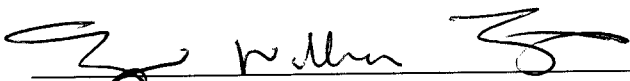


1 on Smith's affirmative answers to the character question section of his application,
2 Smith's case was referred to professional practices for investigation.


- 3 2. On July 1, 2015, the Commission received Smith's Application for Educator License or
4 Charter School Registration form (C-1), which was signed on June 1, 2015. On the C-1
5 application form, Smith answered affirmatively to questions 8 and 9 in the Character
6 Questions section of his application. Smith provided a letter explaining his "Yes"
7 answers, describing Smith's involvement in a 2011, two-car motor vehicle accident that
8 resulted in the death of the driver of the other vehicle. Court records indicate that on or
9 about December 15, 2011, in Monroe County Court, New York, as part of a plea
10 agreement, Smith plead guilty to driving while intoxicated, manslaughter in the second
11 degree, vehicular manslaughter, and leaving the scene of an accident resulting in death.
12 In return for pleading guilty to all charges, Smith was sentenced to one year
13 incarceration, three years' probation, payment of fines and restitution, and substance
14 abuse evaluation and related treatment.
- 15 3. Smith was forthright and honest with investigators. Smith successfully served his
16 incarceration without incident, successfully completing any related treatment and
17 counseling programs. Smith satisfactorily completed his court probation program in
18 2015, and has had no other related incidents since 2011.

19
20 IT IS SO STIPULATED:

21 
22 _____

23 Benjamin William Smith

21 3/17/2016
22 _____
23 Date

24 
25 _____

26 Victoria Chamberlain, Executive Director
27 Teacher Standards and Practices Commission

24 3-24-16
25 _____
26 Date

28
29 **CONCLUSION OF LAW**

30 Benjamin William Smith was convicted of various crimes as detailed above. These
31 convictions and the conduct underlying these convictions constitutes gross neglect of duty in
32 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-
33 0010(5) (*Use professional judgment*); and OAR 584-020-0040(4)(o) as it incorporates OAR
34 584-020-0035(3)(a) (*Maintain the dignity of the profession by respecting and obeying the*

1 *law, exemplifying personal integrity and honesty*). This conduct also constitutes gross
2 unfitness in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(c) (*Conviction of violating*
3 *any federal, state, or local law. A conviction includes any final judgment of conviction by a*
4 *court whether as the result of guilty plea, no contest plea or any other means*), and OAR 584-
5 020-0040(5)(e) (*Admission of or engaging in acts constituting criminal conduct, even in the*
6 *absence of a conviction*).

7 The Commission's authority to impose discipline in this matter is based upon ORS
8 342.175.

9 **ORDER**

10 The Commission adopts and incorporates herein the above findings of fact and
11 conclusions of law, and based thereon, imposes a period of probation on Benjamin William
12 Smith as detailed below.

13 The Commission imposes a three (3) year probation upon Smith to commence upon
14 finalization of this order subject to the following terms and conditions of probation:

- 15 1. Smith shall comply with the Standards for Competent and Ethical Performance of
16 Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.
17 2. Smith will obey all laws and ordinances.

18 Violation of any term or condition of probation shall constitute an independent basis for the
19 Commission to otherwise impose discipline, up to and including revocation of Smith' right to
20 apply for a teaching license, after first providing Smith with notice and opportunity for
21 hearing.

22 Issued and dated this 11th day of April, 2016.

23 **TEACHER STANDARDS AND PRACTICES COMMISSION**
24 **STATE OF OREGON**

25 By *Victoria Chamberlain*
26 Victoria Chamberlain, Executive Director
27

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I served the foregoing Stipulation of Facts and Final Order of Probation, certified by me as such, by mailing U.S. First Class Mail and U.S. Certified Mail — Return Receipt Requested, addressed to:

Benjamin William Smith
152 Shelbourne Rd
Rochester, NY 14620-4531

DATED this 25th day of April, 2016.

By: Patty Sheldon
Patty Sheldon
Investigative Assistant

Certificate of Mailing – Benjamin William Smith

Data Classification Level: 1- Published
DO: Sheldon