



1 Driver as a violation; Kubicek was given a conditional discharge for the charge  
2 Possession of a Controlled Substance; and the charge of Resisting Arrest was  
3 dismissed. Records indicate Kubicek also has a prior arrest record for Unlawful  
4 Possession of Marijuana, Reckless Driving, and Attempting to Elude Police on March  
5 20, 2008. On August 8, 2008, Kubicek was convicted of the Attempt to Elude Police  
6 charge as a felony, while the other charges were dismissed. Kubicek was sentenced to  
7 ten days in jail and 18 months probation. On March 22, 2011, Kubicek's felony  
8 conviction was reduced to a Misdemeanor offence. Commission investigators  
9 attempted to contact and interview Kubicek regarding these incidents. Official  
10 written requests for an interview were sent to Kubicek both by certified and regular  
11 mail. The certified receipt was returned signed for on September 4, 2012, and the  
12 regular mail was not returned and assumed delivered. Kubicek failed to contact or  
13 cooperate with the investigators as required.

#### 14 CONCLUSIONS OF LAW

15 Kubicek's conduct constitutes gross neglect of duty in violation of ORS 342.175(1)(b);  
16 OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use professional*  
17 *judgment*). This conduct also constitutes gross unfitness in violation of ORS 342.175(1)(c);  
18 OAR 584-020-0040(5)(p) (*Subject to the exercise of any legal right or privilege, failure or*  
19 *refusal by an educator under investigation to respond to requests for information, to*  
20 *furnish documents or to participate in interviews with a Commission representative*  
21 *relating to a Commission investigation*), and OAR 584-020-0040(5)(c) (*Conviction of*  
22 *violating any federal, state, or local law. A conviction includes any final judgment of*  
23 *conviction by a court whether as the result of guilty plea, no contest plea or any other*  
24 *means*). Kubicek's past criminal conduct is also evidence that Kubicek lacks good moral  
25 character or mental/physical fitness to serve as an educator as required under ORS  
26 342.143(2).

27  
28 The Commission's authority to impose discipline in this matter is based upon ORS  
29 342.175.

1 **FINAL ORDER**

2 The Commission hereby revokes Kelly Brent Kubicek's Right to Apply for an  
3 Educator license.

4 IT IS SO ORDERED THIS 22<sup>nd</sup> day of October, 2013.

5 TEACHER STANDARDS AND PRACTICES COMMISSION



6 By: \_\_\_\_\_  
7 Victoria Chamberlain, Executive Director

8 **NOTICE OF APPEAL OR RIGHTS**

9  
10  
11 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW  
12 MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM  
13 THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE  
14 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:

Kelly Brent Kubicek  
2867 Lytle Blvd  
Nyssa, OR 979135350

Dated this 22<sup>nd</sup> day of October, 2013.

By: Patty Liddell  
Patty Liddell  
Investigative Assistant