

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

3
4 In the Matter of the Educator) DEFAULT ORDER OF
5 License of) REVOCATION OF
6 RASPBERRY (Formerly Randal Dean Berry)) EDUCATOR LICENSE
7

8
9 On September 16, 2014, the Teacher Standards and Practices Commission
10 (Commission) issued a Notice of Opportunity for Hearing to Raspberry (Raspberry) in
11 which the Commission charged him with Gross Neglect of Duty and Gross Unfitness. The
12 Notice was sent via U.S. First Class Mail and U.S. Certified Mail Receipt 7012 1010 0003
13 2804 4753 to the address on file with the Commission. The Notice designated the
14 Commission file as the record for purposes of proving a prima facie case. The Certified Mail
15 was not returned to the Commission. The first class mail was not returned to the
16 Commission. The Notice of Opportunity of Hearing, dated September 16, 2014, and signed
17 by Victoria Chamberlain, Executive Director, stated:

18 “IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY
19 PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED
20 UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR
21 REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING OR IF YOU
22 FAIL TO APPEAR AT A HEARING, THE COMMISSION WILL ADOPT AN ORDER
23 OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF
24 YOUR LICENSE OR OTHER DISCIPLINE.”
25

26 Raspberry did not request a hearing. The Commission, therefore, finds Raspberry to be in
27 default and enters the following findings of fact, conclusions of law, and final order, based
28 on the files and records of the Commission concerning this matter.

29 **FINDINGS OF FACT**

- 30 1. Raspberry been licensed as a teacher in Oregon since June 23, 1999. Raspberry’s
31 Standard Teaching License, with endorsements in Standard Elementary (016) and
32 Standard Exceptional Learner I (018), was issued on September 3, 2012, and expires
33 on September 2, 2017. During all relevant times, Raspberry was employed by the
34 Portland Public School District.
35
36 2. On August 7, 2012, the Commission received information from Portland Public
37 Schools indicating Raspberry had committed acts of unprofessional conduct in the

1 area of unnecessary physical force to restrain students. Investigations by the
2 Commission, the school district, and local law enforcement identified the following
3 unprofessional conduct: On October 20, 2011, Raspberry was issued a letter of
4 reprimand and final warning regarding a pattern of use of unreasonable physical
5 force and restraints employed by Raspberry against students. This letter provided
6 very specific examples of Raspberry's improper restraints and use of force. One
7 specific example included Raspberry's interactions with student [REDACTED]. According to
8 district reports and witnesses, Raspberry's improper physical restraint of [REDACTED]
9 resulted in injury to [REDACTED] including bruising of his arms. Prior to these events,
10 Raspberry was provided training regarding proper ways to restrain students when
11 required and alternatives to physical contact with students.
12

- 13 3. On April 24, 2013, the Commission received a report from Portland Public Schools
14 indicating that Raspberry had violated professional standards by sexually harassing
15 a fellow employee by engaging in unwelcome verbal sexual comments and
16 unwelcome physical sexual contact. Investigation determined that on or about
17 February 1, 2013, while working at school on a grading day where students were not
18 in attendance, Raspberry sexually assaulted another teacher. Teacher KO stopped by
19 Raspberry's room to talk. Raspberry approached KO, lifted up his untucked shirt,
20 looked at his groin and made a sexual comment. Uncomfortable, KO returned to his
21 room and Raspberry followed. Raspberry walked up behind KO, placed his left hand
22 on KO's shoulder while reaching around KO with his right hand and grasped KO's
23 genitals on the outside of his clothing. Raspberry said something similar to "*What I*
24 *could do with that*", then Raspberry let go and left the room. A few minutes later
25 Raspberry returned to KO's classroom and apologized stating, "I shouldn't have
26 grabbed you down there. I don't know what I was thinking. You're not as big as I
27 thought". A police investigation resulted in Raspberry being charged with Sex Abuse
28 in the 3rd degree and Harassment. On January 17, 2014, Raspberry pled guilty to and
29 was convicted of Harassment, a class A misdemeanor. Raspberry was sentenced to
30 two days in jail and 36 months of probation. The terms of Raspberry's sentencing
31 included no contact with children, a sex offender program, a

1 polygraph/plethysmograph and Raspberry is not allowed to frequent places where
2 children congregate.

- 3 4. Raspberry refused to comply with multiple requests by the Commission to meet with
4 their investigator to be interviewed and / or provide documents as required.
5

6 CONCLUSIONS OF LAW

7 Raspberry's conduct described in section 2 above constitutes gross neglect of duty in
8 in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-
9 020-0010(1) (*Recognize the worth and dignity of all persons and respect for each*
10 *individual*), OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-
11 0025(2)(e) (*Using district lawful and reasonable rules and regulations*); and OAR 584-
12 020-0040(4)(d) (*Unreasonable physical force against students, fellow employees, or*
13 *visitors to the school, except as permitted under ORS 339.250*).

14 Raspberry's conduct described in section 3 above establishes that you do not possess
15 good moral character or mental and physical fitness as required to hold a license under ORS
16 342,143(2). Furthermore, Raspberry's conduct constitutes gross neglect of duty in violation of
17 ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(1)
18 (*Recognize the worth and dignity of all persons and respect for each individual*), OAR 584-
19 020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(e) (*Using district lawful*
20 *and reasonable rules and regulations*); and OAR 584-020-0040(4)(o) as it incorporates
21 OAR 584-020-0035(3)(a) (*Maintain the dignity of the profession by respecting and*
22 *obeying the law, exemplifying personal integrity and honesty*). This conduct also
23 constitutes gross unfitness in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(c)
24 (*Conviction of violating any federal, state, or local law. A conviction includes any final*
25 *judgment of conviction by a court whether as the result of guilty plea, no contest plea or*
26 *any other means*), specifically ORS 166.065(4) (*Harassment*). Your conduct that resulted in
27 the criminal charges and conviction also constitutes gross unfitness in violation of ORS
28 342.175(1)(c); OAR 584-020-0040(5)(e) (*Admission of or engaging in acts constituting*
29 *criminal conduct, even in the absence of a conviction*), specifically ORS 166.065(4)
30 (*Harassment*) and ORS 163.415 (*Sexual Abuse in the Third Degree*).

31 Raspberry's conduct described in section 4 above constitutes gross neglect of duty in

1 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(p) (*Subject to the exercise of any*
2 *legal right or privilege, failure or refusal by an educator under investigation to respond to*
3 *requests for information, to furnish documents or to participate in interviews with a*
4 *Commission representative relating to a Commission investigation*).

5
6 The Commission's authority to impose discipline in this matter is based upon ORS
7 342.175.

8 **FINAL ORDER**

9 The Commission hereby revokes Raspberry's Educator License.

10 IT IS SO ORDERED THIS 31st day of October, 2014.

11 TEACHER STANDARDS AND PRACTICES COMMISSION



12 By: _____
13 Victoria Chamberlain, Executive Director

14 **NOTICE OF APPEAL OR RIGHTS**

15
16
17 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW
18 MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM
19 THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE
20 PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS.

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing notice of final order, certified by me as such, by mailing U.S. First Class Mail and U.S. Certified Mail—Return Receipt Requested, addressed to:

Raspberry
930 SE Alexander Avenue
Corvallis, OR 97333-2052

Dated this 31st day of October, 2014.

By: *Patty Liddell*
Patty Liddell
Investigative Assistant