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2 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
3 OF THE STATE OF OREGON
4
5
6

7 In the Matter of the)
8 Teaching License of) FINAL ORDER
9)
10 ROBERT TIMOTHY FOWLER) Case No. 1102323
11

12
13 On December 2, 2011, Administrative Law Judge (ALJ) Rick Barber issued a Proposed
14 Order in this case.
15

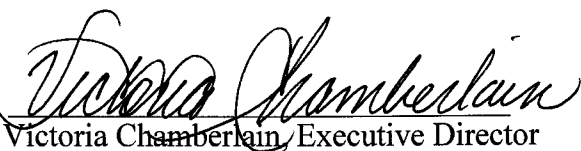
16 The Teacher Standards and Practices Commission adopts in its entirety the Findings of
17 Fact, Conclusions of Law and Order contained in the attached Proposed Order.
18

19
20 ORDER
21

22 The Commission adopts the Proposed Order in its entirety and suspends Robert Fowler's
23 right to apply for a license for one (1) year.
24

25
26 Dated this 16th day of March 2012.
27

28 TEACHER STANDARD AND PRACTICES COMMISSION
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31 By 
32 Victoria Chamberlain, Executive Director
33 Teacher Standards and Practices Commission
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39 **NOTICE:** You are entitled to judicial review of this order. Judicial review may be obtained by
40 filing a petition for review within 60 days of the service of this order. Judicial review is pursuant
41 to the provision of ORS 183.482 to the Oregon Court of Appeal.

CERTIFICATE OF MAILING

On March 19th, 2012, I mailed the foregoing Final Order and Proposed Order in OAH Case No. 1102323 to:

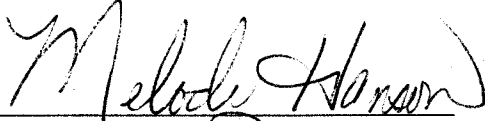
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Melody Hanson
Director of Professional Practices

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
TEACHER STANDARDS AND PRACTICES COMMISSION**

IN THE MATTER OF:) **PROPOSED ORDER**
)
ROBERT T. FOWLER) OAH Case No. 1102323
) Agency Case No.

HISTORY OF THE CASE

On February 9, 2011, the Teacher Standards and Practices Commission (TSPC, or the Commission) issued a Notice of Opportunity for Hearing to Robert T. Fowler (Licensee). On February 25, 2011, Attorney Douglas Minger requested a hearing on Licensee's behalf. On April 28, 2011, TSPC referred the hearing request to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) Rick Barber was assigned to preside at hearing. A prehearing conference was held on June 20, 2011, and the matter was set for hearing for November 8-10, 2011.

Hearing was held as scheduled on November 8, 2011, in Salem, Oregon.¹ Licensee appeared and was represented by Mr. Minger. The Commission was represented by Assistant Attorney General Raul Ramirez. The following were called as witnesses by the Commission: Licensee, Principal Scott Maltman, and former student KS. The following were called as witnesses by Licensee: Educational Assistant Dana Watts, Kathy Fowler (Licensee's wife), and Licensee. The record closed at the end of the hearing.

ISSUES

1. Whether Licensee committed gross neglect of duty in one or more of the following particulars:
 - a. By giving personal notes and gifts to a female student, KS;
 - b. By snapping his fingers in KS's face in the school hallway; or
 - c. By failing to report that KS had obtained his phone number and was making many calls to him.

2. Whether, if Licensee committed gross neglect of duty, his right to apply for reinstatement of his license should be suspended for a year.

¹ Hearing lasted only one day.

EVIDENTIARY RULINGS

Exhibits A1 through A4, offered by the Teacher Standards and Practices Commission, were admitted into evidence.² Exhibit L1 was also admitted into evidence.

CREDIBILITY FINDINGS

A witness testifying under oath or affirmation is presumed to be truthful unless it is demonstrated otherwise. ORS 44.370 provides, in relevant part:

A witness is presumed to speak the truth. This presumption, however, may be overcome by the manner in which the witness testified, by the character of the testimony of the witness, or by evidence affecting the character or motives of the witness, or by contradictory evidence.

The determination of a witness' credibility can be based on a number of factors other than the manner of testifying, including the inherent probability of the evidence, internal inconsistencies, whether or not the evidence is corroborated, and whether human experience demonstrates that the evidence is logically credible. *Tew v. DMV*, 179 Or App 443 (2002).

In this case, there are three witnesses whose testimony requires some comment concerning credibility or reliability, either based on my observations or because it was raised by one side or the other.

Dana Watts. Ms. Watts is an educational assistant for the school district, and worked with a group of students in Licensee's science class that would meet during the period when KS and AP would come to retrieve KS's lunch from the refrigerator. It was clear from Watts' testimony that her memory of the events was not good; her common response to most questions was "my memory doesn't serve me well in this instance." She vaguely remembered KS (her memory refreshed by seeing her in the lobby outside the hearing), and she remembered her "runway" walk, as Watts described it to Licensee. She vaguely remembered telling Principal Maltman that some of the students considered Licensee "creepy." She did not remember Licensee having a lot of candy in his classroom all the time, or that he would give it out to the students as rewards. She vaguely remembered being interviewed by Maltman after KS went to him, but does not remember what she said to him.

I sensed no intent to deceive in Watt's testimony, but her testimony at hearing was very tentative. I asked if she was under the influence of medications because she took so long to answer and did not have clear answers to the questions. She stated that she has a poor memory, claiming it was a family trait.

For these reasons, while I accept Watts' statements recorded contemporaneously by others in 2007 (set forth in the Findings of Fact), I do not accept her current recollections (more than four years after the fact) as reliable. For those reasons, Watts' testimony is given little

² Exhibit A4 was admitted into evidence over Licensee's objection. The document was admitted because of its impeachment value.

weight in this case.

KS. KS is now a college freshman, studying Business at a local university. She had a relatively good recollection of the circumstances involving Licensee in 7th and 8th grade, several years earlier, but her recollections are not complete.

She specifically remembers bringing her sack lunch every day and putting it in Licensee's refrigerator. She would retrieve the lunch, along with her friend AP, who almost always bought her lunch in the cafeteria/lunchroom. She remembered that Licensee began leaving candy in her lunch bag, along with little notes like "Have a nice day," either inside the bag or stuck to the outside of it. She also remembered, upon questioning, that some of the notes had been Harry Potter trivia questions.

KS testified that she stopped using Licensee's refrigerator when AP and others told her they thought it was strange for Licensee to constantly give her the notes and candy. She began to avoid Licensee in approximately February, letting Watts and her friends know that she did not want to see or talk to Licensee.

Although her testimony is credible, her recollection is not complete, as shown by a comparison of her testimony to the contemporaneous record. In her testimony, she could not remember ever talking directly to Licensee about leaving her alone. However, the statement she gave to Taylor in June 2007 stated:

Sometime in March I yelled at him to quit sending notes in my locker, quit leaving flowers. Mr. Fowler said "OK, whatever, are you OK"

(Ex. A2). I accept her contemporaneous comment to Taylor over her current recollection, and conclude that she did actually confront Licensee at some point in March 2007. Again, I find no intent to deceive in this witness. She was approximately 14 years old at the time, and it is now several years later. I find her testimony accurate as to what she does remember, and incomplete in other areas, but I find her generally credible.

Licensee. Licensee's credibility is the most troubling of all in this case because, by all accounts, he was an excellent educator through his years of service in the school district. Even in his interactions during the hearing, one can see why students would have enjoyed being taught by him.

However, there are certain aspects of his testimony that simply do not make sense, and are not believable. For instance, Licensee testified that his room and his refrigerator were "stuffed with candy" that had been purchased with student funds from the Environmental Science course he had created. However, neither KS nor Watts remember there being large amounts of candy or him using candy as rewards in his classes. His statements about the large amounts of candy, arguably used to establish that giving candy to KS was not out of the ordinary, is unsupported in the record.

Second, Licensee's testimony is not believable when it comes to portions of the first long

note he wrote to KS. Licensee's note to KS contained the following phrases:

Dazed and confused but life's a bitch. Daz turn to nights, without, without—

(Ex. A3 at 1). When asked about that phrase, and specifically whether it came from a song, Licensee testified that he just made the words up. Yet, a song released just before these events contains the following lyrics:

I'm a little dazed and confused,
Life's a bitch and so are you.
All my days have turned into nights,
'Cause living without, without, without you in my life.

(Ex. A4). It is quite clear that Licensee either heard this song or was familiar with the lyrics at the time he wrote the note to KS in February or March. His testimony on this point is not believable, and the comparison to the actual lyrics of the song is troubling. The song lyrics, as well as other aspects of the note, suggest an attachment beyond professional boundaries.

Finally, when I asked him specific questions about whether he considered the notes to have been too personal, in hindsight, he failed to answer the question. He was evasive in his answers to this question when asked by the Commission's attorney, and remained evasive when I questioned him as well. For all of these reasons, I do not accept Licensee's recollections of events, and his testimony concerning his interactions with KS and others, to be accurate.

FINDINGS OF FACT

1. Licensee was a seventh grade science teacher at Boring Middle School during the 2005-06 school year, the 2006-07 school year, and for many years prior. School year 2006-07 was his last year of teaching; he planned to retire that year, and did retire. He was a very popular teacher, and the students at the school decided to fete him with a retirement party. (Test. of Licensee, Maltman).

2. KS was a seventh grader in 2005-06, and was a student in Licensee's science class that year. She and Licensee developed a good rapport. At the beginning of the next year, when KS was an eighth grader, she asked Licensee if she could store her sack lunch in the refrigerator in his classroom. Licensee agreed. KS would bring in her lunch before class every morning, accompanied by her friend, AP. Licensee was sometimes in the classroom at that time, but more often was at the front of the school, greeting students. At lunchtime (which was "staggered," meaning some went to lunch while others were still in class), KS and AP would come in during a seventh grade science class to retrieve KS's lunch. (Test. of Licensee, KS, Watts). Dana Watts was an educational aide in that class, working with a group of students who had some limitations. Watts often noticed that KS and AP would "saute" into the room, like they were on a "runway." She shared this observation with Licensee. (Test. of Watts, Licensee).

3. One time when KS and AP were retrieving KS's lunch (AP usually bought her lunch at school), Licensee heard them talking about Harry Potter, and the fact that the author had

decided to split the final story into two books. They were wondering what would happen to Harry in the final story. Shortly thereafter, Licensee found an article in the Oregonian that had trivia questions about Harry Potter. He copied the trivia questions, and would put a "sticky" note with a trivia question on KS's lunch bag. Other times, he would put a short note, such as "Have a good day" on her lunch bag. (Test. of Licensee, KS). Licensee had a nickname for KS, calling her "Special K." (Test. of Licensee; Ex. A3 at 1).

4. Early in the school year, some of Licensee's seventh graders reported to Licensee that KS and AP had gone behind his desk and stolen some candy. Licensee did not want to embarrass KS or AP, and did not report the theft to the administrators of the school. Reasoning that any candy he had in his classroom had been bought with student funds, he concluded that KS and AP were technically entitled to some of the candy. He began to put candy in KS's lunch bag every day, along with a note. Later in the fall, he discovered several cans of soda pop missing from the refrigerator and believed that KS and AP had taken them. He did not confront them, or report them to the administration. (Test. of Licensee, KS).

5. Just before the school year began, the school held a "back to school" night. Although KS and AP were eighth graders that year, they kept coming into Licensee's classroom. At one point, Licensee realized he had misplaced his phone. Later, it was returned to his desk, with a new screensaver: a picture of KS and AP, laughing. From that point in August on, KS and AP made prank phone calls to Licensee more than 100 times. Licensee did not know the content of most of the calls or the voice messages left; he just erased most of them. (Test. of Licensee). Licensee did not report the phone calls to the administrators. (Test. of Licensee, Maltman). On some of the calls, Licensee would pick up and he and KS would talk about non-school-related things. On one occasion, Licensee told KS about some investments he had in Macy's. (Test. of KS). One night, when Licensee was receiving the prank calls, his wife and then his daughter answered the phone and told AP (who made that call) to stop calling Licensee. The calls did not stop. (Test. of Licensee, Fowler).

6. After a few months, in late February or March, KS began to feel uncomfortable about the notes and candy that Licensee was leaving for her every day. Her friend, AP, thought it was strange, and KS began to hear comments from people in the lunchroom about the notes and candy. As she began to feel more uncomfortable, she stopped bringing her lunch into Licensee's classroom. She told Watts and several classmates that she did not want to go back into his classroom; she does not remember ever telling Licensee that directly. (Test. of KS). In March, she finally told Licensee to leave her alone. (Ex. A2). Watts later told Maltman, during the subsequent investigation, that some of the kids thought Licensee was "creepy." (Test. of Watts).

7. Licensee became aware that KS was avoiding him, when another student told him that KS did not want to talk to him any more. Licensee decided to write a note to KS. The note stated:

I hope you give me a chance to clear something up – Ms. Watts (Chit Chat Woman) said you want nothing to do with me because of something I said or did – that's fine but you need to know that was never my intention. I have enjoyed

you using the refrig—you even set the temp, early in the year – your coming in I called the “Runway walk”, the pudding, apples were always for you—I played keepaway w/the spoons only for reaction – the Myspace/Yourspace I thought to be clever, not painful. The “what the heck” was only for you as well. I truly thought you would read between the lines and see the humor. You an emotionally charged person, stubborn as a mule and full of pride, so I accept you probably won’t ever speak to me again. Just [to] clarify, I want nothing. So I am surprized and crushed. Rumor is your leaving the school district. Rumor is I am as well, maybe distance is what you want. I accept that as well. You seem sadder now than earlier in the year. I don’t want to accept that, but that’s the brakes – Dazed and confused but life’s a bitch. Daz turn to nights, without, without— You’ll always be Special K—

Try [smiley face] there’s only a short time left in the year. Don’t be so angry. You misinterpret with written words – the emotion is sometimes wrong, sorry.

(Ex. A3 at 1; emphasis in original). Licensee slid this note into KS’s locker through one of the vents. (Test. of Licensee).

8. A song called “Bubble Wrap,” released on November 6, 2006, includes the following lyrics:

I’m a little dazed and confused,
Life’s a bitch and so are you.
All my days have turned into nights,
‘Cause living without, without, without you in my life.

(Ex. A4).

9. When the same student told Licensee that KS still refused to talk to him, Licensee wrote another note to KS, again putting it in her locker. He also taped a shamrock on her locker, because the next day was St. Patrick’s Day. (Test. of Licensee). The note read:

Don’t be so sensitive – This school would not be any fun w/u pissed off – I am sorry and regret anything if it hurt your feelings – I won’t do it again – It was only to be fun, I guess it wasn’t. Sooorry girl

(Ex. A3 at 2; emphasis in original).

10. Someone, possibly another teacher, urged KS to report the notes she had received to Principal Maltman, and she did so some time in June 2007, just before the end of the school year. When Maltman met with KS, she gave him the two notes in her possession and said that receiving them made her uncomfortable. Her discomfort was evident to Maltman, and he sent her home with the promise to discuss it further the next day. After KS left, Maltman called the district office to advise the Superintendent (who also handled all human resources matters) about what he had heard. Maltman was directed to have the school counselor, Carey Taylor, interview

KS, because Taylor is a woman and might obtain more complete information. Maltman also spoke with Licensee and told him to have no contact with KS. (Test. of Maltman).

11. Taylor met with KS and received the following information from her:

Mr. Fowler was my favorite teacher (she had him last year as her 7th grade Science teacher), he let me keep my sack lunch in his classroom refrigerator. He started leaving me candy and notes in my lunch. I didn't think anything of it but as it continued I started to feel uncomfortable. My friends saw it sometimes and thought it was kinda weird. This happened from beginning of the year until late February. On Halloween he left me a big bag of candy. Before the Winter Band concert he left a bag of candy and a note about wearing my hair up at the concert.

I found a note in my locker from Mr. Fowler and it was weird. I didn't know what to think. It made me feel uncomfortable. He walked up to me in the hall after he heard I was mad at him and he snapped his fingers in my face, I told him not to touch me, he didn't touch me. He never touched me or did anything.

In late Feb. I stopped putting my lunch in his room because I wasn't comfortable doing so. I think he was the one who [taped] a daffodil and four leaf clover on my locker door. He may have had a student do it.

Sometime in March I yelled at him to quit sending notes in my locker, quit leaving flowers. Mr. Fowler said "OK, whatever, are you OK"

I called him on his cell phone several times. He called me once and talked about being locked out of his house, it was a weird conversation.

Since March I haven't talked to him.

(Ex. A2).

12. On June 12, 2007, Superintendent Salinas wrote to the Commission to state that Licensee "may have been guilty of harassing a student and giving or exchanging overly personal gifts or notes with a student." (Ex. A1).

CONCLUSIONS OF LAW

1. Licensee committed gross neglect of duty in the following particulars:
 - a. By giving personal notes and gifts to a female student, KS;
 - c. By failing to report that KS had obtained his phone number and was making many calls to him.
2. Licensee's right to apply for reinstatement of his license should be suspended for

one year.

OPINION

The Commission contends that Licensee committed gross neglect of duty, and has the burden to present evidence to prove its claim. ORS 183.450(2). It must prove its case by a preponderance of the evidence. *Sobel v. Board of Pharmacy*, 130 Or App 374, 379 (1994), *rev den* 320 Or 588 (1995) (standard of proof under the Administrative Procedures Act is preponderance of evidence absent legislation adopting a different standard). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely true than not. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390 (1987).

In this case, the Commission has made three allegations against Licensee, contending that all of them constitute gross neglect of duty:

- During the 2006/2007 school year you gave personal notes and gifts to female student KS. These gifts included candy and food items left with her lunch in the refrigerator in your classroom. You also left personal notes and a flower or four-leaf clover on KS's locker. One of these notes asked KS to wear her hair up at the Winter Band Concert.
- Upon hearing that female student KS was upset with you, you approached her in the hallways and snapped your fingers in her face.
- You reported that female student KS had obtained your cell phone number and had called you on several occasions. You did not report this conduct to school district officials.

(Doc. P1). Each of these allegations will be addressed at length below.

Personal Notes and Gifts. The evidence is somewhat conflicting in this case concerning the number of notes and gifts, and what they said; it is not in conflict as to the main point—Licensee regularly gave notes and candy to KS by putting them in her lunch bag every day. Many of the notes were simple greetings (“have a nice day”) and some were trivia questions concerning the Harry Potter movies; some, if KS is to be believed, were more personal. For instance, she testified that one of the notes suggested she wear her hair up for the Winter Concert.

Licensee contends that the comment about wearing her hair up was an oral response to KS's question to him about how to wear her hair. He also contends that he gave KS (and AP) candy because he had large amounts of candy in the refrigerator. However, this statement is not corroborated by KS or by Watts, who would have been aware of large amounts of candy in the classroom.

Although most of the daily notes were apparently thrown away, two longer notes from Licensee to KS are in evidence. Quoted above, they corroborate KS's evidence that Licensee was sending notes to her.

ORS 342.175 states in part:

Grounds for discipline; reinstatement. (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

* * * * *

(b) Gross neglect of duty;

Gross neglect of duty, in turn, is defined in the administrative rules. OAR 584-020-0040 states in part:

(4) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following may be admissible as evidence of gross neglect of duty. Consideration may include but is not limited to:

* * * * *

(n) Substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030;

(o) Substantial deviation from professional standards of ethics set forth in OAR 584-020-0035[.]

Thus, the question is whether Licensee deviated from his standards of competency and of ethics in this case.

The Commission contends that Licensee: 1) failed to use professional judgment; 2) demonstrated or expressed professionally inappropriate interest in KS's personal life; and 3) exchanged overly personal gifts or notes with KS.

1. Professional judgment. OAR 584-020-0010(5) requires the "Competent Educator" to have a commitment to exercise professional judgment, but does not define the term. In my analysis, the key question is whether the ongoing notes and candy, as well as the longer notes in evidence, were something other than "professional." The Commission contends the actions were personal rather than professional, and I agree in part.

Licensee's use of candy to reward his students, and an occasional encouraging note to a student (or even a Harry Potter trivia question), would not necessarily go beyond the bounds of an educator's professional judgment. However, the daily provision of candy and notes to KS went beyond the use of candy as a reward or an occasional encouraging note.

I neither imply nor believe that Licensee was showing romantic interest in KS; the record fails to show such an interest. However, personal interest need not be romantic. The daily gifts and notes, and especially the two longer notes that are in evidence, show a personal interest that exceeded professional judgment. This was further established, as will be discussed more completely below, when Licensee failed to report to the administration the credible reports that KS and AP had been stealing candy and soda pop from his classroom.

2. Professionally inappropriate interest. OAR 584-020-0035 states in part:

(1) The ethical educator, in fulfilling obligations to the student, will:

* * * * *

(c) Maintain an appropriate professional student-teacher relationship by:

(A) Not demonstrating or expressing professionally inappropriate interest in a student's personal life;

(B) Not accepting or giving or exchanging romantic or overly personal gifts or notes with a student[.]

Licensee's regular notes and gifts of candy, placed in KS's lunch, ultimately made KS feel uncomfortable. Other students, and apparently educators, thought it was strange for Licensee to continually give the gifts to her.

When KS decided she did not want to talk again with Licensee, he decided to send a note instead. When she still did not respond, he sent her a second note. Both were dropped into her locker. The notes were overly personal, even including what Maltman considered an unacceptable word,³ and made KS even more uncomfortable.

3. Overly personal gifts and notes. The rule quoted above also precludes the "Ethical Educator" from giving a student overly personal gifts or notes. The two notes in evidence were overly personal.

Therefore, I conclude the Commission has established gross neglect of duty in the giving of notes and gifts from Licensee to KS.

Snapping the Fingers in KS's Face. For the reasons set forth above, I have considered KS's testimony more credible than Licensee's in this case. However, although KS testified that there was an event where Licensee snapped his fingers in her face, the circumstances were not clear from her testimony.

Even if Licensee did snap his fingers in front of KS's face, the Commission has failed to

³ The longer note used the word "bitch," not directed at KS, but still not an appropriate word for use with a student. When Licensee was asked about this word at hearing, he replied (in jocular fashion) that it depended on whether one was talking about a female dog.

show that the action would be an attack on the worth and dignity of KS, or that it was a failure of Licensee's professional judgment.

One can picture a popular teacher such as Licensee walking past a student such as KS and, when the student seemed oblivious, snapping his fingers in a humorous fashion as if to say, "wake up!" There is no evidence, even from KS, that Licensee intended anything personal or unprofessional by snapping his fingers.

Failure to Report Cell Phone Calls. The evidence establishes that KS and AP obtained Licensee's cell phone number early in their eighth grade year and made more than a hundred "prank" calls to Licensee's number. Licensee did not report the calls, or the students' access to his cell phone number, to the administrators.

The Commission relies upon OAR 584-020-0035(1)(c)(C) in this case. That subsection requires an educator to report to a supervisor the reasonable belief that a student is becoming romantically attached to the educator. This reliance is misplaced under the facts of this case, although (because Licensee took very few of those phone calls) it is something he should have been thinking of when deciding whether to report the actions to the administrators. The Commission has failed to show a violation of OAR 584-020-0035(1)(c)(C).

Although I see no evidence of a romantic attachment on either side in this case, the evidence indicates that Licensee's failure to report the phone calls, among other things, showed a lack of professional judgment on his part.

Licensee testified that he was told by his seventh grade students that KS and AP had stolen candy from behind his desk in the classroom. He later observed that there were cans of soda pop missing, and concluded that KS and AP had done it because of their access to his refrigerator. Finally, believing that the girls had taken his phone off his desk and knowing that they were making prank phone calls to him regularly, Licensee inexplicably refused to either address the conduct with the students or report their actions to the Principal or other administrators. When asked why, Licensee indicated they were "good kids" and he did not want to get them into trouble.

Licensee did not exercise sound professional judgment when he refused to deal with these obvious behavior issues of KS and AP. I conclude that his actions were a gross neglect of duty.

The Appropriate Sanction. Licensee retired from his teaching position at the end of the 2007 school year, and his license expired in 2009. The sanction the Commission seeks in this case is a one year suspension of the right to apply for a Teacher License. Under ORS 342.175, quoted above, the Commission has the right to suspend the right to apply for a license.

The evidence in this case shows an otherwise excellent educator who has been shown to have made lapses in judgment in his relationship with KS. Those lapses violated his responsibilities as an Ethical Educator and as a Competent Educator. The Commission's intent to suspend his right to apply for one year is appropriate.

ORDER

I propose the Teacher Standards and Practices Commission issue the following order:

That the February 9, 2011 Notice of Opportunity for Hearing be MODIFIED. The Commission failed to prove one allegation of gross neglect of duty, and failed to prove a violation of OAR 584-020-0035(1)(c)(C) in this case, but the Notice is otherwise AFFIRMED.

Rick Barber

Administrative Law Judge
Office of Administrative Hearings

EXCEPTIONS

The proposed order is the Administrative Law Judge's recommendation to the Teacher Standards and Practices Commission. If you disagree with any part of this proposed order, you may file written objections, called "exceptions," to the proposed order and present written argument in support of your exceptions. Written argument and exceptions must be filed **within fourteen (14) days after mailing of the proposed order** with the:

Teacher Standards and Practices Commission
250 Division Street NE
Salem OR 97301

The Commission need not allow oral argument. The Executive Director may permit oral argument in those cases in which the Director believes oral argument may be appropriate or helpful to the Commissioners in making a final determination. If oral argument is allowed, the Commission will inform you of the time and place for presenting oral argument.

CERTIFICATE OF MAILING

On December 2, 2011, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 1102323.

By: First Class and Certified Mail
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