

1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2 OF THE STATE OF OREGON
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4 In the Matter of the Educator) DEFAULT ORDER OF
5 License of) PUBLIC REPRIMAND
6 JAMES DAVID BRAZIL) AND PROBATION
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9 On August 14, 2015, the Teacher Standards and Practices Commission (Commission)
10 issued a Notice of Opportunity for Hearing to James David Brazil, (Brazil) in which the
11 Commission charged him with Gross Neglect of Duty. The Notice was sent via U.S. First
12 Class Mail and U.S. Certified Mail Receipt 7015 0640 0004 7539 9749 to the address on file
13 with the Commission. The Notice designated the Commission file as the record for purposes
14 of proving a prima facie case. The Certified Mail receipt was returned to the Commission,
15 signed on August 24, 2015. The first class mail was not returned to the Commission. The
16 Notice of Opportunity for Hearing, dated August 14, 2015, and signed by Victoria
17 Chamberlain, Executive Director, stated:

18 “IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY
19 PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED
20 UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR
21 REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING OR IF YOU
22 FAIL TO APPEAR AT A HEARING, THE COMMISSION WILL ADOPT AN ORDER
23 OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF
24 YOUR LICENSE OR OTHER DISCIPLINE.”
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26 Brazil did not requested a hearing. The Commission, therefore, finds Brazil to be in default
27 and enters the following findings of fact, conclusions of law, and final order, based on the
28 files and records of the Commission concerning this matter.

29 **FINDINGS OF FACT**

- 30 1. Brazil has been licensed by the Commission since August 21, 2006. Brazil’s Initial II
31 Teaching License, with endorsements in Middle School Social Studies (ELE), Middle
32 School Language Arts (ELE), and Multiple Subjects Self-Contained (ECE, ELE), is
33 valid from February 10, 2013, through February 10, 2016. During all relevant times,
34 Brazil was employed by the Hermiston School District.
- 35 2. On March 21, 2014, the Commission received a report from the Hermiston School
36 District indicating Brazil may have committed an act of gross neglect of duty and/or

1 gross unfitness. Specifically, Brazil had demonstrated a pattern of unprofessional
2 behavior.

3 3. The Commission's investigation revealed a pattern of behavior during the 2013 –
4 2014 school year, including harassment and unprofessionalism:

5 a. On August 13, 2013, Brazil attended a "Team Leader" meeting. As part of a
6 discussion regarding dress code policy, Brazil made inappropriate comments in the
7 presence of other team member staff related to overweight employees, stretch pants
8 and "camel toes".

9 b. On multiple occasions Brazil used his District email to send unprofessional
10 communications to other staff members. These emails contained inappropriate
11 language, sexual innuendos, and offensive information about students that appeared
12 to condone bullying and harassment between students.

13 c. On or about March 12, 2014, Brazil commented in the presence of two female
14 colleagues that another teacher was receiving special treatment as a teacher on
15 special assignment (TOSA). When Brazil made these inferences, Brazil made obscene
16 hand gestures that mimicked giving a "blow job" or fellatio.

17 d. With students in the classroom, Brazil used district equipment and internet
18 connection to visit "Men's Fitness" articles that had no professional value to the
19 classroom or Brazil's teaching. The district searched Brazil's computer usage and
20 located approximately 20 inappropriate webpages visited by Brazil while students
21 were in the classroom. These included related articles, photographs, and material in
22 violation of district policy. The web pages included sexually graphic images that
23 could have been exposed to students. The titles of these web pages included:

- 24
- 25 • Are You Normal in the Bedroom?
 - 26 • Number of Sexual Partners
 - 27 • Frequency of Orgasm
 - 28 • Penis Size
 - 29 • Does Married Sex Suck?
 - 30 • How Many Guys Watch Porn?
 - 31 • How often do you masturbate?

- 1 • Premature Ejaculation and Lasting Longer in Bed
- 2 • Does Your Partner Like Your Penis?
- 3 • What's Your Favorite Sexual Position?

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CONCLUSIONS OF LAW

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James David Brazil engaged in unprofessional conduct as described above. This conduct constitutes Gross Neglect of Duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(1) (*Recognize the worth and dignity of all persons and respect for each individual*), OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(e) (*Using district lawful and reasonable rules and regulations*), OAR 584-020-0025(2)(b) (*Using and maintaining district property, equipment, and materials appropriately*), OAR 584-020-0030(2)(b) (*Skill in communicating with administrators, students, staff, parents, and other patrons*); and OAR 584-020-0040(4)(l) (*Sexual harassment*).

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

FINAL ORDER

The Commission hereby issues a Public Reprimand upon James David Brazil's Educator licensure, and places Brazil on probation for a period of four (4) years from the date of this order. This probation period is subject to the following terms and conditions:

1. Brazil shall comply with the Standards for Competent and Ethical Performance of Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.

Violation of any term or condition of probation shall constitute an independent basis for the Commission to revoke Cruz' teaching license or otherwise impose discipline, after first providing Cruz with notice and opportunity for hearing.

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1 IT IS SO ORDERED THIS 21st day of October, 2015.

2 TEACHER STANDARDS AND PRACTICES COMMISSION



3 By: _____
4 Victoria Chamberlain, Executive Director

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6 NOTICE OF APPEAL OR RIGHTS

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

James David Brazil
PO Box 1870
Pendleton, OR 97801-0930

Dated this 21st day of October, 2015.

By: Patty Liddell
Patty Liddell
Investigative Assistant