoption of the Order by the
8 Commission. If the Commission does not adopt this Order, neither Mr. Giacomelli nor the
9 Commission are bound by these Stipulations and Mr. Giacomelli retains all rights to a hearing
10 on the allegations.

11 **STIPULATION OF FACTS**

12 1. Mr. Giacomelli has been licensed by the Commission since September of 1998. Mr.
13 Giacomelli holds a Basic Teaching License issued March 4, 2004, valid through March 5, 2007,
14 with a Basic Language Arts Endorsement.

15 2. Mr. Giacomelli began contract employment with Klamath County School District on
16 August 24, 1998. Mr. Giacomelli served as a teacher at Brixner Junior High School until
17 resignation in lieu of termination on September 29, 2006.

18 3. A District-owned computer with Internet access was present in Mr. Giacomelli's
19 classroom for his use in connection with his assigned responsibilities. The District has an
20 acceptable use policy. The District's policy prohibits the use or attempted use of equipment for
21 Internet access of sexually explicit materials.

22 4. Mr. Giacomelli used his classroom computer periodically to access sexually explicit
23 materials through the District's Internet connection in violation of District policy regarding
24 Internet use.

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26 ///

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1 IT IS SO STIPULATED AND AGREED TO:

2 Paul Dane Giacomelli
3 Paul Dane Giacomelli

pp. ~~12~~ 1/2/07
Date

4 Victoria Chamberlain
5 Victoria Chamberlain, Executive Director
6 Teacher Standards and Practices Commission
7

12-14-06
Date

8 **ULTIMATE FINDING OF FACT**

9 Paul Dane Giacomelli used the computer equipment owned by his employer, Klamath
10 County School District, located on school premises, to access sexually explicit materials. Mr.
11 Giacomelli was fully aware that accessing such materials at the workplace using a District
12 owned computer was inappropriate and in violation of District policy.

13 **CONCLUSION OF LAW**

14 Paul Dane Giacomelli's inappropriate use of a District computer constitutes Gross
15 Neglect of Duty in violation of OAR 584-020-0040(4)(q). The Commission has the authority to
16 impose discipline in this matter under ORS 342.120 through ORS 342.430 and OAR Chapter
17 584.

18 **FINAL ORDER**

19 The Commission adopts and incorporates herein the above findings of fact and
20 conclusion of law, based thereon, hereby suspends the Basic Teaching License of Paul Dane
21 Giacomelli for a period of ninety (90) days effective January 11, 2007. At the end of this
22 suspension period Mr. Giacomelli's Initial Teaching License will be reinstated upon:

- 23 1. Submission of a complete application and fees pursuant to OAR 584-050-0015(3);
24 and
25 2. Submission of documentation that he has undergone an evaluation by a
26 psychotherapist or medical professional acceptable to the Commission, and the evaluator
27 submits a written report to the Commission attesting (a) Mr. Giacomelli is fit to work with
28 children and teenagers, and (b) there is a high probability he will not use school district

1 equipment to access sexually explicit materials or engage in similar inappropriate behavior. Any
2 costs associated with the assessment or treatment will be the responsibility of Mr. Giacomelli.

3 Upon the reinstatement of licensure, Mr. Giacomelli shall be placed on probation by the
4 Commission for a period of four (4) years, subject to the following conditions:

5 a. Mr. Giacomelli shall substantially comply with any treatment or counseling as
6 recommended by the individual who completed the evaluation described above. Mr. Giacomelli
7 shall authorize and sign any consent forms as necessary for the treatment provider or counselor
8 to furnish records to or discuss Mr. Giacomelli's treatment with the Commission.

9 b. Mr. Giacomelli shall comply with all Standards for Competent and Ethical
10 Performance of Oregon Educators under Oregon Administrative Rules, Chapter 584, Division
11 020.

12 c. Mr. Giacomelli shall provide information as requested by the Commission to verify that
13 he has complied with the conditions of probation, including a statement from a future employing
14 district that he has complied with the Standards for Competent and Ethical Performance of
15 Oregon Educators.

16 Violation of the terms of this probation may constitute an independent basis for the
17 Commission to impose discipline, up to and including revocation of Mr. Giacomelli's teaching
18 license subject to Mr. Giacomelli's right to a hearing on the issue of whether he violated
19 probation.

20 Issued and dated this 11 day of January, 2007.

21 **TEACHER STANDARDS AND PRACTICES COMMISSION**
22 **STATE OF OREGON**

23
24 By *Victoria Chamberlain*
25 Victoria Chamberlain, Executive Director

26 Approved as to form:

27 *Ralph Wiser* 1/09/07
28
29 Ralph Wiser OSB# 81423
30 Attorney for Paul Dane Giacomelli

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