

1 writing by Vice-President Duncan on January 28, 1998, for an incident of inappropriate language
2 in the presence of a student.

3 4. On August 24, 1998, Smith was placed on a Plan of Assistance. The plan
4 included required improvements in classroom management techniques.

5 5. On October 13, 1998, Smith responded to an incident of three students engaged in
6 physical horseplay in class. Smith told the students to quit and then in substance told one of the
7 students that he could demonstrate a way to get out the grasp of an individual if grabbed from
8 behind. Smith's intent was to discourage the students from using a choke hold on one another.
9 The student grabbed Smith from behind and began choking Smith. In order to break free of the
10 student, Smith hit or grabbed the student in the groin. The student released Smith.

11 6. As a result of the incident described in Findings of Fact No. 5, Smith was
12 suspended with pay beginning October 19, 1998.

13 7. In a letter dated October 20, 1998, from Greg Thede, personnel director, Smith
14 was advised that Thede was considering recommending Smith be dismissed as a probationary
15 teacher. Thede advised:

16 This consideration is based upon the above-described incident, which the District
17 considers, by itself, to be a very serious matter. It is also based upon the fact that
18 you are currently n a plan of assistance which is addressing two major
19 performance deficiencies, one of which relates to effective classroom
20 management. In other words, this consideration of dismissal is based upon what
21 appears to be a clearly documented inability on your part to manage your
22 classroom and the students.

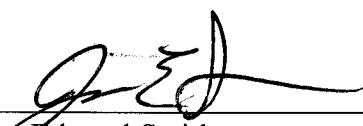
20 The purpose of this letter is to inform you that the District's administration will
21 recommend to the Board of Directors that you be dismissed as a probationary
22 teacher. The reason for this proposed dismissal will be your inability to
23 effectively mange your class room and the students.

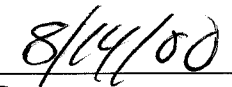
23 ///


1 8. Before the scheduled pre-dismissal hearing scheduled for November 19, 1998,
2 Smith and the District discussed and agreed upon the framework for a settlement agreement.
3 The agreement was executed in late November 1998, and provided for Smith's resignation on
4 November 30, 1998, with the payment of salary and benefits through December 31, 1998. The
5 agreement called for the District to advise prospective employers that Smith resigned for
6 "personal reasons."

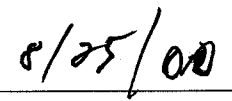
7 Smith enters into this Stipulation of Facts with the knowledge that TSPC will adopt an
8 Order requiring the suspension of his license, placing Smith on two years of probation and
9 imposing additional conditions while on probation. This stipulation is contingent upon the
10 approval and adoption of the Order by the Commission. If the Commission does not adopt this
11 Order, neither Smith nor the Commission are bound by these stipulations and he retains all rights
12 to a hearing on the allegations.

13
14 IT IS SO STIPULATED:

15
16 
17 _____
James Edward Smith

18 
19 _____
Date

20
21 
22 _____
David V. Myton, Executive Director
Teacher Standards and Practices Commission

23 

Date

CONCLUSIONS OF LAW

1. On or about January 28, 1998, and on or about April 8, 1998, Smith violated OAR
584-020-0040(4)(n) when he used inappropriate language in the classroom.

1 2. On or about October 13, 1998, Smith violated OAR 584-020-0040(4)(d) and (f)
2 when he exercised poor judgment and used unreasonable physical force against MH, a male
3 student.

4 **OPINION**

5 In consideration of the fact that Smith did not direct profanity at students and the student
6 with whom Smith engaged in unreasonable physical force did not sustain physical injury, the
7 Commission concludes the sanction of ~~public reprimand~~ ^{a suspended license} and probation is appropriate. (JB)

8 **ORDER**

9 The Commission suspends Smith's license for a period of 90-days commencing
10 September 1, 2000. Smith will also be placed on probation for a period of two (2) years subject
11 to the following conditions:

12 1. Smith shall comply with all Commission requirement, including but not limited
13 to, those articulated in OR 584 chapter 20 – the standards for competent and ethical performance
14 by Oregon educators.

15 2. Smith will notify the Commission's Executive Director of and employment as a
16 licensed teacher in this state or else where and any discipline or investigation occurring while
17 employed as a teacher and during the period of this probation.

18 3. Smith will provide to the Commission such information as requested to verify that
19 he has complied with the conditions of probation, including a statement from his employing
20 district that he has complied with the standards for competent and ethical performance.

21 Violation of any terms of probation shall constitute a basis for the Commission to revoke
22 Smith's license, after first providing to Smith notice and an opportunity.

23 ///

1 DATED this 28th day of Sept 2000.

2 TEACHER STANDARDS AND PRACTICES COMMISSION

3
4 By: David V. Myton
5 David V. Myton, Executive Director

6 Approved as to form:

7
8 John I Bishop 8-7-00
9 John Bishop Date
Attorney for James Edward Smith

10
11 Gary C. Cordy 7-28-00
12 Gary C. Cordy Date
Attorney for TSPC