

NOTICE OF OPPORTUNITY FOR HEARING
BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
OF THE STATE OF OREGON

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4 In the Matter of the)
Teaching License of) STIPULATION AND
5 HERBERT ADAM MUELLER) ORDER OF PROBATION
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7 On May 28, 1997, the Teacher Standards and Practices
8 Commission (Commission) issued a Notice of Opportunity for
9 Hearing to Herbert Adam Mueller (Mr. Mueller). Mr. Mueller,
10 through his attorney, requested a hearing to contest the
11 allegations in the notice. After a review of the matters
12 alleged, the Commission and Mr. Mueller have agreed that their
13 respective interests are best served by a stipulation to certain
14 facts and an order of probation. This agreement sets forth the
15 facts on which the parties have agreed, the sanction to be
16 imposed and the Commission's order.

17 This stipulation and order is subject to review and approval
18 by the full Commission. If the Commission fails to approve the
19 stipulation and proposed order as written, any waiver of rights
20 by Mr. Mueller are revoked and any statements contained in this
21 stipulation may not be used by the Commission or Mr. Mueller for
22 any reason.

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STIPULATED FACTS

Mr. Mueller and the Commission stipulate as follows:

1. Mr. Mueller holds a standard Oregon teaching license.

He was employed by the Tigard-Tualatin School District beginning in 1978. He taught primarily as a science teacher in district high schools.

2. During the 1995-96 school year, Mr. Mueller engaged in conduct in violation of his duties as a professional educator and in violation of Commission standards, including the use of profanity in the classroom, making inappropriate remarks to female students which the students reasonably found to be offensive, and failure to teach the prescribed scope and sequence of the high school Biology Curriculum in violation of directives from his supervisor that he do so.

3. As a result of this conduct, Mr. Mueller was suspended from and ultimately resigned from his position as a teacher in the district.

4. Mr. Mueller's inappropriate conduct was due in large part to an untreated and not fully diagnosed serious medical condition which hindered Mr. Mueller from exercising appropriate judgment.

5. During the large majority of Mr. Mueller's teaching career, he has been an effective and conscientious educator.

6. Since 1996, Mr. Mueller has been under treatment for his medical condition, and he has fully cooperated with a regimen to address this condition.

7. Mr. Mueller has expressed remorse for the conduct he exhibited during the 1995-96 school year, and he has acknowledged that his conduct was inappropriate.

Herbert A. Mueller 5/14/98
Herbert A. Mueller Date

David V. Myton 5/19/98
David V. Myton, Executive Director Date
Teacher Standards and Practices Commission

CONCLUSION OF LAW

Mr. Mueller's conduct, as described above, constitutes gross neglect of duty in violation of OAR 584-020-040.

OPINION

Mr. Mueller has acknowledged and the Commission finds that his conduct was unacceptable, and that this conduct caused disruption and embarrassment to Mr. Mueller's students and the school district. Similar conduct in other cases has served as a basis for suspension or revocation of an educator's teaching license.

However, the Commission finds other mitigating circumstances. Mr. Mueller's conduct was due substantially to an untreated medical condition. He has obtained treatment for this condition and has agreed to continue with on-going treatment and monitoring for this condition. The record also indicates that Mr. Mueller has been a competent and effective teacher, except for those periods when his ability was altered by his medical

1 condition. The Commission also recognizes that the misconduct
2 occurred over two years ago, and Mr. Mueller has not been
3 employed, except for brief periods of substitute teaching, since
4 his resignation from the district in the Spring of 1996.
5 Accordingly, the Commission will impose a probationary sanction
6 subject to conditions that Mueller continue to comply with
7 recommendations of his treatment providers.

8 ORDER

9 The Oregon teaching license of Herbert Adam Mueller shall
10 remain in effect, and Mr. Mueller shall be placed on probation
11 for a period of three years subject to the following conditions:

- 12 1. Mr. Mueller shall comply with all Standards of
13 Competent and Ethical Performance under OAR 584, Division 20.
- 14 2. If Mr. Mueller is employed as a teacher in a public or
15 private school or if he makes himself available to serve as a
16 substitute teacher in any public or private school, he shall:
 - 17 a. Comply with all directives, including medication
18 directives, of his treatment providers. His current
19 treatment providers are Glenn Brasington, Ph.D. and Marvin
20 Seppala, M.D.
 - 21 b. Provide consent that:
 - 22 i. the Commission may contact his treatment providers to
23 determine whether Mr. Mueller is cooperating and complying
24 with their recommendations;
 - 25 ii. the treatment providers, on their own initiative or on
26 request from the Commission, may disclose to the Commission

1 whether Mr. Mueller is cooperating and complying with their
2 recommendations; and

3 iii. the Commission may provide a copy of this stipulation
4 and order to the treatment providers.

5 c. Agree that if the Commission has a reasonable suspicion
6 that Mr. Mueller's medical condition may be deteriorating,
7 Mr. Mueller shall upon request from the Commission submit at
8 his expense to an evaluation by his treatment provider and
9 agree that the Commission may have access to the evaluation
10 results.

11 d. Agree to inform the Commission if he changes treatment
12 providers and to identify the name and address of the new
13 treatment providers.

14 Failure to comply with any condition of probation shall be a
15 basis in itself for discipline, up to and including revocation of
16 Mr. Mueller's teaching license, and subject to Mueller's right to
17 a hearing on the issue of whether he violated his probation.

18 DATED this 19th day of May 1998.

19
20 David V. Myton
21 David V. Myton, Executive Director

5/19/98
Date

22 APPROVED AS TO FORM:

23
24 Barbara Diamond
25 Barbara Diamond
Attorneys for Herbert Adam Mueller

Date

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