

1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2 OF THE STATE OF OREGON

3 In the Matter of the) STIPULATION OF FACTS,
4 Teaching License of) ORDER OF REPRIMAND
5 KODIAK JACK MALMSTROM) AND PROBATION

6 On or about October 29, 2003, the Teacher Standards and Practices
7 Commission (Commission) received a report from Colt Gill, Assistant Superintendent,
8 South Lane School District, indicating that Kodiak Jack Malmstrom (Malmstrom) had
9 been arrested for Driving Under the Influence of Intoxicants and had a prior conviction
10 for Disorderly Conduct.

11 After review of the matters alleged, Mr. Malmstrom and the Commission agree
12 that their respective interests, together with the public interest, are best served by a
13 stipulation to certain facts, the imposition of a Reprimand and a three year (3) probation.

14 This Order sets forth the facts upon which the parties have agreed and the
15 sanction to be imposed. Mr. Malmstrom stipulates that there are sufficient facts
16 contained in the Commission's files and records to support the findings of fact and
17 conclusions of law set forth below. In entering into this stipulation, Mr. Malmstrom
18 waives the right to a hearing to contest the findings of fact, conclusions of law and order
19 set forth below. Mr. Malmstrom understands that the probation will be subject to specific
20 conditions.

21 This stipulation is contingent upon approval and adoption of the Order by the
22 Commission. If the Commission does not adopt this Order, neither Mr. Malmstrom nor
23 the Commission are bound by these Stipulations and Mr. Malmstrom retains all rights to
24 a hearing on the allegations.

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1 **STIPULATION OF FACTS**

2 1. The Commission issued Mr. Malmstrom's current Restricted Transitional
3 Teacher License on August 27, 2002, valid until August 27, 2005, with endorsements in
4 Health Education and Physical Education.

5 2. Mr. Malmstrom was employed as a health/PE teacher and coach by the
6 South Lane School District for the years 2002-2003 and 2003-2004. He resigned
7 effective the end of the 2003-2004 school year.

8 3. On June 2, 2003, Mr. Malmstrom pled guilty, and was convicted, of a
9 disorderly conduct violation resulting from a fracas which occurred in or outside a tavern
10 on the Oregon coast. At the time of the conduct, Mr. Malmstrom was not supervising
11 minors nor in any official or unofficial teaching or coaching capacity.


12 4. On or about October 17, 2003, Mr. Malmstrom was arrested for Driving Under
13 the Influence of Intoxicants (alcohol). Mr. Malmstrom was granted Diversion in
14 Cottage Grove Municipal Court for DUII. As a requirement of Diversion, Mr. Malmstrom
15 completed the Discovery Program through ACES Counseling Center.

16 5. Mr. Malmstrom acknowledges that his behavior described above was
17 inappropriate and accepts responsibility for his conduct.

18 IT IS SO STIPULATED:

19 
20 Kodiak Malmstrom

06-30-04
Date

21 
22 Victoria Chamberlain, Executive Director
23 Teacher Standards and Practices Commission
24

6-17-04
Date

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2 **CONCLUSIONS OF LAW**

3 Mr. Malmstrom's repeated violations of the law are of particular concern given
4 that he was employed as a health teacher whose assignment may have included
5 teaching anti-drug curriculum. By Driving Under the Influence of Intoxicants on
6 October 17, 2003, Kodiak Malmstrom engaged in an act constituting criminal conduct in
7 violation of OAR 584-020-0040(5)(e). Kodiak Malmstrom's conviction for Disorderly
8 Conduct violates OAR 584-020-0040(5)(c). This misconduct constitutes Gross
9 Unfitness. The Commission's authority to impose discipline in this matter is based upon
10 ORS 342.175.

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ORDER

The Commission adopts the above stipulation of facts and imposes a Public Reprimand upon Mr. Malmstrom. This Stipulation of Facts, Order and Probation constitute the Reprimand.

Furthermore, the Commission imposes a three (3) year probation upon Mr. Malmstrom subject to the following terms and conditions:

1. Mr. Malmstrom shall at his own initiative and expense, continue to obtain treatment for his alcohol dependency as recommended by his alcohol treatment provider;

2. During the period of this probation, Mr. Malmstrom shall comply with the terms of the treatment and aftercare plans. Mr. Malmstrom shall abstain from the consumption of alcohol;

3. During the period of his probation, Mr. Malmstrom shall submit to the Executive Director of the Commission reports of his compliance with the treatment plan and this probation. Mr. Malmstrom shall provide these reports every six (6) months during his probation, on or before: January 1, 2005; July 2, 2005; January 1, 2006; July 2, 2006; January 1, 2007; and July 2, 2007;

4. Mr. Malmstrom 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 violation of criminal probation; and

5. Mr. Malmstrom shall comply with all Standards for Competent and Ethical Performance under Oregon Administrative Rules Chapter 584, Division 020.

1 If Mr. Malmstrom does not comply with all terms and conditions of this
2 probation, based on the reports of his treatment provider or as otherwise determined by
3 the Executive Director, he shall be in violation of this probation. Violation of a term or
4 condition of this probation may constitute an independent basis for the Commission to
5 impose discipline, up to and including revocation of Mr. Malmstrom's licensure subject
6 to Mr. Malmstrom's right to a hearing on the issue of whether he violated probation.

7 IT IS SO ORDERED this 29th day of July, 2004

8 TEACHER STANDARDS AND PRACTICES COMMISSION

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10 By *Victoria Chamberlain*
11 Victoria Chamberlain, Executive Director

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14 APPROVED AS TO FORM

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16 _____
17 Barbara J. Diamond, OSB# 85039
18 Attorney for Kodiak Malmstrom

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