1 2 3	BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION OF THE STATE OF OREGON
4 5 6 7 8	In the Matter of the)DEFAULT ORDER OFEducator License of)REVOCATION OFBENJAMIN ELIJAH TACKETT)LICENSURE
9	On March 18, 2019, the Teacher Standards and Practices Commission
10	(Commission) issued a Notice of Opportunity for Hearing to Benjamin E. Tackett
11	(Tackett) in which the Commission charged him with Gross Neglect of Duty and /or
12	Gross Unfitness. The Notice was sent via U.S. First Class Mail and U.S. Certified Mail
13	Receipt 7018 1830 0001 6178 35055 to the address on file with the Commission. The
14	Notice designated the Commission file as the record for purposes of proving a prima
15	facie case. The Certified Mail was not returned to the Commission. The regular first
16	class mail was returned to the Commission, "Return to Sender". The Notice of
17	Opportunity of Hearing, dated March 18, 2019, and signed by Anthony Rosilez,
18	Executive Director, stated:
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>28</li> </ol>	"IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING, WITHDRAW YOUR REQUEST FOR HEARING, OR IF YOU FAIL TO APPEAR AT A HEARING, OR NOTIFY THE COMMISSION THAT YOU WILL NOT APPEAR AT HEARING, THE COMMISSION WILL ADOPT AN ORDER OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF YOUR LICENSE OR OTHER DISCIPLINE."
29	Tackett did not request a hearing. The Commission, therefore, finds Tackett to be in
30	default and enters the following findings of fact, conclusions of law, and final order,
31	based on the files and records of the Commission concerning this matter.
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33	FINDINGS OF FACT
34	1. Benjamin E. Tackett has been licensed by the Commission since August 3, 2016.
35	Tackett's Preliminary Teaching License, with an endorsement in English Language
36	Arts (PK-12), valid from June 20, 2017 through October 15, 2020. During all relevant
37	times, Tackett was employed by the Astoria School District (ASD).

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2 2. On August 8, 2017, the Commission received a report from the ASD indicating 3 Tackett may have committed an act of gross neglect of duty and/or gross unfitness. 4 Specifically, in September 2015, Tackett engaged in inappropriate personal 5 interactions with a minor aged student while employed as an educator at Payson 6 High School in Arizona. Additionally, in February 2017, the same student, now 18, 7 moved to Oregon and is residing with Tackett. ASD determined Tackett's conduct constituted a pattern of inappropriate behavior and was in violation of ASD policies 8 9 on student / teacher boundaries.

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3. On or about September 24, 2015, Payson Arizona Police Department responded to a 11 suspicious conduct report. Upon arrival they discovered Tackett and then 17 year old 12 13 female student, JS, engaged in a clandestine meeting off school grounds. Tackett and 14 JS had independently drove to the location and were found together inside JS's 15 vehicle. Police were unable to substantiate any illegal activities and filed no charges. 16 Tackett's employer at the time, Payson Unified School District (PUSD), disciplined Tackett, based on violations of PUSD policies, with a five day unpaid suspension and 17 18 written directives specific to professional teacher / student boundaries.

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On July 25, 2017, ASD administration received information advising them of
 Tackett's conduct in Arizona. Administrators met with Tackett to discuss his past
 conduct and learned Tackett had remained in contact with student JS, had returned
 to Arizona over Christmas break and made contact with JS, and JS moved to Astoria
 and was currently living with Tackett. ASD determined that Tackett's past and
 continued conduct violated ASD policies and recommended Tackett's termination.
 On August 14, 2017, Tackett resigned his employment with ASD.

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On October 26, 2018, Commission investigator(s) sent Tackett correspondence by
 certified and regular mail, as well as sending email correspondence on November 13,
 2018, formally requesting that Tackett participate in an interview as required by
 Commission rules. These communications included information advising that failure
 to respond to requests for information or participation in an interview could lead to
 an additional charge of failure to cooperate in a Commission investigation. Tackett

never responded to these communications and never participated in an interview as
 requested.

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## **CONCLUSIONS OF LAW**

4 Benjamin E. Tackett's conduct described in sections 2, 3, and 4 above constitutes 5 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 6 7 and respect for each individual), OAR 584-020-0010(5) (Use professional judgment), 8 OAR 584-020-0025(2)(e) (Using district lawful and reasonable rules and regulations), 9 OAR 584-020-0030(2)(b) (Skill in communicating with administrators, students, staff, 10 parents, and other patrons); and OAR 584-020-0040(4)(0) as it incorporates OAR 11 584-020-0035(1)(c)(A) (Not demonstrating or expressing professionally inappropriate 12 interest in a student's personal life), and OAR 584-020-0035(1)(c)(D) (Honoring appropriate adult boundaries with students in conduct and conversation at all times). 13 14 Benjamin E. Tackett's conduct described in section five (5) above, constitutes 15 gross neglect of duty in violation of OAR 584-020-0040(4)(p) (Subject to the exercise of 16 any legal right or privilege, failure or refusal by an educator under investigation to respond to requests for information, to furnish documents or to participate in 17 18 interviews with a Commission representative relating to a Commission investigation). 19 The Commission's authority to impose discipline in this matter is based 20 upon ORS 342.175. FINAL ORDER 21 The Commission hereby revokes Benjamin E. Tackett's Educator license. 22 IT IS SO ORDERED THIS \_\_\_\_\_\_ day of June, 2019. 23

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- A. Rosile By:

Dr. Anthony Rosilez, Executive Director

## NOTICE OF APPEAL OR RIGHTS

- 7 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY
- 8 BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE
  9 SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF
- 10 ORS 183.482 TO THE OREGON COURT OF APPEALS.

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