1	BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2	OF THE STATE OF OREGON
3 4 5	In the Matter of the) STIPULATION OF FACTS AND FINAL ORDER OF SUSPENSION KELLY RYAN MCLAIN) AND PROBATION
6	On or about March 6, 2010, the Teacher Standards and Practices Commission
7	(Commission) received information relating to Kelly Ryan McLain (McLain).
8	After review of the matters alleged, McLain and the Commission agree that their
9	respective interests, together with the public interest, are best served by a stipulation to certain
10	facts, the imposition of a six (6) month suspension of McLain's Oregon Teaching License
11	followed by a four (4) year probation and monitoring period.
12	This document sets forth the facts upon which the parties have agreed and the stipulated
13	sanction to be imposed. McLain stipulates that there is sufficient evidence in the Commission's
14	files and records to support the findings of fact, conclusions of law, and order set forth below.
15	By signing below, McLain acknowledges, understands, stipulates, and agrees to the
16	following: (i) he has been fully advised of his rights to notice and a hearing to contest the
17	findings of fact, conclusions of law, and order set forth below, and fully and finally waives all
18	such rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final
19	Order of Suspension and Probation (Stipulation and Final Order); (ii) this Stipulation and Final
20	Order is a public document and disclosed to the public upon request by the Commission; (iii)
21	this Stipulation and Final Order is contingent upon and subject to approval and adoption by the
22	Commission. If the Commission does not approve and adopt this Stipulation and Final Order,
23	then neither McLain nor the Commission are bound by the terms herein; (iv) he has fully read
24	this Stipulation and Final Order, and understands it completely; (v) he voluntarily, without any
25	force or duress, enters into this Stipulation and Final Order and consents to issuance and entry
26	of the Stipulated Final Order below; (vi) he states that no promises or representation has been
27	made to induce him to sign this Stipulation and Final Order; and (vii) he has consulted with an

- 1 attorney regarding this Stipulation and Final Order and has been fully advised with regard to his
- 2 rights thereto, or waives any and all rights to consult with an attorney prior to entering into this
- 3 Stipulation and Final Order and issuance and entry of the Stipulated Final Order below. This
- 4 Order sets forth the facts upon which the parties have agreed and the sanction to be imposed.
- 5 McLain stipulates that there are sufficient facts contained in the Commission's files and records
- 6 to support the findings of fact and conclusions of law set forth below. In entering into this
- 7 stipulation, McLain waives the right to a hearing to contest the findings of fact, conclusions of
- 8 law and order set forth below.

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STIPULATION OF FACTS

- The Commission has licensed Kelly McLain since December 23, 1998. McLain currently
 holds a Standard Teaching License issued May 2, 2006, with a Standard Advanced
 Mathematics endorsement, which expired on May 1, 2011. McLain made timely
 application for renewal and his expiration date was extended. During all relevant times,
 McLain was employed by the Hillsboro School District.
- 2. During the 2009-2010 school year McLain suggested to a female student that she reminded him of his wife. The student interpreted McLain's actions as an inappropriate expression of romantic feelings toward her. Sometime later, McLain sent various text messages to the female student's phone regarding the initial verbal conversation, which made the student more uncomfortable. On at least one occasion, McLain commented about this student's cleavage while in the classroom, which was witnessed by other students.
- 3. Students reported that McLain would sometimes inquire about their personal lives during class. McLain would ask students about such things as, out of school parties, the student's dating/sex lives, sexual behavior, and sexual gossip. This behavior was largely limited to female students in McLain's classes.

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CONCLUSION OF LAW

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Kelly Ryan McLain expressed what were interpreted as romantic feelings to a female student, reinforced these conversations with inappropriate text messages and follow up conversations. McLain made inappropriate comments in the classroom related to the same student's cleavage. McLain's conduct was witnessed by other students. McLain became overly involved in student's personal lives, asking questions involving sexual activities, gossip, rumors and student's private dating and relationship issues. McLain's behavior created an uncomfortable educational environment that intimidated students and made students feel embarrassed. 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(5) (Use professional judgment), OAR 584-020-0025(2)(a) (Establishing and maintaining classroom management that is conducive to learning), OAR 584-020-0030(2)(b) (Skill in communicating with administrators, students, staff, parents, and other patrons); and OAR 584-020-0040(4)(0) as is incorporates OAR 584-020-0035(1)(b) (Refrain from exploiting professional relationships with any student for personal gain, or in support of persons or issues), OAR 584-020-0035(1)(c)(A) (Not demonstrating or expressing professionally inappropriate interest in a student's personal life), OAR 584-020-0035(1)(c)(B) (Not accepting or giving or exchanging romantic or overly personal gifts or notes with a student), OAR 584-020-0035(1)(c)(D) (Honoring appropriate adult boundaries with students in conduct and conversation at all times).

1	The Commission's authority to impose discipline in this matter is based upon ORS
2	342.175.
3	ORDER
4	The Commission hereby adopts and incorporates herein the above stipulation of facts,
5	conclusions of law, and based thereon hereby imposes a six (6) month suspension upon
6	McLain's Initial I Teaching License as follows:
7	Kelly Ryan McLain's Standard Teaching License is hereby suspended for six (6) months
8	following the adoption of this order. Prior to reinstatement, McLain must submit to a psycho-
9	sexual evaluation by a Commission approved evaluator. Results of such an evaluation will be
10	reviewed prior to any reinstatement decision.
11 12 13	Furthermore, the Commission imposes a four (4) year probation period upon McLain t commence upon reinstatement of his license and subject to the following terms and conditions of probation:
14 15 16 17	 McLain shall comply with the Standards for Competent and Ethical Performance of Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020. McLain will comply with any treatment recommendations resulting from required evaluation(s).
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19 20	Violation of any term or condition of probation shall constitute an independent basis for the Commission to revoke McLain's teaching license or otherwise impose discipline, after first
21	providing McLain with notice and opportunity for hearing.
22 23	IT IS SO ORDERED this day of February, 2013.
24	TEACHER STANDARDS AND PRACTICES COMMISSION
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26 27	By: Manber air Evecutive Director