BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION

OF THE STATE OF OREGON

In the Matter of the Teaching License of)	
MARTIN ERVIN HARPOLE)	FINAL ORDER
)	

By resolution dated November 21, 1997, the Teacher Standards and Practices Commission adopts the attached proposed order issuing a Public Reprimand and placing Martin Ervin Harpole on Probation for a period of four years.

DATED this And day of December, 1997.

TEACHER STANDARDS AND PRACTICES COMMISSION

David V. Myton, Executive Director

NOTICE: YOU ARE ENTITLED TO A 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.

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           BEFORE THE TEACH STANDARDS AND PRACTICES COMMISSION
 2
                          OF THE STATE OF OREGON
 3
    In the Matter of the Teaching
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    License of MARTIN ERVIN HARPOLE
                                        PROPOSED ORDER
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         On October 20, 1997, a panel of the Teacher Standards and
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    Practices Commission (Commission) held a hearing at the Local
    Government Center Building, 1201 Court Street, N.E., Salem,
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    Oregon, based on the allegations contained in the second amended
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    notice of opportunity for hearing issued in this case on June 4,
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           The hearing panel consisted of Jennifer Heiss, who served
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    as Chairperson of the hearing, Teresa Carter and Charles Bugge.
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    Charlene Smith, Commission Secretary, assisted the Commission.
    Harpole appeared personally and was represented by his attorney
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    Mark Toledo. Assistant Attorney General Joe McKeever represented
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    the Commission. The hearing was conducted as a contested case
    matter and was mechanically tape recorded.
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         The panel heard testimony from the following witnesses:
    Officer Reynold Catala of the Corvallis Police Department;
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    Stephen Scherr, Ph.D.; Gary E. Nielsen, Ph.D.; Donald Wildfang,
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    Principal, Dallas School District; and Martin Harpole.
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    received into evidence the following exhibits that were submitted
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    by the Commission:
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         1.
              6/17/81 police report.
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         2.
              Fall 1981 application to School of Education, Oregon
              State University.
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- 1 3. 6/9/83 memorandum from Martin Harpole to TSPC.
- 2 4. 9/1/83 memorandum from Richard S. Jones.
- 3 5. 7/13/84 order setting aside conviction.
- 4 6. 9/19/96 police report.
- 5 7. 10/9/96 uniform citation and complaint.
- 6 7a. 10/9/96 uniform citation and complaint.
- 7 8. 10/15/96 letter from Harpole to David Voves.
- 9. 10/17/96 letter from David Voves to Judge Donahue.
- 9 10. 7/28/97 report from Dr. Farrenkopf.
- 10 11. 8/20/97 report from Dr. Nielsen.
- 11 12. Corvallis Municipal Code Sections.
- 13. Section from Oregon Revised Statutes defining public indecency.
- 13 14. Portions of deposition of Mr. Harpole taken 5/20/97.
- 14 15. Brief resume of Dr. Nielsen.
- 15 17. Video taped filmed 6/9/97.
- 16 18. Map of Corvallis area.
- 17 19. Map of Corvallis area.
- The panel received without objection the following exhibits
- 19 that were submitted by Mr Harpole:
- 20 T-1 Personnel file
- 21 T-2 Scherr Curriculum Vitae
- 22 T-3 Scherr Evaluation
- 23 T-4 Farrenkopf Vitae
- 24 T-5 Farrenkopf Evaluation
- 25 T-6 Photographs
- 26 ///

EVIDENTIARY RULINGS

- 2 1. Harpole moved to exclude evidence relating to his
- 3 1981 conviction for public indecency on the ground that his
- 4 conviction had been set aside by the court on June 13, 1984.
- 5 Harpole's motion was denied. The order setting aside Harpole's
- 6 conviction was based on ORS 137.225 which allows a criminal
- 7 defendant to obtain an order setting aside a conviction for
- 8 certain offenses if more than three years have elapsed since the
- 9 date of the conviction and the defendant has not committed other
- 10 offenses since that date. The Commission had independent
- 11 knowledge of Harpole's conviction and the circumstances
- 12 surrounding that conviction prior to the court's 1984 order
- 13 setting aside the conviction. Under these circumstances, the
- 14 Commission is not precluded from taking into account the conduct
- 15 that resulted in the 1981 conviction. Bahr v. Statesman Journal,
- 16 51 Or App 177 (1981).

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- 17 2. Harpole objected to TSPC exhibit 16, a copy of "High
- 18 Society" magazine, that was found in Harpole's vehicle at the
- 19 time of his arrest in September 1996. The Commission sustained
- 20 the objection on the ground of relevancy.

21 FINDINGS OF FACT

- 1. Harpole holds a Standard Oregon Teaching License with
- 23 an endorsement in Technical Education and a Basic License with an
- 24 endorsement in Physical Education.
- 25 2. Harpole has been employed as a high school and middle
- 26 school teacher by the Dallas School District from 1990 up to the

- 1 present time. Harpole has been a satisfactory teacher, and there
- 2 is no evidence that Harpole has engaged in inappropriate
- 3 behavior, including sexually inappropriate behavior, in the
- 4 classroom or at his school site.
- 5 3. Donald Wildfang, Mr. Harpole's supervising principal,
- 6 testified that the school district supported Harpole and intended
- 7 to continue employing Harpole as a classroom teacher if the
- 8 Commission does not revoke or suspend Harpole's teaching license.
- 9 4. On September 19, 1996, Harpole masturbated in his car while
- 10 parked during daylight hours in an apartment complex parking lot in
- 11 Corvallis, Oregon.
- 12 5. As a result of this behavior, Harpole was charged with
- 13 violation of Sexual Conduct, under the City of Corvallis
- 14 Municipal Code.
- 6. Harpole entered a plea of quilty to the charge of
- 16 Sexual Conduct in Corvallis Municipal Court on October 9, 1996.
- 17 The court ordered that the case would be dismissed after one year
- 18 if Harpole did not engage in criminal conduct during that period.
- 19 7. Harpole underwent separate psychological evaluations by
- 20 Stephen Scherr, Ph.D. and Gary E. Nielsen, Ph.D. Harpole also
- 21 underwent physiological arousal testing by Toni Farrenkopf, Ph.D.
- 22 Doctors Scherr, Nielsen and Farrenkopf prepared written reports
- 23 that were received into evidence by the Commission panel.
- 8. Dr. Nielsen and Dr. Scherr testified that Mr. Harpole
- 25 suffers from depression and that Mr. Harpole has a psychological
- 26 condition that resulted in sexually inappropriate conduct. Both

- 1 Dr. Scherr and Dr. Nielsen testified that Harpole is an
- 2 appropriate candidate for treatment, and with appropriate
- 3 treatment, there is a good prognosis he will not repeat sexually
- 4 inappropriate behavior.
- 5 9. Dr. Nielsen and Dr. Scherr testified that in their
- 6 professional opinions Mr. Harpole does not present a danger to
- 7 students.
- 8 10. Based on the school evaluations and the testimony of
- 9 Dr. Nielsen, Dr. Scherr, and Mr. Wildfang, the Commission panel
- 10 concludes that Mr. Harpole has not and does not present a risk to his
- 11 students; the Commission panel further finds that with appropriate
- 12 treatment, Mr. Harpole is unlikely to repeat sexually inappropriate
- 13 behavior.
- 14 CONCLUSIONS OF LAW
- Mr. Harpole's conduct constitutes gross neglect of duty in
- 16 violation of OAR 584-20-040(4).
- 17 DISCUSSION
- 18 Certain behavior is clearly inappropriate and violates
- 19 professional standards, even when the behavior occurs outside the
- 20 school setting. Mr. Harpole's behavior falls within this
- 21 category. The Commission panel considers Mr. Harpole's behavior
- 22 to be serious; the Commission should not hesitate to revoke Mr.
- 23 Harpole's teaching license if he engages in similar behavior in
- 24 the future. Nonetheless, the panel finds mitigating
- 25 circumstances, including Harpole's satisfactory teaching
- 26 performance, the evidence that Harpole does not pose a sexual

- 1 risk to the public or to students, and the evidence that Harpole
- 2 has a good chance of not repeating this type of conduct if he
- 3 cooperates and successfully completes treatment. Accordingly,
- 4 the Commission panel proposes an order that will allow Mr.
- 5 Harpole to retain his Oregon teaching license.
- 6 PROPOSED ORDER
- Based on the above findings and conclusion, the Commission
- 8 imposes a public reprimand, and this order shall serve as the
- 9 public reprimand. The Commission further places Martin Ervin
- 10 Harpole on probation to the Commission for a period of four
- 11 years. Harpole's probation shall be subject to the following
- 12 conditions:
- 1. Harpole, at his own initiative and at his own expense,
- 14 shall promptly obtain treatment from a treatment provider to
- 15 address his depression and his sexually inappropriate conduct.
- 16 2. Harpole shall successfully complete his treatment
- 17 program as determined by his treatment provider. Harpole's
- 18 treatment may include group therapy, one-to-one psychotherapy or
- 19 such other treatment as determined appropriate by his treatment
- 20 provider. Following satisfactory completion of treatment, the
- 21 treatment provider shall submit a written report to the Executive
- 22 Director stating: (1) Harpole has undergone and successfully
- 23 completed treatment as needed, including treatment for a sexual
- 24 disorder; (2) in the professional opinion of the treatment
- 25 provider, there is a high probability that Harpole will not
- 26 engage in sexually inappropriate or sexually illegal acts,

- 1 including acts of exhibitionism or public indecency; and (3) in
- 2 the professional opinion of the treatment provider, Harpole does
- 3 not present a risk to students or the public. Harpole shall give
- 4 consent for the treatment provider to provide copies of records
- 5 of Harpole's treatment to the Executive Director and to a
- 6 professional evaluator designated by the Executive Director.
- 7 Harpole shall further consent that the Executive Director and
- 8 evaluator may speak with the treatment provider concerning
- 9 Harpole's compliance and progress in the treatment program.
- 10 3. When the Executive Director receives information from
- 11 Harpole's treatment provider that Harpole has successfully completed
- 12 treatment, the Executive Director shall designate a psychologist or
- 13 other qualified professional to conduct an independent evaluation of
- 14 the treatment provider's report; the evaluator shall report his
- 15 findings in writing to the Executive Director and to Mr. Harpole. Mr
- 16 Harpole shall pay the cost of the evaluation.
- 17 4. The Executive Director shall determine whether
- 18 Mr. Harpole has successfully completed treatment no later than
- 19 Mr. Harpole's completion of his probation period or his
- 20 application for renewal of his teaching license, whichever should
- 21 occur first.
- 5. During the term of his probation, Harpole shall obey
- 23 all laws and shall comply with all Standards for the Competent
- 24 and Ethical Performance of Educators under OAR 584, Division 20.
- 25 If the Executive Director determines at any time that Mr.
- 26 Harpole has not complied with the terms of this order, he may

1	give notice of intent to revoke Mr. Harpole's teaching license on		
2	the ground that he has violated the terms of his probation. In		
3	such event, Mr. Harpole shall be entitled to a hearing, solely or		
4	the issue of whether or not he has compiled with the terms of his		
5	probation. Alternatively, the Executive Director may deny,		
6	subject to Mr. Harpole's right to request a hearing, Mr.		
7	Harpole's application for renewal of his teaching license on the		
8	ground that Mr. Harpole has not demonstrated good moral character		
9	as required by ORS 342.143.		
10	DATED this 2 nd day of November 1997.		
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12	(a) and Mark		
13	David V. Myton		
14	Executive Director, Teacher and Standards Practice Commission		
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