

**BEFORE THE  
TEACHER STANDARDS AND PRACTICES COMMISSION  
STATE OF OREGON**

IN THE MATTER OF:

**DEBORAH A. McCONNELL,**  
**Respondent**

) **FINAL ORDER INCORPORATING**  
) **RULING ON MOTION FOR SUMMARY**  
) **DETERMINATION AND PROPOSED**  
) **ORDER**  
)  
) OAH Case No.: 1604484  
) Agency Case No.:

This matter came before the Teacher Standards and Practices Commission during its meeting of August 18, 2016 to consider the Ruling on Motion for Summary Determination and Proposed Order issued by Administrative Law Judge Dove Gutman on July 12, 2016. Respondent filed exceptions to the ruling/proposed order on August 4, 2016.

The Commission considered Respondent's exceptions, but did not find them persuasive. Therefore, the Commission adopts the Ruling on Motion for Summary Determination and Proposed Order as the Final Order as set forth below, and imposes a public reprimand on Respondent's teaching license.

**HISTORY OF THE CASE**

On February 5, 2016, the Teacher Standards and Practices Commission (TSPC or the Commission) issued a Notice of Opportunity for Hearing to Deborah A. McConnell (Licensee or Respondent). On February 11, 2016, Respondent, through counsel, requested a contested case hearing.

On March 2, 2016, the Commission referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Dove L. Gutman to preside at hearing.

On April 26, 2016, ALJ Gutman convened a prehearing telephone conference. Elizabeth Joffe, Attorney at Law, represented Respondent. Senior Assistant Attorney General Raul Ramirez represented the Commission. Jeff VanLaanen appeared on behalf of the Commission. During the telephone conference, ALJ Gutman set dates for the Commission to file its Motion for Summary Determination (May 20, 2016), Respondent to file her Response (June 10, 2016), and the Commission to file its Reply (June 17, 2016). ALJ Gutman also scheduled the contested case hearing for September 14, 2016.

On May 20, 2016, Mr. Ramirez filed the Commission's Motion for Summary Determination (MSD) and Exhibits 1 through 8.

On June 9, 2016, Attorney Jennifer Sung filed a Notice of Appearance of Counsel for Respondent. On June 9, 2016, Ms. Sung filed McConnell's Response to TSPC's Motion for Summary Determination (Respondent's Response) and Exhibits R1 and R2.

On June 17, 2016, Mr. Ramirez filed the Commission's Reply. On June 17, 2016, ALJ Gutman closed the record and took the matter under advisement.

### **ISSUES**

1. Whether there are genuine issues as to any material fact, and if not, whether the Commission is entitled to a ruling as a matter of law. OAR 137-003-0580.
2. Whether Respondent engaged in gross neglect of duty as alleged in the Notice of Opportunity for Hearing dated February 5, 2016. ORS 342.175(1), OAR 584-020-0040(4)(n).
3. If so, whether Respondent should receive a reprimand for the violation.

### **DOCUMENTS CONSIDERED**

The following documents were reviewed and considered: The Commission's MSD, Exhibits 1 through 8, Respondent's Response, Exhibits R1 and R2, the Commission's Reply, and the pleadings.

### **LEGAL STANDARD FOR SUMMARY DETERMINATION**

Motions for Summary Determination are governed by OAR 137-003-0580, which provides, in pertinent part:

(1) Not less than 28 calendar days before the date set for hearing, the agency or a party may file a motion requesting a ruling in favor of the agency or party on any or all legal issues (including claims and defenses) in the contested case. The motion, accompanied by any affidavits or other supporting documents, shall be served on the agency and parties in the manner required by OAR 137-003-0520.

(2) Within 14 calendar days after service of the motion, the agency or a party may file a response to the motion. The response may be accompanied by affidavits or other supporting documents and shall be served on the agency and parties in the manner required by OAR 137-003-0520.

(3) The administrative law judge may establish longer or shorter periods than those under section (1) and (2) of this rule for the filing of motions and responses.

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(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

(9) A party or the agency may satisfy the burden of producing evidence through affidavits. Affidavits shall be made on personal knowledge, establish that the affiant is competent to testify to the matters stated therein and contain facts that would be admissible at the hearing.

(10) When a motion for summary determination is made and supported as provided in this rule, a non-moving party or non-moving agency may not rest upon the mere allegations or denials contained in that party's or agency's notice or answer, if any. When a motion for summary determination is made and supported as provided in this rule, the administrative law judge or the agency must explain the requirements for filing a response to any unrepresented party or parties.

(11) The administrative law judge's ruling may be rendered on a single issue and need not resolve all issues in the contested case.

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling or a final order in accordance with OAR 137-003-0665 if the administrative law judge has authority to issue

a final order without first issuing a proposed order.

## FINDINGS OF FACT

### Background

1. Respondent has been licensed by the Commission since 1991. (Ex. 1.) Respondent currently holds a Standard Teaching License with a Health Endorsement valid through October 13, 2020. (*Id.*)

2. Respondent has been employed with the Beaverton School District for approximately 15 years. (Ex. 1.) During the events at issue, Respondent was the health teacher at Westview High School. Respondent previously taught at Sunset High School for 10 years. (*Id.*)

### Behavior

3. Sometime prior to March 4, 2014, the Washington County Sheriff's Office began conducting a criminal investigation involving a Sunset High School parent (JB) accused of sexually abusing several students. (Ex. 4.)

4. On March 5, 2014, at or around 6:55 am, Respondent sent an email from her District-provided teacher email account to several District staff members referencing the criminal investigation, along with a link to a news story (KGW.com) about the investigation. Respondent's email stated, in part:

The news (see link above) that hit yesterday about a Bethany man and father has been the focal point for parents and kids who live in the Bethany area. Lots [sic] has been posted on FB, Twitter, Instagram, etc...

The man in the video has 2 kids that go to Sunset and a lot of our kids who went to Stoller know the family. The man coached for Sun Creek Little league and my daughter [KM] spent the night at their home several times when she was in grade school. I had to talked [sic] to both [MM] (son) and [KM] and ask them if there was anything that happened to them in the presence of this dad.

Please know there could be a ripple effect in our building for the next couple of days.

(Ex. 4 at 1.)<sup>1</sup> The linked KGW news story summarized allegations that JB had lured several young boys into his home over the course of several years to sexually abuse them. According to the story, police investigators believed there was a "high likelihood" of more victims coming forward. The story closed with the following: "If you have any information about the case, you're urged to contact the Washington County Sheriff's Office." (*Id.* at 2-3.)

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<sup>1</sup> Initials are being used in this order to protect the privacy of the individuals named in the email.

5. On March 7, 2014, at or around 7:12 am, Respondent sent a second email from her District-provided teacher email account to several District staff members regarding the ongoing criminal investigation. In the email, Respondent disclosed the names of the potential sex abuse victims, all minor students. Respondent made the disclosures without the knowledge of the police investigators and the school administrators, and without obtaining permission from the student's parents and/or legal guardians. Respondent's email stated, in part:

Dear friends,

I personally know [JB], but have not seen him or talked to him since my transfer to Westview. My daughter used to spend the night at the [B] home when she was in grade school. [JB] coached kids who played for Sun Creek Little League.

With the recent news this week, people in the Bethany community are talking and some of the Westview baseball players are not sure how to process how they are feeling about hearing who [JB] sexually assaulted and the length of time the abuse was allowed to happen.

I'm not sure if you know the list of names so I will tell you what I have heard so far...

[JN] has been allegedly abused by [JB] since he was in the 6<sup>th</sup> grade. He is allegedly openly talking about this. Other boys who are talking, but not as openly, are [KP], [JR] and some kid named [BR]. It has also been shared that [AB] is the one who's [sic] boyfriend first reported the abuse he endured. I do not know this young man's name. So far, it sounds like the majority of the kids attended Stoller and are now at Sunset.

My fear is the social media world we now live in, how it is going to effect [sic] our students and kids and if as well as how we are going to notify students where they can go to talk about how they are feeling. I think it is interesting that we have a crisis team for when a death occurs but nothing has been announced, as far as I have heard, regarding some sort of crisis services for a situation such as this one.

Some of the young men at Westview do not even know how to process how they are feeling and the parents are at a loss for comforting words because they are still shell shocked from the news.

I just wanted to share this information as I do believe in the quote

“it takes a village.”

(Ex. 5.)<sup>2</sup>

6. On March 7, 2014, Michael Chamberlain, then Principal of Westview High School, received a phone call from Sunset High School Administration regarding the March 7, 2014 email that Respondent has sent to staff members disclosing the names of potential sex abuse victims. An investigation was initiated to determine the extent of the email distribution. (Ex. 3; Attachment B to Ex. 3.)

7. On March 7, 2014, Rod Barraclough, then Assistant Principal of Westview High School, received a phone call from Sunset High School Administration regarding the March 7, 2014 email that Respondent had sent to staff members of both high schools disclosing the names of potential sex abuse victims. Mr. Barraclough instructed staff to delete the email because it contained the names of potential sex abuse victims in an ongoing criminal investigation. (Ex. 6.)

8. On March 7, 2014, at 2:35 pm, Mr. Barraclough interviewed Respondent in his office regarding the email that Respondent had sent to staff members that morning. (Ex. 6.) During the interview, the following statements were made:

Rod Barraclough: I was informed you sent an email to some Westview and Sunset staff members. Tell me about the email and the content.

**Debbie McConnell:** *The email was talking about [JB] and how the incident is affecting the Westview community. I was wondering why there isn't anything being announced to Westview students. I have the names of the kids being abused [and] was asked by other parents if I knew the kids.*

Rod Barraclough: How many people did you send this email to?

**Debbie McConnell:** *Probably about 7 people.*

Rod Barraclough: Can you provide me a list of everyone you sent it to if needed?

**Debbie McConnell:** *Yes*

Rod Barraclough: Were you aware the information you shared was confidential?

**Debbie McConnell:** *No*

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<sup>2</sup> Initials are being used in this order to protect the privacy of the individuals named in the email.

Rod Barraclough: Did you have a specific intent by sharing the information?

**Debbie McConnell:** *Yes, I wanted us to start working as a community to help these kids. I feel like we are doing a disservice as a community not doing anything.*

Rod Barraclough: Assistant Principal Chris Bick from Sunset High School contacted you this morning. What did your conversation encompass?

**Debbie McConnell:** *Basically telling me what I did wrong and why[.]*

Rod Barraclough: I contacted Sue Long, Andre Abraham, and Steve Antich from the Westview staff regarding this email. Were there any other staff members at Westview, or others in the community that received your email?

**Debbie McConnell:** *No*

Rod Barraclough: At this time I am asking you not to share any information about your email. The information you discussed is part of an ongoing investigation.

**Debbie McConnell:** *I understand.*

(Attachment B to Ex. 6; emphasis in original.)

9. On March 11, 2014, Mr. Chamberlain and Mr. Barraclough interviewed Respondent a second time regarding the incident. (Ex. 3.)

10. On March 20, 2014, Mr. Chamberlain issued a Memo of Concern to Respondent, which documented the District's investigation and findings. In the Memo of Concern, Mr. Chamberlain concluded that Respondent's March 7, 2014 email was a breach of student confidentiality. Mr. Chamberlain also concluded that Respondent's email had further victimized the named students; had demonstrated a lack of judgment on Respondent's part; and had placed the District in a position of potential liability. Mr. Chamberlain further concluded that Respondent's actions had violated the District's Code of Professional Conduct, the District's policies, and the Commission's rules pertaining to the Ethical Educator. The Memo of Concern stated, in part:

RE: Breach of Student Confidentiality

### **I. Incident**

On Friday, March 7, 2014, at 9:58 am, I received a telephone call from John Huelskamp, principal at Sunset High School. John explained to me that Westview health teacher Debbie McConnell had sent an email that morning to selected staff at both Sunset and Westview High Schools. The email was regarding an ongoing, active Washington County criminal investigation of a Sunset parent who had been recently arrested for inappropriate sexual conduct. The known victims were current Sunset High School students. The email Debbie sent included the names of the Sunset students who were victims.

## **II. Background**

For approximately three weeks counselors and administrators at Sunset were working with Beaverton Police Office[r] Potter and Beaverton Detective Massey on this criminal investigation. The case involved a current Sunset parent and the known victims were Sunset students. The case was reported to the public through numerous media outlets. The Beaverton Police stated in these press releases that they were concerned about other victims who had yet to be identified.

Sunset High staff met with school administrators on Monday, March 3<sup>rd</sup> and were given clear directions and guidance around this investigation. They were told that this was an on-going, active investigation, the students were minors and their names would not be shared, and that they could not share the student names with staff even if the victims were in their current classes. Staff was told that the likelihood of identifying other victims was slim if current victim names were shared with the public. Staff was told that if victims approached them to talk they had guidelines and protocols to check before engaging in any conversation. Over the course of the investigation, John Huelskamp had been discussing the situation with most of the victims' parents in person and/or over the telephone. All of these parents wanted their child's name to remain confidential as they wanted school to remain as normal as possible.

On Wednesday, March 5, you sent an email to Westview administrators and counselors about the case. You also attached a KGW media article about the case that is attached to this letter. In the article you sent the following statements are written:

*"Investigators think there are more victims and hope they will come forward, too."*



*“Investigators told KGW Tuesday that there was a high likelihood more victims could come forward and stated that they had already spoken with some potential victims.”*

*“The Beaverton School District said it was aware of [JB’s] arrest and was working closely with the sheriff’s office.”*

*“If you have any information about the case, you’re urged to contact the Washington County Sheriff’s Office.”*

None of the media outlets publicizing this story (television, radio, newspaper, internet) revealed the names of the victims.

### **III. Investigation**

Assistant Principal Rod Barraclough was notified about the March 7<sup>th</sup> email after receiving a phone call from the Sunset administrators that day. Rod contacted all of the Westview staff that were emailed. All three had forwarded the email to another person because they were unsure what was expected and what to do. Rod asked all of the Westview staff to delete the email from their account and he checked to make sure that the others he knew had received it as a forward had done the same. Sunset High School Assistant Principal Chris Bick followed the same procedure with the four Sunset staff members who had received your email.

Rod met with you on the afternoon of March 7<sup>th</sup> to gather facts. His questions and your responses are attached. It was imperative that Rod ask you about the facts to ensure that both schools did as much as possible to keep the victims’ names confidential and to tell you to not share any of this information any longer as the District was working with the Washington County Sheriff’s Department on this active, on-going investigation.

Upon review of the established facts, it became clear that the situation could lead to disciplinary action. So, on Tuesday, March 11<sup>th</sup>, I met with you, BEA President Karen Hoffman, and Rod Barraclough to gather more facts and discuss the situation.

I asked you the following questions:

- What was the content of the email message you sent on March 7, 2014?
- Who did you sent it to?
- Are you aware of whether the email you sent was forwarded to others?
- Why did you send the email?

- Are you aware that this is an active, on-going police investigation?

All of your answers matched the initial fact-finding conversation you had with Rod Barraclough on March 7<sup>th</sup>.

In addition, I asked the following questions and received these responses from you:

- Where did you get the information you shared in the March 7 email?

*You stated that a parent who was not a mother of one of the identified victims sent you a text and was expressing concern that these student victims were not getting the kind of support they needed during this difficult time. This parent had sent you the names.*

- Did you contact any Sunset administrator before sending your email?

*No*

- Did you contact any Westview administrator before sending your email?

*No*

- So you took the information from a third party, this parent, did not check its accuracy, and sent seven staff members at two different schools the email message that included the student names?

*Yes*

- Why did you do this?

*Because I was never told I couldn't. I've always contacted staff at different schools through email if I have a concern about a student. I was trying to help these students and wanted to make sure that key staff members knew who they were. I've done this throughout my career and no one has ever corrected me on this practice.*

- Why didn't you check in with an administrator at either school before sending this?

*I sent it to David Frankle, a counselor at Sunset. I figured he was closely tied to the investigation and the Sunset administrators.*

- Debbie, you sent this email to other staff members other than David Frankle. Why did you include these other names?

*Because I wanted to contact the counseling department chairs at both high schools (Sunset and Westview) and staff members who knew the baseball programs. These students are current baseball players and there are connections to youth baseball in the Sunset and Westview communities.*

- Did you know that the names were confidential?

*I did after talking with Chris Bick and Rod Barraclough.*

- On March 5<sup>th</sup> you sent an email to Westview counselors and administrators about this investigation. In that same email you sent a link about a KGW news article. This is the same email I have already referenced earlier in this letter. The article did not mention names of victims and made it very clear that this was an ongoing case. The article also clearly states that the District is working closely with the Sheriff's office and that there is a good possibility that yet to be identified victims exist. There have been numerous news reports other than this article and none have revealed the names of the students. Why did you choose to do this even after you sent an article to selected Westview staff that details the importance of confidentiality?

*I was never told not to and I was only trying to help the students. I was told not enough was being done to help these students.*

- Why were you unaware of the confidentiality of the victims?

*The names are on social networks throughout the community.*

At the conclusion of these questions, I shared the following information with Debbie:

- Social media in and around the community is not confirmation of the victim's names. Social media communication also does not give you the right to spread the information through any other means.
- Sunset High School has been working for the past three weeks with the Washington County Sheriff's Department on this case.
- The Sunset staff have all been informed about the case and made aware of their responsibilities. They were given a clear protocol to follow. This entire process was completed in consultation with the Washington County Sheriff's Department.

- The Sunset administration is working with the families to ensure student privacy.
- The Sheriff's Office is actively seeking other victims and it's much more likely victims will come forward if they are not fearful their name will appear on any public document.
- 7 Washington County Counselors were at Sunset High Tuesday and Wednesday, March 11<sup>th</sup> and 12<sup>th</sup>, all day, to work with students and staff.
- Washington County Detectives are working hard to control the damage Debbie's email may have on their investigation.
- The victims are current minors.

I also shared with you that I knew from the time this story was reported that other unidentified victims could very well be Westview High School students. I have never been contacted by the Washington County Sheriff's Department about this case and, as the school principal, I am not in charge of this investigation. The lead on this legal issue is the police department and any work I do without their specific guidance runs the risk of jeopardizing both the case and their investigation.

#### **IV. Conclusion of Investigation**

Upon review of the facts in this case, it is clear that as a result of your deliberate action, selected Beaverton School District students, already alleged victims of the serious crime of sexual abuse, have been further victimized. The exposure of their privacy by an adult they expect to trust does them real harm in that it violates the safe haven that school should be at a time when they need privacy and security more than ever. This was a serious lapse of judgment on your part. No one can fully undo what you chose to do when you named them publicly to numerous people via email. Having done so using District email as a Beaverton School District teacher, the email appears to give your actions added weight and authority.

Your actions have exposed the Beaverton School District to potential liability. Both state and federal law prohibit the disclosure of confidential information contained in a student's educational records. Though you did not learn of the information from the student's records, the fact that you acted in your role as a district employee suggests otherwise. Violations of these laws can result in loss of funding for the District and sanctions. Beyond your obligations to protect confidential information as an educator, you have exposed yourself and the District to an invasion of privacy claim by the families involved. The cost to litigate either of these claims, not to mention the potential damages, is difficult to

quantify.

As a result of this investigation, I have concluded that you have violated the Code of Professional Conduct a number of times. Specific examples are:

Under Employee Conduct and Responsibility

*“All employees shall be expected to perform all duties and responsibilities with reasonable care and at a level which is generally recognized in the profession as reasonably adequate and efficient under similar circumstances.”*

Under The Ethical Educator

*“The ethical educator is a person who accepts the requirements of membership in the teaching profession and acts at all times in ethical ways.”*

*“The ethical educator will keep the confidence entrusted in the profession as it relates to confidential information concerning a student and family.”*

*“Honoring appropriate adult boundaries with students in conduct and conversations at all times.”*

Under Use of District Technology and Communication Services

*“Beaverton School District electronic communication services must be used in a responsible, efficient, ethical, and legal manner to manage the District and to help students master the curriculum.”*

*“Unacceptable behavior or uses include, but are not limited to, those that are illegal, have no reasonable basis for improving the teaching or learning of the District curriculum or completion of District business, are offensive, harassing, or potentially harmful to others.”*

The Code of Professional Conduct also strongly encourages District staff to refer to District Policy IIBGA-AR for a detailed breakdown of unacceptable uses of District technology and communication services.

The licensing agency for Oregon Teachers, TSPC, has a Statement of Professionalism governing all licensed employees.

*“As educators, we belong to a profession that serves Oregon K-12 students, schools, our communities and the public good. We aspire*

*to a professional standard of conduct that goes beyond merely complying with ethical rules. Professionalism is the courage to care about and act for the benefit of our children, our students, our peers, our careers and the public good."*

*"Because we are committed to professionalism, we will conduct ourselves in a way consistent with the following principles in dealing with our students, our peers, our supervisors, and the public."*

*Specifically, I will:*

*"Put the welfare of children first and will do no physical or emotional harm to a child."*

*"Never violate the student-educator boundaries critical for student achievement and success."*

In accordance with OAR 584-020-0021, we will report your actions to TSPC as a violation of your ethical duties as an educator.

## **V. Expectations**

- You are expected to review and comply with the Code of Professional Conduct regarding Employee Conduct and Responsibilities and District Policy GB-AR.
- You are expected to review and comply with the Code of Professional Conduct and the Ethical Educator and OAR 584-020-0[0]35.
- You are expected to review and comply with the Code of Professional Conduct and District Policy IIBGA-AR.
- You are expected to review and comply with the TSPC Statement of Professionalism.

## **VI. Resources**

If you have any questions about the Code of Professional Conduct, issues of confidentiality, or the TSPC Statement of Professionalism, please contact your building principal.

## **Timeline**

Immediate compliance with all District standards and policies as listed above is required. Further violations of these expectations and policies may lead to disciplinary action, up to and including termination.

Signing below indicates only acknowledgement that you have received this communication and have had the opportunity to seek clarification. You have the right to attach a written response to this letter to include in your working file.

(Attachment B to Ex. 3; emphasis in original.) On March 21, 2014, Respondent signed the Memo of Concern. (*Id.* at 8.)

11. On April 2, 2014, Susan Rodriguez, Administrator for Licensed Personnel with Beaverton School District, notified the Commission of Respondent's violation. (Ex. 2.)

12. Respondent's intent when she sent the March 7, 2014 email to District staff, naming the minor students that purportedly were the sexual abuse victims of JB, was to prompt the administration and other staff to start working as a community to help said students. (Ex. R1.)

### CONCLUSIONS OF LAW

1. There are no genuine issues as to any material fact and the Commission is entitled to a ruling as a matter of law.

2. Respondent engaged in gross neglect of duty as alleged in the Notice of Opportunity for Hearing dated February 5, 2016.

3. Respondent should receive a reprimand for the violation.

### OPINION

The record establishes that there are no genuine issues as to any material fact and the Commission is therefore entitled to a ruling as a matter of law.

#### *Violation*

ORS 342.175 is titled "Grounds for discipline; reinstatement" and provides, in pertinent part:

(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:

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(b) Gross neglect of duty[.]

OAR 584-020-0040 is titled "Grounds for Disciplinary Action" and provides, in pertinent part:<sup>3</sup>

(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:

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

As indicated above, gross neglect of duty is any serious and material inattention to or breach of professional responsibilities, including substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030.

OAR 584-020-0010 is titled "The Competent Educator" and provides, in material part:

The educator demonstrates a commitment to:

(1) Recognize the worth and dignity of all persons and respect for each individual;

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(5) Use professional judgment[.]

OAR 584-020-0025 is titled "Management Skills" and provides, in relevant part:

(2) The competent teacher demonstrates skills in:

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(e) Using district lawful and reasonable rules and regulations.

OAR 584-020-0030 is titled "Human Relations and Communications" and provides, in part:

(2) The competent teacher demonstrates:

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<sup>3</sup> The rule was amended effective March 15, 2014. The 2014 version made no material changes that would affect the outcome in this matter.



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(b) Skill in communicating with administrators, students, staff, parents, and other patrons.

OAR 584-020-0035 is titled "The Ethical Educator" and provides, in part:

The ethical educator is a person who accepts the requirements of membership in the teaching profession and acts at all times in ethical ways. In so doing the ethical educator considers the needs of the students, the district, and the profession.

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

(a) Keep the confidence entrusted in the profession as it relates to confidential information concerning a student and the student's family[.]

To summarize the authority above, the competent educator demonstrates a commitment to recognize the worth and dignity of all persons and respect for each individual, and to use professional judgment. In addition, the competent educator demonstrates skills in using district rules and regulations, and in communicating with administrators, students, staff, and parents. Moreover, the ethical educator keeps the confidence entrusted in the profession as it relates to confidential information concerning a student and the student's family.

In this matter, sometime prior to March 4, 2014, the Washington County Sheriff's Office began conducting a criminal investigation involving a Sunset High School parent (JB) accused of sexually abusing several students.

On March 5, 2014, at or around 6:55 am, Respondent sent an email from her District-provided teacher email account to several District staff members referencing the criminal investigation, along with a link to a news story (KGW.com) about the investigation. The news story summarized allegations that JB had lured several young boys into his home over the course of several years to sexually abuse them. The news story also specified that police investigators believed there was a "high likelihood" of more victims coming forward. The news story closed with the following request to the public: "If you have any information about the case, you're urged to contact the Washington County Sheriff's Office."

On March 7, 2014, at or around 7:12 am, Respondent sent a second email from her District-provided teacher email account to several District staff members at Westview and Sunset High Schools regarding the ongoing criminal investigation. In the email, Respondent disclosed the names of the potential sex abuse victims, all minor students. Respondent's disclosure was made without the knowledge of police assigned to the criminal investigation, without the knowledge of the District, and without permission from the parents and/or legal guardians of the named minor students. Respondent's disclosure violated the trust and privacy of the named

minor students who had sought confidentiality of their involvement in the investigation. Respondent's disclosure also re-victimized the named minor students, potentially causing them harm. Respondent's actions demonstrated a serious lapse of judgment, and a lack of respect for the named abuse victims and their families.

In addition, Respondent's disclosure jeopardized the police investigation by potentially reducing the willingness of other victims to report any additional illegal acts to the police. Respondent's disclosure also placed the District in a position of potential liability. Moreover, Respondent's disclosure violated the District's policies and rules she was required to uphold. Respondent's email contained information that was sensitive, part of an ongoing criminal investigation, confidential and potentially harmful to others. Respondent's actions in formulating and sending the email were done without reasonable care. Respondent's actions demonstrated a lack of professional judgment on her part, and a lack of skill in her ability to competently communicate with others.

Finally, Respondent failed to take the reasonable steps of checking the appropriateness of her involvement and the disclosure of confidential information with the administration at either high school or with the police, as urged in the news story.

The Commission finds that by sending an email to District staff disclosing the names of potential sex abuse victims, all minor students, Respondent failed to recognize the worth and dignity of the minor students; failed to use professional judgment; failed to demonstrate skills in using the District's rules and regulations; failed to demonstrate skills in communicating with administrators and staff; and failed to keep the confidences entrusted in the profession as it relates to confidential information concerning the minor students and their families.

The Commission further finds that Respondent's actions in this matter constituted a substantial deviation from professional standards of competency. Therefore, Respondent engaged in gross neglect of duty, in violation of ORS 342.175(1)(b).

Respondent contends that the evidence submitted by the Commission fails to establish that the minor student's names were confidential, that she violated the Commission's rules, that she violated the District's policies and rules, and that her email amounted to gross neglect of duty. The Commission disagrees.

Respondent is a licensed educator in the State of Oregon. Respondent is required to know and adhere to the professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030, as well as the ethical standards of her profession. As Mr. Chamberlain's Memo of Concern explained, disclosing the names of minor child abuse victims during an active criminal investigation, without the knowledge and permission of the police or the parents or legal guardians of said children is a clear violation of privacy and confidentiality. Respondent, as a licensed professional teacher in a position of trust and authority, should know better. As stated previously, Respondent violated the trust and confidentiality of the minor victims she named in the March 7, 2014 email, as well as the rules she was required to uphold as a District employee and competent and ethical educator. Respondent's disclosure re-victimized the named minor students, potentially causing them harm.

Moreover, although it is Respondent stated she was shocked and distressed over the fact that her own children had been exposed to JB, such reaction does not relieve Respondent from her obligations and responsibilities as a licensed educator in the State of Oregon. Therefore, Respondent's arguments are unpersuasive.

*Sanction*

ORS 342.175 further provides:

(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[.]

OAR 584-020-0045 is titled "Factors for Imposing Disciplinary Sanctions" and provides:

The Commission may consider one or more of the following factors, as it deems appropriate, in its determination of what sanction or sanctions, if any, should be imposed upon a finding that an educator has violated any standard set forth in OAR 584-020-0040:

- (1) If the misconduct or violation is an isolated occurrence, part of a continuing pattern, or one of a series of incidents;
- (2) The likelihood of a recurrence of the misconduct or violation;
- (3) The educator's past performance;
- (4) The extent, severity, and imminence of any danger to students, other educators, or the public;
- (5) If the misconduct was open and notorious or had negative effects on the public image of the school;
- (6) The educator's state of mind at the time of the misconduct and afterwards;

(7) The danger that students will imitate the educator's behaviors or use it as a model;

(8) The age and level of maturity of the students served by the educator;

(9) Any extenuating circumstances or other factors bearing on the appropriate nature of a disciplinary sanction; or

(10) To deter similar misconduct by the educator or other educators.

Pursuant to ORS 342.175(1)(b), the Commission may discipline a teacher for gross neglect of duty at any time if the teacher has held a license within five years prior to issuance of the notice of charges. In addition, in imposing disciplinary sanctions upon an educator that violated any standard in OAR 585-020-0040, the Commission *may* consider the factors in OAR 584-020-0045.

As determined previously, Respondent engaged in gross neglect of duty in March 2014. The Commission seeks to impose a public reprimand against Respondent. A review of the record establishes that a reprimand should be imposed against Respondent for the violation.<sup>4</sup>

Respondent contends that there were significant mitigating circumstances, which raise a genuine factual dispute over whether a public reprimand is an appropriate sanction. Respondent also contends that the Commission failed to establish the propriety of the sanction. Respondent further contends that she should receive a letter of formal reproof.<sup>5</sup> Respondent is mistaken.

A public reprimand is the lowest form of discipline that the Commission is authorized to impose under ORS 342.177(3). Respondent's actions in this matter, regardless of her intent, violated the fundamental privacy rights of the named minor students and constituted a substantial deviation from professional standards of competency. There is no genuine issue of material fact left to be determined. Respondent engaged in gross neglect of duty and should receive a reprimand, at the very least, for the violation.

Respondent also contends that she should be allowed to provide evidence of the factors set forth in OAR 584-020-0045. However, the rule is permissive, not mandatory. In other words, the Commission may consider the factors but is not required to do so in determining the appropriate sanction for the violation. The Commission has sufficiently identified the basis for imposition of a public reprimand in this case. Moreover, the ALJ believed the record supported a greater sanction than a public reprimand. As such, Respondent's argument is unpersuasive.

Accordingly, the Commission's MSD is granted and the hearing scheduled for September 14, 2016 is cancelled.

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<sup>4</sup> The ALJ opined that a greater sanction was warranted given the breach of confidentiality in this case.

<sup>5</sup> See OAR 584-020-0060.

## RULING

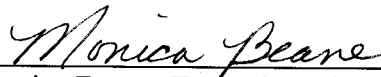
The Commission's Motion for Summary Determination is GRANTED.

The hearing scheduled for September 14, 2016 is CANCELLED.

## ORDER

Based on the foregoing, Deborah McConnell is hereby publicly reprimanded.

It is so Ordered this 22<sup>nd</sup> day of August, 2016.

  
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Monica Beane, Executive Director  
Teacher Standards and Practices Commission

## NOTICE OF APPEAL RIGHTS

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provision of ORS 183.482 to the Oregon Court of Appeals.

## CERTIFICATE OF MAILING


On August 23, 2016, I mailed the foregoing Final Order Incorporating Ruling on Motion for Summary Determination and Proposed Order in OAH Case No. 1604484 to:

By: U.S. First Class Mail and Certified Mail Return Receipt Requested 7015 3010 0002 3171 1118  
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Patty Sheldon  
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