

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

IN THE MATTER OF: ) **FINAL ORDER**  
 )  
**STEPHAN PERRY PRICE** ) OAH Case No. 2023-ABC-05844  
 ) Agency Case No. 2021-08-009  
 )

This matter came before the Teacher Standards and Practices Commission during its regularly scheduled meetings of April and June, 2024. The Commission considered the proposed order issued by Administrative Law Judge (ALJ) Samantha Fair on February 5, 2024. Mr. Price filed exceptions to the proposed order on February 21, 2024. After considering the record in the case the Commission issued and Amended Proposed Order on June 26, 2024, finding that Mr. Price engaged in gross neglect of duty and imposing a 60-day suspension of his teaching licenses. Mr. Price filed exceptions to the amended proposed order on July 10, 2024 and requested oral argument before the Commission. The Commission allowed oral argument and considered the case during its meeting of August 16, 2024. The Commission considered the exceptions and now issues this final order that imposes a 60 day suspension of Mr. Price’s teaching licenses.

**EXCEPTIONS AND ORAL ARGUMENT**

The Commission considered Mr. Price’s exceptions to the proposed order and amended proposed order and does not find them persuasive. Mr. Price’s exceptions primarily consisted of arguments raised at hearing or otherwise addressed in the proposed order or amended proposed order. Mr. Price also appeared through counsel and presented oral argument at the Commission meeting of August 2024. The Commission did not find Mr. Price’s oral argument persuasive.

**HISTORY OF THE CASE**

On July 27, 2022, the Teacher Standards and Practices Commission (Commission) issued Stephan Perry Price a Notice of Opportunity for hearing, proposing to revoke his educator’s license. On November 9, 2022, Mr. Price requested a hearing.

On February 23, 2023, the Commission referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Administrative Law Judge (ALJ) Alison Webster to preside at hearing. On May 8, 2023, ALJ Webster convened a prehearing conference and rescheduled it to May 12, 2023.

On May 12, 2023, ALJ Webster convened a prehearing conference. Attorney Rich Cohen appeared with his client Mr. Price. Senior Assistant Attorney General Raul Ramirez appeared on the Commission’s behalf. Kevin Cooley also appeared on behalf of the Commission. ALJ Webster scheduled the hearing for October 16 through 18, 2023, and set

deadlines for the submission of witness lists and exhibits. On May 15, 2023, Mr. Ramirez and ALJ Webster discovered they both had a conflict with the scheduled hearing dates. On May 22, 2023, ALJ Webster convened a prehearing conference. Mr. Cohen, Mr. Price, Mr. Ramirez and Mr. Cooley appeared. ALJ Webster scheduled the hearing for November 15 through 17, 2023, and set new deadlines for the submission of witness lists and exhibits.

On August 28, 2023, ALJ Webster convened a status conference to discuss logistics for the hearing. Mr. Cohen, Mr. Price, Mr. Ramirez and Mr. Cooley appeared.

On October 18, 2023, the Commission filed a Motion for Protective Order with a form of a Protective Order. On October 19, 2023, ALJ Webster granted the motion and the OAH issued the Protective Order.

On October 24, 2023, Mr. Price requested an extension of the deadline date for hearing submissions, which ALJ Webster granted on October 25, 2023.

On November 3, 2023, the OAH reassigned the matter to ALJ Samantha Fair.

On November 15 through 17, 2023, ALJ Fair convened a hearing in Salem, Oregon. Mr. Price appeared with Mr. Cohen. Mr. Ramirez represented the Commission. Mr. Cooley and Quinn Lindley from the Commission also appeared. The Commission called the following witnesses: Mr. Price; Woodburn School District Human Resource Director Nikki Tucker; North Clackamas School District Associate Human Resource Director Alma Morales Galicia;<sup>1</sup> Commission Lead Investigator Lindley; JP, RG's mother;<sup>2</sup> Salem Police Detective Cort Kirksey; Woodburn School District Interim Superintendent Juan Larios; and Commission Legal Liaison Cooley. Mr. Price testified on his own behalf and called the following witnesses: Marianne Walker, Mr. Price's friend and Young Leaders Program staffer; Office of Training, Investigations and Safety Interim Chief Investigator Lindsay Bigelow; and Salem Police Detective Matthew Brassfield.

On November 21, 2023, Mr. Price filed an Offer of Proof.<sup>3</sup>

On November 30, 2023, ALJ Fair reconvened the hearing for the presentation of closing arguments. The record was left open for the receipt of citations lists from the parties. The record closed on December 1, 2023, after receipt of the citation lists.

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<sup>1</sup> At the time of the incidents at issue, Ms. Morales-Galicia worked for the Woodburn School District.

<sup>2</sup> To protect the privacy of a minor, the initials of the minor and his mother are used in this order. RG was not available to testify in this hearing. In May 2022, RG left a note for his mother and left home. JP has not heard from RG since he left. (Test. of JP.)

<sup>3</sup> In response to the ALJ's ruling excluding evidence as irrelevant, the ALJ set November 21, 2023, as a deadline for Mr. Price to provide a written offer of proof made for the excluded evidence. *See* OAR 137-003-0610(5).

## ISSUES

1. Whether Mr. Price committed gross neglect of duty by violating professional boundaries with a student. ORS 342.175(1)(b).
2. Whether Mr. Price committed gross neglect of duty by failing to respond to the Commission's requests for an interview. ORS 342.175(1)(b).
3. Whether the Commission should revoke Mr. Price's educator licenses. ORS 342.177(3)(d).

## EVIDENTIARY RULINGS

Exhibits A1, A2, and A4 through A24, offered by the Commission, were admitted into the record without objection. The Commission withdrew Exhibit A3.<sup>4</sup> Exhibits 101 through 105, and 107 through 111, offered by Mr. Price, were admitted into the record without objection. The ALJ excluded Exhibit 106, offered by Mr. Price, from the record for lack of relevance.

## FINDINGS OF FACT

### *Relevant Licensing and Employment History*

1. Mr. Price received an initial teaching license from the Commission on December 27, 2007. He received an initial administrator license from the Commission on December 27, 2013. He received preliminary teaching and administrator licenses from the Commission in December 2016. (Ex. A13 at 4-5.) He last renewed his licenses in December 2022 and they remain active.<sup>5</sup> (Test. of Cooley.) Mr. Price has no history of adverse actions from the Commission or prior complaints of inappropriate conduct with students. (Exs. A13; A16 at 1; A18 at 1.)

2. The Woodburn School District (District) continuously employed Mr. Price from 2004 until April 19, 2023, except for a 1.5 year period when he worked at an educational school district. (Ex. A16 at 1; test. of Tucker.) From 2016 through 2021, Mr. Price was a Title and Special Programs Administrator. (Test. of Price.) In his last position with the District, Mr. Price was an Instructional Services Program Administrator. (Ex. A15 at 1.)

3. As an educator, Mr. Price seeks to model ethical and moral behavior at all times, to behave appropriately with children and to never harm a child. (Test. of Price.)

### *The Young Leaders Program*

4. Mr. Price originally operated an Oregon Boy's State through the American Legion.

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<sup>4</sup> The Commission also offered Exhibit A3, which was originally admitted without objection. During testimony, the ALJ questioned the relevance of this exhibit and any testimony regarding it. The Commission then withdrew the exhibit.

<sup>5</sup> OAR 584-020-0005(5) defines "educator" to include both licensed teachers and administrators.

Approximately 10 years ago, Mr. Price, Brian McKinley, Cody Cosgrove, and Andrew Hendrie created the Young Leaders Program (YLP) as a non-profit organization. (Ex. A7 at 2-3; test. of Walker.) Mr. Price is the director of the YLP and handles the majority of the administrative work for the organization. (Ex. A7 at 2; test. of Price and Walker.) The YLP operates summer camps for teenagers, at no charge to campers,<sup>6</sup> that include non-traditional, non-sport activities that appeal to the “geeks and nerds.” (Test. of Walker.) The campers include a high percentage of minorities, youth from impoverished homes, homeless youth, migrant youth, youth identified as talented and gifted, and campers that identify as LGBTQ. Similarly, the YLP staff are very diverse and eclectic. (Test. of Walker and Price.) The majority of the YLP staff are 20 to 25 years old and include many former campers. Mr. Price, Ms. Walker and Mr. McKinley, all in their 40s, are the oldest staff members. (Test. of Walker.)

5. The YLP camps create a simulation of a real-life community to teach campers leadership skills, responsibility and successful navigation of real-life concepts. Campers pick careers to work; create a court system and a legislature to pass and enforce laws; elect a president and other officials; have a police force and a postal service; are paid and purchase items with simulated currency called “brapples;” pay taxes with brapples; and abide by the rules and laws of the camp. (Ex. A7 at 2; test. of Walker, Kirksey and Price.) The camp rules are created by the YLP staff and violations of the rules can result in expulsion from the camp. The camp laws are created by the campers in their legislature and enforced by the campers’ police force and courts. When the camp concludes, the next year’s campers will start the simulated environment as the prior campers left it. (Test. of Walker.)

6. Mr. Price, Mr. McKinley and Ms. Walker market the YLP camps and recruit teenagers to attend them. The target of recruitments are students<sup>7</sup> in the seventh to twelfth grades. (Test. of Walker.) Mr. Price begins his recruiting activities approximately six months before every camp. He distributes notices and performs presentations for the YLP camps at schools, libraries, homeless shelters, after school clubs and special education programs. (Test. of Price.) Mr. Price also convinced the District to subsidize some District students to attend the YLP camps. (Test. of Walker.) During his recruitment contacts with prospective campers, Mr. Price distributes \$5 brapples to the prospects who can use them at the YLP camps to purchase goods at the camp’s store. The brapples contain contact information for the YLP and Mr. Price, including his email address and cell phone number. Mr. Price will often communicate with prospective campers via phone conversations and text messages during the recruitment process, prior to the start of the YLP camps. When recruiting, Mr. Price maintains a friendly and affable manner with the prospective campers. (Exs. A7 at 2-3; A21 at 1; test. of Price.)

7. Mr. Price’s work for YLP was not a District activity and was unrelated to his employment with the District. (Ex. 110 at 1; test. of Tucker and Larios.) YLP is not affiliated with any schools, and Mr. Price’s interactions with the campers are not related to any school activities. (Test. of Larios.) There is no requirement for any YLP staffers to hold educational licenses. (Test. of Price.)

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<sup>6</sup> The YLP applies and receives grant monies to pay for the camps. (Test. of Price.)

<sup>7</sup> OAR 584-020-0005(11) and ORS 339.370(13) defines a “student” as a person in any grade from prekindergarten through grade 12.

*The Student RG*

8. In August 2021, RG was 14 years old and resided with his mother JP. (Test. of JP.) RG was not a District student but attended high school in the Salem-Keizer District. (Test. of Larios, Kirksey and Price.)

9. Approximately June 2021, RG became defiant and distant from JP and other family members and verbally abusive to his siblings. RG developed a new friend group and would not answer JP's questions about his activities or his friends, other than indicating that they were older teenagers. RG was sneaking out of the house at night to visit his boyfriend and his new friends. When JP confronted RG about sneaking out of the house, RG indicated that he could only meet his boyfriend at night because the boyfriend worked during the day. RG would not provide other information about his boyfriend to JP. (Ex. A6 at 2; test. of JP.)

10. RG attended one of Mr. Price's presentations about the 2021 YLP camp. He and a friend spoke with Mr. Price following the presentation and discussed online video gaming.<sup>8</sup> They exchanged user names for the platform Discord with Mr. Price.<sup>9</sup> (Test. of Kirksey.)

11. During the 2021 summer, JP explored opening a bank account for RG. When registering for an account, RG provided "Steve" as the answer to a security question of his first boyfriend's name. (Ex. A6 at 2.) He then told his mother to forget about opening him a bank account. (Test. of JP.) Subsequently, RG obtained a debit card linked to a Step account. A Step account is a fee-free bank account for teenagers that needs an adult's approval to open. RG would not tell JP who helped him set up the Step account. (Exs. A6 at 3; A20; test of Kirksey.) To open the Step account, RG spoke with Mr. Price about the Step account and told Mr. Price that all he would need to do is follow a link to authorize RG's opening of the account. Mr. Price complied with RG's request. (Exs. 110 at 1-2; A7 at 4; A20; test. of Kirksey.) Mr. Price was unclear about the exact parameters of the account but understood that it would enable RG to obtain a debit card. (Ex. A7 at 4.) Mr. Price recognizes that it is the purview of a parent to set up a bank account for their minor child. He recognizes that he should not have authorized the creation of the Step account for RG. (Test. of Price.)

12. In early summer of 2021, RG obtained an iPhone 8, a data plan and a laptop without JP's assistance. RG told JP he performed some work for a friend's parents and purchased the items with the money the parents paid him. (Exs. A6 at 3-4; A7 at 7; test. of JP.) Mr. Price did not purchase the phone, data plan or laptop for RG.<sup>10</sup> (Exs. 110 at 2; A7 at 4, 7; A10 at 2.)

13. During the 2021 summer, RG mentioned the YLP camp to JP, informing her that he

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<sup>8</sup> Mr. Price does not recall meeting RG at this presentation. (Test. of Price.)

<sup>9</sup> RG regularly plays online video games on his computer and utilizes social media apps in which he uses head phones to communicate with others online. (Test. of JP.)

<sup>10</sup> Mr. Price did not provide RG with any gifts other than those provided through the YLP (polo shirts, backpack and brapples). (Exs. 110 at 2; A7 at 4, 7; A10 at 2.)

heard about the camp during a presentation at school. RG signed up to attend the August 2021 YLP camp.<sup>11</sup> (Test. of JP.)

14. The following texts were exchanged between Mr. Price and RG prior to the beginning of the YLP camp:

August 6, 2021 at 1:42 p.m., “Hey” from RG to Mr. Price;

August 6, 2021 at 5:30 p.m., a link for a gamer desktop computer at Best Buy from Mr. Price to RG;<sup>12</sup>

August 8, 2021 at 2:13 a.m., “gm,” “gn\*,” and “Tty tmr” from RG to Mr. Price; and

August 8, 2021 at 7:02 a.m., “Ok” and “Come” from Mr. Price to RG.

(Ex. A22 at 1.)

#### *The 2021 YLP Summer Camp*

15. In 2021, the YLP operated its summer camp from August 16 through August 21, 2021, at Aldersgate in Turner, Oregon. Approximately 40 campers and 20 YLP staff attended the camp. (Test. of Walker.)

16. The YLP typically operates the camps in an educational setting such as Willamette University. In these settings, there are security cameras throughout the area and the camp program operates in just a couple of buildings. Unlike these settings, the Aldersgate campus was a large, multiple-acre campus with numerous cabins, three lodges and no security cameras. (Ex. 108 at 1; test. of Price.) YLP warned campers and staff to keep their rooms locked because Aldersgate was not a very secure location. (Test. of Walker.) Aldersgate had a night security guard who monitored the camp as there were issues with wildlife and transients. A Marion County community outreach deputy regularly attended the YLP camp during the day. (Test. of Walker, Kirksey and Price.)

17. Upon initial arrival at camp, the campers attended orientation. The campers were provided uniforms and backpacks, and YLP staff explained the YLP rules that can lead to disciplinary action or expulsion from the camp. (Test. of Price.) One YLP rule forbade romantic entanglements, which could result in warnings or expulsion. (Test. of Walker.) YLP rules required a staffer to report the expression of any romantic interest to YLP management. (Test. of Price.) Mr. Price was the superintendent with Mr. McKinley, Mr. Hendrie and Mr. Cosgrove as the other YLP administrators. (Ex. A7 at 3.)

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<sup>11</sup> In order to attend a YLP camp, campers must complete an application and obtain a parent’s signature. (Test. of Price.)

<sup>12</sup> Mr. Price, as a tech savvy adult, regularly fields texted inquiries about technology and will text links to appropriate technology in response to the inquiries. (Test. of Price.)

18. At orientation, the YLP department heads discussed each simulated group, such as the post office and the police force. Mr. Price made a presentation about the camp's store. The simulated jobs were posted and campers applied for their preferred jobs. (Test. of Price.) RG approached Mr. Price about managing the store, and he directed RG to ask Mr. Hendrie and Mr. McKinley for the job. As the sole camper who expressed an interest in operating the store, Mr. Hendrie and Mr. McKinley assigned RG as the store manager. Subsequently, three other campers asked to work in the store and were assigned to assist RG. (Ex. 109 at 1; test. of Price.)

19. At the inception of camp, the campers were in the cabins with staff in the lodges.<sup>13</sup> (Test. of Walker.) The cabins were not air-conditioned and had outdoor bathrooms while the lodges were air-conditioned and had interior bathrooms. (Ex. 109 at 1; test. of Kirksey.) Mr. McKinley suggested allowing campers to pay to upgrade their room assignments. He further suggested that the camper selected as store manager should be housed in the store's storage room. He believed this room assignment would add value to the job and encourage ownership interest in the store. (Ex. 109 at 1.)

20. During the camp, older campers upgraded to lodges as they progressed in the camp with the younger campers remaining in the cabins. (Test. of Walker.) YLP staffer Thomas Stinson managed the changing room assignments. Mr. Price was not involved in camper housing assignments. (Ex. 109 at 1.) RG resided in Pinewood where the store was located. (Ex. A7 at 3.) RG's room also housed the store's excess supplies. (Test. of Price.) Mr. Price's room was directly across the hall from RG's room, two doors away from the camp's store.<sup>14</sup> (Ex. A7 at 4; test. of Walker.) No other campers other than RG were lodged in Pinewood. (Ex. A23 at 1; test. of Walker.)

21. The camp's store was located in Aldersgate's chapel in Pinewood. The chapel was a large open space with the store housed along one side of the room. Mr. Price's office space<sup>15</sup> was in another corner of the chapel. (Test. of Walker.) Mr. Stinson's office space was also located in the chapel. (Ex. 109 at 2.) Mr. Price and RG oversaw store operations and interacted over the store's inventory and restocking of the store. (Test. of Walker.) While at the store, RG talked to Mr. Price about various subjects including his minimal interactions with his father and that he was currently not getting along with his mother. (Test. of Price.) Aside from those interactions, Mr. Price worked at his desk and computer, and RG remained in the store's area. (Ex. A7 at 4; test. of Walker.) Mr. Price frequently expressed to RG how well he was doing in operating the store. (Ex. A7 at 4.)

22. RG used Mr. Price's iPad to operate the store. The iPad had Square, a cash register app, and a credit card swiper that RG used to sell the store's merchandise. Mr. Price instructed

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<sup>13</sup> At prior camps, the configuration of living quarters resulted in staff and campers sharing dorms and restrooms. (Ex. 109 at 1.)

<sup>14</sup> There were approximately six other staff members assigned rooms in the same hall as RG's room. (Ex. A7 at 4.)

<sup>15</sup> Unlike the majority of the YLP staff who interact with the campers about the simulated world, Mr. Price primarily performs the actual, non-simulated management services for the camp. (Test. of Walker.)

RG to only use the cash register app on the iPad. Mr. Price's iPad included personal information, such as messages and photos including nude photos Mr. Price had exchanged with Mr. Cosgrove, his boyfriend. (Exs. A7 at 6; A10 at 4.) RG only used the iPad to operate the store. He did not browse through Mr. Price's iPad. (Ex. A10 at 4.) When the iPad timed out, RG would need Mr. Price to reactivate it with his facial recognition. (Test. of Price.)

23. The store was an active location with staff and campers regularly entering and leaving the store. The windows and the doors of the chapel room were open during the store's operations. (Ex. 109 at 2; test. of Price.) Nightly staff meetings were conducted in the chapel approximately 10 to 10:30 p.m. after the campers' bedtime. RG would finish restocking the store after the meetings as he was not allowed in the chapel during the meetings. (Test. of Walker and Price.) When the meetings concluded, Mr. Price texted RG to return to the store and finish. (Ex. A18 at 1-2.) Mr. Price regularly remained in the store at his desk, working until RG finished his restocking chores. (Ex. A7 at 4.)

24. Teenagers are very tech savvy and primarily communicate with their cell phones via texting rather than telephoning or emailing. (Test. of Price and Walker.) The YLP discouraged texting between staff and campers, recognizing that it was not the safest adult-youth communication mechanism. The YLP used the Remind app, an app commonly used in volunteer and education work with students, for such communications. The Remind app allows for group text announcements and records all communications. (Test. of Walker.) At the Aldersgate facility, the Remind app was non-functional<sup>16</sup> so texting occurred although texting was usually, not always, in group form to all members of the group that a staffer oversaw. (Ex. A18 at 1; test. of Walker.) YLP staff also communicated via email and telephone calls. (Test. of Price.)

25. On August 16, 2021, the following texts were exchanged between Mr. Price and RG:

At 6:36 p.m., "Can you please come up to the store" from Mr. Price to RG with RG responding, "I can't I'm in the flag thing"<sup>17</sup> and "You would have to come and get me;" and

At 10:31 p.m., "Please wait in your room," "Hey," and "Lock ur door" from Mr. Price to RG with RG responding, "Ok," "I locked it," "I'm a little worried tbh," "Will I get in trouble," and "Hey."

(Ex. A22 at 2-3.)

26. During the camp, RG informed Mr. Price that he was gay<sup>18</sup> and expressed a romantic interest in Mr. Price by telling him how much he liked Mr. Price. Mr. Price shut the

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<sup>16</sup> Aldersgate had poor WiFi that inhibited the use of the Remind app. (Ex. A18 at 1.)

<sup>17</sup> The YLP held flag ceremonies at the camp three times a day to do a head count of the campers and provide special presentations. All campers were required to attend. (Test. of Walker.)

<sup>18</sup> RG was open with everyone at the YLP camp about his identification as gay. (Test. of Price.)



conversation down very quickly, responded that he liked RG also and RG was a “good guy,” but Mr. Price had a boyfriend.<sup>19</sup> (Ex. A7 at 6; test. of Kirksey and Price.) Mr. Price informed Mr. Cosgrove and Mr. McKinley of RG’s romantic interest in him. (Ex. A7 at 6; test. of Price.) Since Mr. Price was the primary administrator at the YLP, he reported the issue to Mr. McKinley and Mr. Cosgrove as the next highest administrators at the YLP.<sup>20</sup> (Test. of Price.) Mr. Price requested that they assist in monitoring his and RG’s interactions. (Exs. 108 at 1; 109 at 2; 110 at 5; A17 at 1.) Mr. Price never engaged in any kind of sexual contact or sexual discussions with RG. (Ex. A7 at 6-7; test. of Price.) Mr. Price has no record of inappropriate interactions with campers at any prior camp. (Exs. 108 at 1; 109 at 1; 110 at 1.)

27. During the 2021 camp, RG was ambitious, gregarious and popular with fellow campers. (Test. of Walker and Price.) He acquired a large amount of brapples and colluded with other students in a plan to create a new country called Storelandia for the next YLP camp. During the 2021 camp, the campers ruined the economy by burglarizing the simulated bank and making a run on the camp store to purchase all the goods. The students failed to adequately collect taxes or pay wages. The postal service team was operating a Mafioso-type racket, and RG, as operator of the store, took a cut of the postal service’s proceeds.<sup>21</sup> To accumulate his excessive amount of brapples, RG also had to be involved in other simulated illegal activities. (Test. of Walker.) Because of the store runs and burglarizing, Mr. Price and Mr. McKinley repeatedly reminded RG to lock the store’s door after closing. (Ex. 109 at 2; test. of Price.) Mr. Price would also remind RG to keep his door locked to prevent any theft of store merchandise stored in RG’s room. (Ex. A7 at 4.)

28. When JP picked up RG from the camp, Mr. Price was enthusiastic about how well RG had done at the camp. (Ex. A6 at 3; test. of JP.)

### *The Police Investigation*

29. On the night of RG’s return home from the YLP camp, JP overheard him talking to another individual in his room via his laptop. From the sound of their voice, JP believed the other individual to be an adult male.<sup>22</sup> JP overheard her son talking about having sex with the other man and the word “penis.” (Ex. A6 at 2; test. of JP.) At this point, JP entered RG’s room. RG immediately shut the laptop and JP was unable to see the individual with whom RG was talking. She confiscated RG’s laptop and found a “Steve” in RG’s text contacts. (Ex. A6 at 2; test. of JP.) This Steve was the Mr. Price she met at the YLP camp. The messages between RG and Mr. Price that JP saw on the laptop discussed camp-related activities and contained nothing

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<sup>19</sup> Mr. Price wanted to preserve RG’s dignity and not damage his self-esteem. (Test. of Price.)

<sup>20</sup> Mr. Price understood that, in an education setting, he would report to the District’s administration any romantic interest expressed by a student to him. (Test. of Price.)

<sup>21</sup> The YLP staffers used these transgressions as a teaching moment for the campers for them to learn how this behavior can ruin the economy. (Test. of Walker.)

<sup>22</sup> I do not find it persuasive that JP can accurately identify the age of an individual by their voice as heard through a closed door.

explicit. (Ex. A6 at 3.)

30. On August 22, 2021, Detective Kirksey<sup>23</sup> received a report from the principal of RG's high school, indicating that JP had informed the principal that RG may be engaged in, or about to engage in, a sexual encounter with Mr. Price. (Ex. A6 at 1.) Later that same day, Detective Kirksey interviewed RG. RG denied having a relationship with an adult male. RG acknowledged having Mr. Price's information in his contacts, indicating that he worked with Mr. Price at the summer camp and their texts were camp-related. (*Id.* at 4.) RG had deleted Mr. Price's texts from his phone but let Detective Kirksey review the texts saved on his laptop.<sup>24</sup> RG acknowledged trying to flirt with Mr. Price, who he knew was gay, but that Mr. Price "shut it down." (*Id.* at 5.) Later that night, RG informed JP that he had been having sexual relationships with older teenaged males but denied having sexual relationships with adult males. (*Id.* at 6.)

31. On August 23, 2021, the Office of Training, Investigations and Safety (OTIS)<sup>25</sup> received a report regarding concerns of contacts and possible sexual abuse between Mr. Price and RG. (Ex. A12 at 1.)

32. On August 26, 2021, Detective Kirksey again interviewed RG. RG acknowledged not telling the "whole truth" in the first interview. (Ex. A10 at 1.) RG agreed to be truthful in the second interview.<sup>26</sup> RG stated that he obtained the iPhone 8 from his friend Armando and that he traded a graphics card to obtain the laptop with Armando's assistance.<sup>27</sup> (*Id.* at 1-2.) RG indicated that he had an adult friend assist with the opening of the Step account. RG originally denied that Mr. Price was that adult friend; subsequently said "it might be" Mr. Price; and then said "okay" in response to Detective Kirksey's statement that Mr. Price admitted helping RG with the account. (*Id.* at 2.) RG stated that Mr. Price sent RG a link to a gaming computer after RG asked him questions about good deals on computers. RG indicated that he spoke with Mr. Price on Discord, a social media app used for gaming, while gaming with Mr. Price. (*Id.*) RG said he learned of Mr. Price's interest in a game he played on Discord during a recruitment pitch by Mr. Price for the YLP camp. After the pitch, Mr. Price discussed gaming interests and provided RG and his friend with his Discord username. (*Id.* at 2-3.) RG explained the texts by indicating he wanted privacy (lock the door) and needed to wait in his room because the staff meeting was occurring. RG indicated he was afraid of getting in trouble because only Mr. Price knew he was staying in the storage room until the following morning. RG stated that Mr. Price offered him the storage room so that RG would be close to the store. RG indicated that Mr. Price

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<sup>23</sup> At the time of the investigation, Detective Kirksey was a police officer, not a detective. (Test. of Kirksey.)

<sup>24</sup> These are the texts noted in the Findings of Fact. (Test. of Kirksey.)

<sup>25</sup> OTIS responds to reports of child abuse of students involving education providers. OAR 407-047-0200.

<sup>26</sup> Despite RG's assertion in this interview, Detective Kirksey concluded that RG was still untruthful in his responses. JP also testified that, other than the nighttime discussion with RG on August 22, 2021, she found her son to be evasive and untruthful in his responses. (Test. of JP and Kirksey.)

<sup>27</sup> The police never investigated RG's representations about Armando. (Test. of Kirksey.)

never told him he had a boyfriend, just that any relationship would be inappropriate. (*Id.* at 3.)

33. The police seized two computers assigned to Mr. Price from the District and seized RG's iPhone 8. (Exs. A5 at 1; A9 at 1.) The police have been unable to access the contents of one District computer (encrypted with a non-District-issued password) and RG's iPhone (password protected).<sup>28</sup> (Ex. A9 at 1.) The police reviewed the remaining District computer for communications between Mr. Price and RG, social media content, images, and any inappropriate contacts with children. The police concluded that the computer had "no items of evidentiary value." (*Id.* at 2; test. of Brassfield.)

34. On September 25, 2021, Detective Kirksey concluded his investigation, finding that the crime of sexual abuse had occurred based upon RG's representations to his mother that he had sex with older males. However, Detective Kirksey found insufficient evidence of Mr. Price's involvement in such a crime. (Ex. A10 at 5; test. of Kirksey.)

35. On January 28, 2022, OTIS closed its investigation, relying exclusively on Detective Kirksey's investigation. (Ex. A12 at 1, 11.) After reviewing that information, the OTIS investigator found that, although there were some discrepancies regarding Mr. Price and RG's interactions, both RG and Mr. Price denied any sexual relationship. (*Id.* at 11.) In its review, OTIS considers all the information to determine if there is any "reasonable basis in fact" for any forms of abuse. (Test. of Bigelow.) The OTIS investigator closed as unfounded the allegations of sexual abuse to RG by Mr. Price. (Ex. A12 at 10-11.) Unfounded means OTIS found no evidence that abuse occurred.<sup>29</sup> OTIS forwarded its report to the Commission to consider any potential licensing concerns. (Test. of Bigelow.)

#### *The District's Disciplinary Action*

36. The District's policy requires placing an educator on paid administrative leave after the District's receipt of a pending police investigation of a sexual abuse complaint. The District will not conduct an investigation until after the police conclude their investigation. The District reviews both on-the-job and in-the-community conduct by an educator when considering discipline. (Test. of Tucker and Larios.)

37. On August 25, 2021, after receipt of a report from OTIS of the pending investigation involving Mr. Price and RG, Alma Morales Galicia, a Talent Acquisition and Staff Retention Administrator for the District, informed Mr. Price that he was on administrative leave. (Exs. A7 at 1; A14 at 1; test. of Morales Galicia.) He remained on leave throughout the 2021-2022 school year. (Test. of Price.)

38. On June 28, 2022, the District notified Mr. Price that it was considering terminating him from employment for "concerns about potential grooming and boundary invasions of a minor." (Ex. A15 at 1.) On September 19, 2022, the District's superintendent informed Mr.

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<sup>28</sup> RG refused to provide his iPhone's password to the police. The police never contacted Mr. Price to get his assistance with the one computer's encryption. (Test. of Brassfield.)

<sup>29</sup> OTIS also has the option of concluding the investigation as "unable to determine," which means there is a lack of evidence to determine whether a complaint is founded or unfounded. (Test. of Bigelow.)

Price that he intended to make a recommendation to the Woodburn School Board for Mr. Price's dismissal. (Ex. A19 at 1.)

39. On November 14, 2022, the District withdrew its dismissal recommendation for Mr. Price. The District offered Mr. Price to return to the District as a program administrator, effective November 15, 2022, assigned to the District's office. The District directed Mr. Price to complete all mandatory school training and maintain appropriate boundaries with students. Specifically, the District directed Mr. Price to not purchase any gifts for students; not set up any banking accounts for students; not engage in non-curricular communications with students; report any electronic non-curricular communication from a student to a supervisor; and report any student's romantic interest to a supervisor. The District issued these directives based upon its findings that Mr. Price engaged in boundary violations with RG by exchanging individualized personal texts, providing gifts and individualized attention to RG, and assisting RG in the opening of the Step account. (Ex. 107 at 1-2; test. of Tucker.)

40. Mr. Price returned to work as an administrator at the District. On a few occasions, he worked as a substitute teacher. He continued to work for the District until April 19, 2023. (Test. of Tucker.)

41. Mr. Larios holds a professional teaching license and an administrator license issued by the Commission. He has worked in the education field for approximately 23 years. He found Mr. Price's conduct violated appropriate student-educator boundaries by having a "possibly sexual" relationship with RG, providing RG with electronic gifts, and assisting RG in opening the Step account. (Test. of Larios.)

#### *The Commission's Investigation*

42. On August 25, 2021, Ms. Morales Galicia filed a misconduct report form with the Commission, notifying the Commission that the District "received a report from OTIS with allegations of inappropriate conduct with a minor" by Mr. Price. (Ex. A2 at 1-2.) On September 7, 2021, a Salem-Keizer School District representative filed a misconduct report form with the Commission, notifying the Commission that a "report was made to law enforcement and DHS regarding potential sexual exploitation of a minor child" by Mr. Price. (Ex. A1 at 1-2.)

43. Approximately February 1, 2022, Mr. Lindley sent letters via regular and certified mail to Mr. Price at his listed Salem, Oregon address, seeking to schedule an interview and requesting Mr. Price respond to the Commission within 14 days. The letters included Mr. Lindley's business-issued cell phone number and his email address. The certified mailing was returned as "undeliverable." (Test. of Lindley.)

44. On two occasions in February 2022, Mr. Lindley called Mr. Price's phone number but did not connect to him. Mr. Lindley left at least one voicemail message when he called Mr. Price. (Test. of Lindley.)

45. Mr. Price received the first non-certified letter from Mr. Lindley. (Test. of Price.) On February 4, 2022, Mr. Price placed a call to Mr. Lindley's business-issued cell phone but did

not connect to him. On February 7, 2022, Mr. Price placed three calls to Mr. Lindley's business-issued cell phone but did not connect to him. (Exs. 110 at 5; 111 at 1-2.) Mr. Price left a voicemail message on February 4 and another voicemail message on February 7, 2022.<sup>30</sup> (Test. of Price.)

46. On March 3, 2022, Mr. Lindley performed a LexisNexis search on Mr. Price that produced an alternate Oklahoma address for Mr. Price. Mr. Lindley again sent letters via regular and certified mail to this Oklahoma address requesting Mr. Price contact him to schedule an interview. The certified mailing was returned to the Commission. (Test. of Lindley.) Mr. Price has no recollection of receiving the Oklahoma letter.<sup>31</sup> (Test. of Price.)

47. Mr. Lindley has no record of receiving any response from Mr. Price to any of his communication attempts. (Test. of Lindley.)

48. After the Commission's issuance of the disciplinary notice, Mr. Price communicated on several occasions with Mr. Cooley. (Test. of Price.)

### CONCLUSIONS OF LAW

1. Mr. Price violated professional boundaries with a student, so his conduct constitutes gross neglect of duty.
2. Mr. Price failed to respond to the Commission's requests for an interview, so his conduct amounts to gross neglect of duty.
3. The Commission may suspend Mr. Price's educator licenses as explained below.<sup>32</sup>

### OPINION

The Commission proposes to discipline Mr. Price, based on allegations that he engaged in gross neglect of duty by his interactions with RG and his failure to respond to the Commission's requests for an interview. As the proponent of the allegations, the Commission has the burden to establish, by a preponderance of the evidence, that the allegations are correct and that it is entitled to impose the proposed discipline. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the

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<sup>30</sup> Both parties submitted copies of the Verizon (Ex. 111 from Mr. Price) and ATT (Ex. A24 from the Commission) phone bills, which showed the placement of Mr. Price's calls but not the receipt of his calls. However, there was no information provided as to whether unanswered phone calls would be recorded in a phone bill. Neither bill showed the placement of any calls from Mr. Lindley's business-issued cell phone to Mr. Price's phone. (Exs. 111 and A24.) Mr. Lindley believed he used the Commission's landline phone to call Mr. Price. (Test. of Lindley.)

<sup>31</sup> Around this time period, Mr. Price purchased property in Oklahoma and he now resides in Oklahoma. He previously had a tenant at the property. (Test. of Price.)

<sup>32</sup> The Commission modified the conclusions of law to be consistent with the Commission's reasoning.

fact or position”); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (in administrative actions, burden of proof is by a preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Gross Neglect of Duty

ORS 342.175 provides:

(1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a commission licensee, discipline a commission licensee, or suspend or revoke the right of any person to apply for a license or registration based on the following:

\* \* \* \* \*

(b) Gross neglect of duty[.]

OAR 584-020-0040(4)<sup>33</sup> provides, in part:

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:

\* \* \* \* \*

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

(o) Substantial deviation from professional standards of ethics set forth in OAR 584-020-0035;

\* \* \* \* \*

(p) Subject to the exercise of 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 interviews with a Commission representative relating to a Commission investigation[.]

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<sup>33</sup> The version of the rule cited herein is the current rule, effective November 9, 2021. Prior versions of the rule were in effect at the time of the alleged incidents: (1) one version was effective January 1, 2020; and (2) another temporary rule that was effective August 15, 2021, through February 10, 2022. However, the cited portions of the current rule are identical to the prior versions of the rule.

In OAR chapter 584, division 20, the Commission promulgated administrative rules to define standards for the competent and ethical performance of the professional duties of Oregon educators. OAR 584-020-0010 titled “The Competent Educator” provides, in part:

The educator demonstrates a commitment to:

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

\* \* \* \* \*

(5) Use professional judgment[.]

OAR 584-020-0035 titled “The Ethical Educator” provided, 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:

\* \* \* \* \*

(c) Maintain an appropriate professional student-educator relationship by:

(A) Not demonstrating or expressing professionally inappropriate interest in a student's personal life;

\* \* \* \* \*

(C) Reporting to the educator’s supervisor if the educator has reason to believe a student is or may be becoming romantically attached to the educator; and

(D) Honoring appropriate adult boundaries with students in conduct and conversations at all times.

\* \* \* \* \*

(3) The ethical educator, in fulfilling obligations to the profession, will:

(a) Maintain the dignity of the profession by respecting and obeying the law, exemplifying personal integrity and honesty[.]



### i. Professional Boundaries with RG

In its Notice and reiterated at hearing, the Commission alleges that Mr. Price violated the above-listed standards of competency and ethics by engaging in conduct that violated appropriate adult boundaries with RG in the following ways: (1) engaging in personal text exchanges with RG; (2) texting at 2:13 a.m. with RG; (3) assisting RG in opening a bank account; (4) engaging in sexual discussions with RG; (5) allowing RG to use Mr. Price's personal iPad that contained nude photos; (6) providing RG with electronic gifts; and (7) arranging for RG's housing proximate to his own housing.<sup>34</sup>

The Commission has considered the record in this case and has determined that Mr. Price engaged in gross neglect of when he engaged in the following conduct in violation of appropriate boundaries with RG. Mr. Price assisted RG in opening a bank account, and Mr. Price allowed RG to use Mr. Price's personal iPad that contained nude photos. In addition, Mr. Price engaged in gross neglect of duty by failing to cooperate with the Commission's investigation. The Commission has modified the proposed order accordingly and has identified the modifications below.<sup>35</sup>

The Commission established that Mr. Price and RG exchanged text messages, that RG was housed across the hall from Mr. Price during the YLP camp, that Mr. Price allowed RG to use his personal iPad (on which Mr. Price stored nude photos) to operate the store and that Mr. Price assisted RG in opening a bank account without parental approval. The ALJ determined that some of these actions are inappropriate behavior, such as allowing a minor access to an electronic device on which some highly personal photos are stored<sup>36</sup> and opening a bank account for a minor without parental approval.<sup>37</sup> The more specific question here is whether these behaviors amount to an educator's gross neglect of duty by either demonstrating incompetence (failure to use professional judgment) or demonstrating unethical behavior (failure to maintain an appropriate professional student-educator relationship).

The ALJ's proposed order included a statement that the Commission believed an educator's obligations are a 24-hour, 7 day per week commitment. The ALJ summarized Mr. Price's assertion that only on-duty conduct can amount to gross neglect of duty. The ALJ then explained why caselaw rejected both the Commission's and TSPC's positions. As explained below, the Commission's interpretation of its rules relating to teacher/student boundaries as

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<sup>34</sup> The Commission removed a footnote on conduct that the Commission has determined did not constitute gross neglect of duty and that is not necessary for the Commission's order.

<sup>35</sup> The Commission added this paragraph for consistency with the Commission's reasoning. The Commission also removed discussion regarding charged conduct that the Commission has determined did not constitute gross neglect of duty and that is not necessary for the Commission's order.

<sup>36</sup> Mr. Price testified that RG only had access to his personal iPad for a few hours on the first day of camp. Testimony of Price. However, that testimony misses the mark. Whether RG had access to the iPad for four hours or four days is irrelevant. An adult's provision of an electronic device that contains nude photos to a minor for any period of time is inappropriate.

<sup>37</sup> Mr. Price agreed that the opening of the bank account was strictly a parent's purview. Testimony of Price.



applied in this case is plausible and it is not inconsistent with another source of law, including the cases cited by the ALJ's in her proposed order. Based on Oregon appellate law, to establish that an educator violated ORS 342.175 by engaging in conduct constituting gross neglect of duty, the Commission must establish a nexus between the conduct in question and the educator's professional obligations. Whether the conduct occurred on-duty and/or on-premises are factors for consideration, but the establishment of a nexus does not rely on the existence of either or both of these factors.<sup>38</sup>

In *Teacher Standards and Practices Com'n v. Bergerson*, 342 Or 301 (2007), Bergerson, after a contentious argument with her estranged and separated spouse, consumed a number of prescription medications and then drove her car into the rear of her spouse's truck that was parked in his driveway with such force that the truck hit and destroyed the garage door and part of the house's façade. Bergerson was subsequently charged and convicted of felony criminal mischief. After a contested case hearing, the Commission issued a final order concluding that Bergerson's conduct was both gross neglect of duty and gross unfitness.<sup>39</sup> On appeal, the Commission argued that the legislature gave the Commission authority to establish standards of educator conduct and to define gross neglect of duty and gross unfitness. As such, the Commission concluded that the plain text of OAR 584-020-0040 did "not limit this obligation to conduct at school or during school hours. In fact, the rule expressly imposes the obligation to act ethically 'at all times.'" *Id.* at 310. The Supreme Court rejected the Commission's contention that its authority was delegative; instead, they found the Commission's authority to be interpretive and thus its rulemaking authority must be consistent with the legislature's intent. *Id.* at 312. The Supreme Court concluded that the Commission's interpretation of its administrative rule that defined gross neglect of duty was not consistent with the legislature's intent. Specifically, the Supreme Court found, as follows:

In ordinary parlance, professional duties are specific to a profession and are distinct from the moral and civic obligations of all citizens to behave ethically and to obey the law at all times. There is nothing in the statutes to indicate that the legislature intended the term "professional duty," as expressed in ORS 342.175(5) and implied in ORS 342.175(1)(b), to have anything other than that ordinary meaning. Depending on the profession at issue, there may be some areas where professional responsibilities and universally applicable moral and civil obligations may overlap, but the TSPC's position that teachers have a *professional* obligation to behave ethically and lawfully "at all times" eradicates the boundary between private and professional obligations altogether.

*Id.* (emphasis in original). The Supreme Court concluded that the Commission's rationale for

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<sup>38</sup> The Commission modified this paragraph for consistency with its conclusions of law and reasoning.

<sup>39</sup> OAR 584-020-0040(5) provides, in part:

Gross unfitness is any conduct which renders an educator unqualified to perform his or her professional responsibilities. Conduct constituting gross unfitness may include conduct occurring outside of school hours or off school premises when such conduct bears a demonstrable relationship to the educator's ability to fulfill professional responsibilities effectively[.]

suspending Bergerson for gross neglect of duty was erroneous and reversed the Commission's final order. *Id.* at 312, 320. Bergeson, however, recognized that there are instances where professional and moral/civil obligations may overlap. Notably, Bergerson did not involve the Commission's interpretation and application of the rules relating to maintaining student-educator boundaries, which are the rules at issue in this case.<sup>40</sup>

The ALJ also relied on *Talbott v. Teacher Standards and Practices Com'n*, 260 Or App 355 (2013) in her reasoning that the conduct in this case did not constitute gross neglect of duty. In *Talbott*, the Commission issued a final order finding that Talbott engaged in gross neglect of duty in violation of OAR 584-020-0040(4) and ORS 342.175 by leaving an offensive letter for a student's parent and providing an offensive book to his former employer's school principal. Specifically, the parent and fellow professional colleague of Talbott filed a letter with the school's principal, complaining about Talbott's performance as her child's teacher. Subsequently, Talbott left the school to take a new teaching position in another school district. Thereafter, he returned to the school and delivered a copy of the colleague's complaint letter to the colleague on which he had written disrespectful comments. *Id.* at 359. At the same time, Talbott delivered a book to the school's principal entitled *The Girl's Guide to Being a Boss (Without Being a Bitch)* and highlighted the chapter titled "Don't Try This at Work: Ten Ways to Alienate Your Staff" and the section "Bad Boss Behavior 10: Being a Jealous Julie." *Id.* at 351-352.<sup>41</sup>

As to these violations, the Court reiterated the finding in *Bergerson* that the Commission's interpretation that licensed educators must conform their conduct to educator standards at all times and in all locations was erroneous. *Talbott*, 260 Or App at 358-359. Instead, the Court phrased the issue in *Talbott* as "whether there was a specific and demonstrable nexus between [Talbott's] off-duty, off-premises conduct and his professional responsibilities as an educator." *Id.* at 359; *see also Fuller v. Department of Public Safety Standards and Training*, 299 Or App 403, 412-413 (2019) (concluding that there must be some connection between the alleged wrongful conduct and the public safety professional's ability to perform their job.). The Court concluded that, even though Talbott's conduct was off-duty and off-premises, his conduct in delivering the offensive letter to the parent of his prior student had "a specific and demonstrable nexus to [Talbott's] professional responsibilities." *Id.* His mockery of a parent's expression of concern regarding his teaching methods "was directly related to [his] professional duties." *Id.* Therefore, the Court found that Talbott committed gross neglect of duty "by deviating substantially from a professional standard of competency." *Id.* at 360. However, the Court found that Talbott's provision of the book to his former principal "was a private expression of his opinion, as a former employee, of her management. His expression of that opinion did not take place where students or other staff members would see or hear it; there is no indication of any effect on [the principal's] or [Talbott's] professional responsibilities." *Id.* at 359. Therefore, the Court concluded that this particular conduct lacked any nexus with Talbott's professional duties and was not gross neglect of duty. *Id.* Just as in *Bergerson*, the issues in *Talbott* did not involve the interpretation and application of the Commission's student-educator

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<sup>40</sup> The Commission modified this paragraph to clarify its understanding of *Bergerson*.

<sup>41</sup> The Commission modified this paragraph to change from the ALJ's perspective to the Commission's perspective.

boundaries rules.<sup>42</sup>

The Oregon Court of Appeals again addressed the issue in *Eicks v. Teacher Standards and Practices Com'n*, 270 Or App 656 (2015). The Commission issued a final order finding that Eicks engaged in gross neglect of duty when she allowed her foster son to stay in her car in the school parking lot during her work hours as a school counselor. *Id.* at 657. Eicks began fostering M, a child who engaged in destructive and threatening behaviors, when he was 11 years old, having previously counseled him as a student. In January 2007, M, aged 13, had nasal congestion and M's student aide instructed Eicks to not bring M to school. Because Eicks had no available leave time or respite care, she brought M to her school on two consecutive days and left him in her car in the parking lot while she worked. *Id.* at 658-660.

The Court concluded that the Commission failed to establish a sufficient nexus between Eicks' conduct with M and her professional responsibilities and reversed the Commission's final order. *Eicks*, 270 Or App at 664-665. Specifically, the Court stated the following:

Conduct on school grounds does not always establish a required nexus to a professional duty that can support a finding of gross neglect of duty. In this case, given the lack of any evidence that [Eicks'] performance of her professional responsibilities was impaired on the days in question, the location of the conduct is not determinative.

Second, the fact that [Eicks'] job involves a high degree of judgment does not provide a sufficient nexus for concluding that questionable judgments that she made under difficult personal circumstances constituted gross neglect of duty. [Eicks] made the decisions at issue when faced with unusually challenging personal circumstances. The fact that her job also required her to make difficult decisions does not turn her questionable personal judgments into a gross neglect of duty.

Finally, the fact that the decisions at issue involved a child does not provide a sufficient nexus in this case. The TSPC itself concluded that M was not neglected or harmed in any way. While mistreatment or neglect of a child might well implicate an educator's professional duties, the circumstances here do not rise to the level of gross neglect of duty.

*Id.*

*Eicks* involved conduct between the educator and her foster child, but the Court did not address the Commission's interpretation and application of rules relating to maintaining appropriate student-educator boundaries. This is an important distinction that the ALJ did not address in her proposed order.<sup>43</sup>

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<sup>42</sup> The Commission modified this paragraph to clarify that the rules at issue in *Talbott* were not the same rules at issue in this case.

<sup>43</sup> The Commission added this paragraph to explain its reasoning on the distinction of *Eicks* from the issues in this case.

The ALJ relied on the prior cases to conclude that the Commission had failed to establish a sufficient nexus between Mr. Price’s conduct and his professional duties. The ALJ acknowledged that the conduct in this case involved a student but concluded that this did not sufficiently relate to Mr. Price’s teaching duties because RG was not a student of his and because Mr. Price and RG were not involved in a school district activity when the conduct occurred. This reasoning failed to consider the Commission’s plausible interpretation and application of its rules relating to professional boundaries with students. Specifically, the Commission concludes that Mr. Price failed to maintain appropriate student-educator relationship by failing to honor appropriate adult boundaries with RG.<sup>44</sup> The duty to maintain appropriate boundaries stems from the Commission’s rule for ethical educators, which requires that the educator “considers the needs of the students, the district and the profession.”<sup>45</sup> The Commission concludes that Mr. Price’s conduct in opening up a bank account and allowing RG to use an iPad that contained nude photos constitutes gross neglect of duty because each of those acts amounted to a serious and material inattention to or breach of Mr. Price’s professional responsibilities to maintain appropriate student-educator boundaries.<sup>46</sup>

The Commission rejects the ALJ’s reasoning and concludes that the rules on professional boundaries with students apply between Mr. Price and RG because RG is a student who is entitled to the same protection against boundary violations just like a student in Mr. Price’s classroom or school district. To conclude otherwise would mean that an educator would be free to engage in boundary violations with any student, so long as the student is not a student in the same district where the educator works. Using the ALJ’s reasoning, a licensed educator who is not employed could also engage in multiple boundary violations with students without repercussion because the educator does not have any type of “work” related duties to the student. The Commission also rejects the ALJ’s reasoning that the conduct is not gross neglect of duty because conduct did not occur during a district-sponsored event. The nature of boundary violations does not make a distinction between an educator being on duty or off-duty. The same concerns for the potential of grooming exist whether boundary violations occur on duty or off duty because both instances involve the interactions between an educator and a minor.<sup>47</sup> The Commission’s interpretation of its rules related to professional boundaries in this case is entitled to deference because the Commission’s interpretation of those rules is plausible and is not inconsistent with another source of law.<sup>48</sup>

In sum, the Commission established that when Mr. Price engaged in boundary violations involving the opening of a bank account for RG and in allowing RG to use an iPad that included nude photos (conduct the ALJ determined to be clearly inappropriate) Mr. Price violated his professional duties to maintain appropriate boundaries with RG, who was a student at all

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<sup>44</sup> OAR 584-020-0035((1)(c)(D))

<sup>45</sup> OAR 584-020-0035.

<sup>46</sup> The Commission added this paragraph to explain its reasoning.

<sup>47</sup> Test. Larios, Tucker, A107

<sup>48</sup> *Don't Waste Oregon Com. v. Energy Facility Siting Council*, 320 Or 132, 142(1994). The Commission added this paragraph to explain its reasoning.

material times.<sup>49</sup>

## ii. Communications with the Commission

In the Notice, the Commission alleged that Mr. Price “did not respond to the Commission investigator’s request for an interview” and that such conduct amounted to gross neglect of duty for failure to use professional judgment, failure to respect and obey the law, and failure to respond to requests for information while under investigation. Notice at 2-3. The ALJ concluded that Mr. Price did not fail to cooperate because Mr. Price telephoned Mr. Lindley on four occasions in response to Mr. Lindley’s letters. But the ALJ failed to address the fact that the Commission also alleged in its Notice that Mr. Price failed to respond to a letter that Mr. Lindley sent in March 2022. While the ALJ concluded that Mr. Price had called Mr. Lindley on four occasions based on phone records Mr. Price provided, the Commission’s phone records did not indicate those calls, so the evidence of Mr. Price contacting Mr. Lindley is uncertain. Even if Mr. Price called Mr. Lindley in February as the ALJ concluded, Mr. Price did not leave a voicemail message at any time and did not contact Mr. Lindley after Mr. Lindley sent the same letter asking for Mr. Price to contact Mr. Lindley in March 2022. Although the certified letter of March 2022 was returned to the Commission, the letter sent by regular mail was not returned. On this record, the Commission concludes that Mr. Price’s failure to respond to the Commission’s reasonable requests to participate in the investigation constitutes gross neglect of duty in violation of OAR 584-020-0040(4)(p). Mr. Price’s failure to contact the Commission after Mr. Lindley sent the letter of March 2022 also constitutes a failure to use professional judgment in violation of OAR 584-020-0010(5) because Mr. Price, even if he had called in February 2022, should have been alerted to the fact that the Commission still requested his participation in its investigation.<sup>50</sup>

## Sanction of License

In its Notice, the Commission proposed revoking Mr. Price’s educator licenses based on allegations of gross neglect of duty. *See* ORS 342.175(1)(b) and ORS 342.177(3)(d).<sup>51</sup> The Commission has established that Mr. Price engaged in professional boundary violations by helping RG open up a bank account and by allowing RG to use an iPad that included nude photos. The Commission has also established that Mr. Price failed to cooperate with the investigation. Based on this conduct, the Commission determines that a 60-day suspension is an

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<sup>49</sup> The Commission added this paragraph for consistency with its reasoning and removed reasoning from the proposed order that the Commission has rejected.

<sup>50</sup> The Commission modified this paragraph for consistency with its conclusion that Mr. Price failed to cooperate with the Commission investigation.

<sup>51</sup> ORS 342.177(3) provides:

The commission shall render its decision at its next regular meeting following the hearing. If the decision of the commission is that the charge described in ORS 342.175(1) has been proven, the commission may take any or all of the following disciplinary action against the person charged:

\* \* \* \* \*

(d) Revoke the license or registration of the teacher or administrator.



appropriate sanction for the following reasons. Mr. Price appeared to rationalize his behavior with RG as if RG was a peer, instead of a student. Maintaining appropriate boundaries with students is a priority and safety concern because students like RG can be vulnerable to influence and the power imbalance from an adult. This can be true whether the student is in the educator's classroom, or as in this case, RG went to a different school district.<sup>52</sup>

In this case, the Commission has found that Mr. Price violated professional boundaries by opening an online bank account for RG, something which is clearly within the purview of a parental relationship. When Mr. Price was interviewed by Detective Kirksey, he minimized this conduct by referring to his actions as helping RG set up a "credit thing" and that all he had to do was approve something by text.<sup>53</sup> Mr. Price claimed not to recollect when he had helped RG set up the account. If Mr. Price did not pay attention to what he was helping RG with, as evidenced by his interview with Detective Kirksey, it showed a lack of understanding regarding the overstepping of his role, so the 60-day suspension is appropriate to reinforce the importance of boundaries.<sup>54</sup>

With respect to allowing RG to use an iPad that included nude photos, Mr. Price admitted to Detective Kirksey that the iPad included nude photos and that Mr. Price did not know if RG had looked through any of the contents. While RG later indicated to Detective Kirksey that he did not browse through Mr. Price's iPad, the fact remains that Mr. Price allowed RG, a 14-year-old, access to a personal device containing nude photos. And although Mr. Price claimed at hearing that the iPad was locked with his facial recognition, it is notable that Mr. Price did not provide this information when initially interviewed by Detective Kirksey. A 60-day suspension is therefore appropriate to deter this type of behavior that exposes a minor to a device containing adult nudity.<sup>55</sup>

Lastly, the Commission finds that a 60-day suspension is appropriate when an educator fails to cooperate with a Commission investigation. In this case, the evidence established that the Commission reached out to Mr. Price on multiple occasions by sending letters and making phone calls to him. Aside from the disputed phone calls Mr. Price claims to have made in February of 2022, Mr. Price made no other attempt to contact Mr. Lindley by email or by leaving a voicemail. This type of investigation, which involved allegations of boundary violations between Mr. Price and a student, made Mr. Price's cooperation and statement essential to help establish the facts, when the Commission was denied the opportunity to develop that information as part of its initial investigation. As a licensee, Mr. Price continues to have a duty to cooperate with the Commission, so a 60-day suspension is appropriate for his failure to do so.<sup>56</sup>

## ORDER

Based on the foregoing, the Commission hereby orders that Mr. Price's teaching and

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<sup>52</sup> The Commission added this paragraph to explain its reasoning for the sanction in this case.

<sup>53</sup> Ex A7 at 4, Kirksey Test.

<sup>54</sup> The Commission added this paragraph to explain its reasoning for the sanction in this case.

<sup>55</sup> The Commission added this paragraph to explain its reasoning for the sanction in this case.

<sup>56</sup> The Commission added this paragraph to explain its reasoning for the sanction in this case.

administrator licenses are hereby suspended for 60 days.

IT IS SO ORDERED THIS 18 day of October, 2024.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: 

~~Melissa Goff, Interim Executive Director~~

Rae Ette Newman, Chair of TSPC

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

### **SERVICEMEMBERS' CIVIL RELIEF ACT**

Unless otherwise stated in this order, the Commission has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.