

**Teacher Standards and Practices Commission** 

250 Division St NE Salem, OR 97301-1012 Phone: 503-378-3586 Fax: 503-378-4448

August 12, 2020



Mark Richard Binder 16419 S Forsythe RD Oregon City, OR 97045

## RE: STIPULATION OF FACTS AND FINAL ORDER OF PUBLIC REPRIMAND AND PROBATION

Dear Mr. Binder:

On August 10, 2020, the Teacher Standards and Practices Commission (Commission) considered and adopted a Stipulation of Facts and Final Order of Public Reprimand and Probation on you. The Order imposes a Public Reprimand upon your Oregon educator license and immediately places you on probation for a period two (2) years, subject to terms and conditions. Enclosed is a fully executed copy of the Order.

You are required to comply with all terms and conditions of probation as outlined in the Order. Violation of any term or condition of probation shall constitute an independent basis for the Commission to otherwise impose discipline, up to and including revocation of your Oregon educator license, after first providing you with notice and opportunity for hearing.

Pursuant to OAR 584-050-0019, upon successfully completing the full term of probation, you will receive written notification that probation has been terminated.

Sincerely,

Anthony & Rosila

Dr. Anthony J. Rosilez Executive Director

/pms

Encs.

cc: Raul Ramirez, Assistant Attorney General Elizabeth A. Joffe, Attorney at Law

Data Classification Level: 2 – Limited DO: Sheldon

## BEFORE THE TEACHIS STANDARDS AND PRACTICES COMMISSION

1

## 2 OF THE STATE OF OREGON 3 In the Matter of the ) STIPULATION OF FACTS AND 4 Educator License of ) FINAL ORDER OF PUBLIC 5 MARK R. BINDER ) REPRIMAND AND PROBATION 6 7 On June 6, 2018, the Teacher Standards and Practices Commission 8 (Commission) received a report from the Clackamas Education Service District (District) 9 indicating Mark R. Binder (Binder) may have committed an act of gross neglect of duty 10 and/or gross unfitness, specifically, that Binder was under the influence of alcohol at his 11 assigned place of duty. 12 After review of the matters alleged, Binder and the Commission agree that their 13 respective interests, together with the public interest, are best served by a stipulation to 14 certain facts, the imposition of a public reprimand, and a two (2) year period of 15 probation. 16 This Order sets forth the facts upon which the parties have agreed and the 17 sanction to be imposed. Binder stipulates that there are sufficient facts contained in the 18 Commission's files and records to support the findings of fact and conclusions of law set 19 forth below. In entering into this stipulation, Binder waives the right to a hearing to 20 contest the findings of fact, conclusions of law and order set forth below. 21 By signing below, Binder acknowledges, understands, stipulates, and agrees to 22 the following: (i) he has been fully advised of his rights a hearing to contest the findings 23 of fact, conclusions of law, and order set forth below, and fully and finally waives all such 24 rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final 25 Order of Public Reprimand and Probation (Stipulation and Final Order); (ii) this 26 Stipulation and Final Order is a public document and disclosed to the public upon 27 request by the Commission; (iii) this Stipulation and Final Order is contingent upon and 28 subject to approval and adoption by the Commission. If the Commission does not 29 approve and adopt this Stipulation and Final Order, then neither Binder nor the 30 Commission are bound by the terms herein; (iv) he has fully read this Stipulation and 31 Final Order, and understands it completely; (v) he voluntarily, without any force or 32 duress, enters into this Stipulation and Final Order and consents to issuance and entry of

- 33 the Stipulated Final Order below; (vi) he states that no promise or representation has
- 34 been made to induce him to sign this Stipulation and Final Order; and (vii) he has
- 35 consulted with an attorney regarding this Stipulation and Final Order and has been fully

Page 1 STIPULATION OF FACTS AND ORDER OF PUBLIC REPRIMAND AND PROBATION – MARK R. BINDER

1	advised with regard to his rights thereto, or waives any and all rights to consult with an		
2	attorney prior to entering into this Stipulation and Final Order and issuance and entry of		
3	the Sti	pulated Final Order below.	
4			
5		STIPULATION OF FACTS	
6	1.	The Commission has licensed Binder since July 29, 1986. Binder holds a	
7		Professional Teaching License, with an endorsement in Special Education:	
8		Generalist (PK-12), valid from February 11, 2016, through February 10, 2021.	
9		During all relevant times, Binder was employed by the Clackamas Education	
10		Service District (CESD) and had been working there since 1989. In Binder's most	
11		recent position with CESD, he was serving in a TOSA position working to assist	
12		Life Enrichment Education Program (LEEP) teachers across the program and	
13		sometimes providing internal substitute teaching coverage for absent LEEP	
14		teachers. Prior to that, Binder served as a special education teacher for	
15		approximately 29 years at CESD.	
16			
17	2.	On June 6, 2018, the Commission received a report from the CESD indicating	
18		Binder may have committed acts of gross neglect of duty. Specifically, that on	
19		June 6, 2018, Binder reported for duty under the influence of alcohol.	
20			
21	3.	Investigation determined that on June 6, 2018, Binder was providing coverage at	
22		Ogden Middle School. A classroom Educational Assistants (EA) reported Binder	
23		appeared overly emotional for the circumstances and that he smelled of alcohol.	
24		The EA asked Binder if he had been drinking. Binder acknowledged having one	
25		glass of wine the previous evening. Binder requested a second opinion from	
26		another EA, and the other EA agreed that Binder smelled of alcohol. Binder	
27		immediately contacted his supervisor and agreed to take a blood alcohol test.	
28		Binder was given a breathalyzer test at 10:22 AM, and another test fifteen (15)	
29		minutes later. Binder's first test was positive for alcohol at a level of 0.074 BAC,	
30		and his second test was positive for alcohol at a level of 0.065 BAC. Binder was	
31		immediately placed on administrative leave.	
32			
33	4.	Binder acknowledged drinking wine with dinner the previous night, but he did	
34		not recall drinking an amount that would have caused those BAC levels the	

1		following morning. Binder agreed that he must have had more to drink than he
2		recalls.
3		
4	5-	On June 8, 2018, Binder sought professional help to assist him with post-
5		traumatic stress disorder from childhood trauma he suffered and repressed, to
6		manage stressors related to serious health issues with a family member, and to
7		address the drinking episode. Between June 8 and 22, 2018, Binder met with a
8		counselor 11 times. Both Binder and his counselor have indicated that his PTSD
9		likely manifested the night of June 5, 2018, as a period of dissociation due to the
10		extreme stress that day relating to his ill family member. Binder has not been
11		identified as having an alcohol abuse disorder, and he has adhered to all mental
12		health treatment recommendations.
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14	6.	There have been no prior reports to TSPC regarding Binder in the 34 years he has
15		been licensed, and there was no discipline in his CESD personnel file. Binder was
16		scheduled to retire at the end of the school year and the district permitted Binder
17		to use his leave and retire without imposing any discipline.
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19	$\Pi \Pi$	
20	IT IS S	SO STIPULATED:
21 22	74.	1-7. E. 9-4-2020
23	Mark	R. Binder Date
24 25	11	R. Binder Date 9-4-2020 Date 18/05/2020
26	Trent	Danowski, Deputy Director Date
27	Teach	er Standards and Practices Commission
28		
29		CONCLUSION OF LAW
30		The conduct described above constitutes gross neglect of duty in violation of ORS
31	342.17	75(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use
32	profes	sional judgment), OAR 584-020-0025(2)(e) (Using district lawful and reasonable
33	rules	and regulations), and OAR 584-020-0040(4)(g) (Appearing on duty or at any
34	distric	st-sponsored activity while under the influence alcohol or any controlled
35	subste	ince).
36		

1	The Commission's authority to impose discipline in this matter is based upon
2	ORS 342.175.
3	ORDER
4	The Commission adopts and incorporates herein the above findings of fact and
5	conclusions of law, and based thereon, imposes a public reprimand upon Mark R.
6	Binder's Oregon educator license.
7	Furthermore, the Commission imposes a period of two (2) years of probation
8	upon Binder's licensure to commence from the date this order is signed by the
9	Commission and subject to the following condition:
10	1. Binder shall comply with the Standards for Competent and Ethical Performance
11	of Oregon Educators under Oregon Administrative Rules Chapter 584, Division
12	020.
13	
14	Issued and dated this <u>day</u> day of August, 2020.
15	TEACHER STANDARDS AND PRACTICES COMMISSION
16	STATE OF OREGON
17	
18	By
19	Dr. Anthony Rosilez, Executive Director