

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 SUSPENSION
5 BRIAN WENDELL MILLER) AND PROBATION

6 On or about April 5, 2004, the Teacher Standards and Practices Commission
7 (Commission) received a report from Michael Call, Superintendent, Estacada School
8 District, indicating that Brian Wendell Miller (Miller) used his school computer to receive
9 sexually explicit emails and pictures.

10 After review of the matters alleged, Mr. Miller and the Commission agree that
11 their respective interests, together with the public interest, are best served by a
12 stipulation to certain facts and the imposition of a ninety (90) day suspension of
13 licensure followed by two (2) year period of probation upon reinstatement of Licensure.

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

19 Mr. Miller understands that the probation will be subject to specific conditions.

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

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

STIPULATION OF FACTS

1. Mr. Miller holds a Basic Teaching License issued February 21, 2002, valid through March 3, 2005, with a Standard Health Education Endorsement.

2. Mr. Miller began employment with the Estacada School District as a Health Education Teacher at Estacada High School on September 6, 1999. Mr. Miller resigned his teaching position with Estacada School District on March 31, 2004.

3. A District-owned computer with Internet access was present in Mr. Miller's classroom for his use in connection with his assigned responsibilities. The District has a clearly defined, acceptable use policy for the advancement and promotion of learning and teaching.

4. Mr. Miller received sexually explicit emails and pictures through the District's Internet connection in violation of District policy regarding Internet use.

IT IS SO STIPULATED:

Brian Wendell Miller
Brian Wendell Miller

6-29-04
Date

Victoria Chamberlain
Victoria Chamberlain, Executive Director
Teacher Standards and Practices Commission

7-1-04
Date

///

///

///

1
2
3
4
5
6
7

ULTIMATE FINDING OF FACT

8 Brian Wendell Miller used the computer equipment owned by his employer,
9 Estacada School District, located on school premises, to receive and store sexually
10 explicit emails and pictures. Mr. Miller was fully aware that receiving such materials at
11 the workplace using a District owned computer was inappropriate and in violation of
12 District policy.

13
14
15

CONCLUSION OF LAW

16 Brian Wendell Miller's inappropriate use of a District computer violated OAR 584-
17 020-0040(4)(a) and OAR 584-020-0040(4)(q). This misconduct constitutes Gross
18 Neglect of Duty. The Commission's authority to impose discipline in this matter is
19 based upon ORS 342.175.

20 ///

21 ///

22 ///

23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ORDER

Brian Wendell Miller's Basic Teaching License is suspended for a period of ninety (90) days effective on July 28, 2004. At the end of this suspension period, Mr. Miller's Basic Teaching License will be reinstated upon:

1. Submission of a complete application and fees pursuant to OAR 584-050-0015(3); and

2. Submission of documentation that he has undergone an evaluation by a psychotherapist or medical professional acceptable to the Commission, and the evaluator submits a written report to the Commission attesting (a) Mr. Miller is fit to work with children and teenagers, and (b) there is a high probability he will not use school district equipment to access sexually explicit materials or engage in similar inappropriate behavior. Any costs associated with the assessment or treatment will be the responsibility of Mr. Miller.

Upon the reinstatement of licensure, Mr. Miller shall be placed on probation by the Commission for a period of two (2) years, subject to the following conditions:

1. Mr. Miller shall substantially comply with any treatment or counseling as recommended by the individual who completed the evaluation described above.

Mr. Miller shall authorize and sign any consent forms as necessary for the treatment provider or counselor to furnish records to or discuss Mr. Miller's treatment with the Commission.

2. Mr. Miller shall comply with all Standards for Competent and Ethical Performance of Oregon Educators under Oregon Administrative Rules, Chapter 584, Division 020.

1 3. Mr. Miller shall provide information as requested by the Commission to verify
2 that he has complied with the conditions of probation, including a statement from a
3 future employing district that he has complied with the Standards for Competent and
4 Ethical Performance of Oregon Educators.


5 Violation of the terms of this probation may constitute an independent basis for
6 the Commission to impose discipline, up to and including revocation of Mr. Miller's
7 teaching license subject to Mr. Miller's right to a hearing on the issue of whether he
8 violated probation.

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

10 TEACHER STANDARDS AND PRACTICES COMMISSION

11
12 By: 
Victoria Chamberlain, Executive Director

14 Approved as to form:

15
16
17 
18 Aruna Masih, OSB #97324
19 Attorney for Brian Wendell Miller

[062104a]