1 2 3	BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION OF THE STATE OF OREGON				
4 5 6 7	In the Matter of the Educator License of RICHARD M. FAY)))	DEFAULT ORDER OF REVOCATION AND REVOCATION OF RIGHT TO APPLY FOR LICENSURE		
8 9					
10	On December 19, 2017, the Teacher Standards and Practices Commission				
11	(Commission) issued a Notice of Opportunity for Hearing to Richard M. Fay (Fay) in				
12	which the Commission charged hi	m with Gros	ss Neglect of Duty and Gross Unfitness.		
13	The Notice was sent via U.S. First	Class Mail a	nd U.S. Certified Mail Receipt 7017 0190		
14	0000 6246 5183 to the address on	ı file with th	e Commission. The Notice designated the		
15	Commission file as the record for purposes of proving a prima facie case. The Certified				
16	Mail Return Receipt was returned to the Commission signed on December 21, 2017. The				
17	regular first class mail was not ret	urned to the	Commission, and assumed delivered. The		
18	Notice of Opportunity of Hearing,	dated Dece	mber 19, 2017, and signed by Trent		
19	Danowski, Co-Interim Executive I	Director, sta	ted:		
20 21 22 23 24 25 26 27	PERIOD, YOUR RIGHT TO UNLESS YOUR FAILURE' REASONABLE CONTROL. YOU FAIL TO APPEAR AT	O A HEARIN TO REQUES . IF YOU DO 'A HEARIN IICH MAY I	OT RECEIVED WITHIN THIS 21-DAY IG SHALL BE CONSIDERED WAIVED ST A HEARING WAS BEYOND YOUR O NOT REQUEST A HEARING OR IF IG, THE COMMISSION WILL ADOPT AN NCLUDE THE REVOCATION OR OTHER DISCIPLINE."		
28	On January 3, 2018, the Commiss	ion received	a letter from Fay, indicating he was		
29	requesting a hearing in order to ha	ave an oppo	rtunity to be interviewed by investigation		
30	staff. On February 9, 2018, and ag	ain on Marc	h 21, 2018, Fay was interviewed by an		
31	investigator. At the conclusion of	these intervi	ews, Fay withdrew his request for a		
32	hearing. The Commission, therefo	ore, finds Fa	y to be in default and enters the following		
33	findings of fact, conclusions of law	v, and final c	order, based on the files and records of the		
34	Commission concerning this matt	er.			
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36		,			
37					

1	FINDINGS OF	FACT
		4.

- 2 1. Richard M. Fay has been licensed by the Commission since September 12, 2002.
- Fay's Professional Teaching License, with an endorsement in Social Studies (PK-12),
- 4 is valid from March 3, 2016, through March 2, 2021. During all relevant times, Fay
- 5 was employed by the Medford School District.

6

- 7 2. On June 13, 2016, the Commission became aware that Fay had been arrested on
- 8 June 2, 2016, and was being charged with criminal conduct, and an investigation was
- 9 opened. On July 12, 2016, the Commission received a report from the Medford
- School District indicating Fay was the subject of an investigation related to the
- 11 earlier reported criminal activity, including sexual conduct with students.
- 12 Subsequent investigations conducted by the school district, law enforcement, and the
- 13 Commission determined that during the 2014-2015 and 2015-2016 school years, Fay
- participated in "Sexting" by exchanging sexually explicit text messages between
- 15 himself and two minor aged female students. Fay's "sexting" activities also included
- 16 Fay requesting and receiving nude digital images of the students on his cell phone. In
- one case, Fay physically met with one student and caused her to touch his penis over
- his clothing while Fay touched her vaginal area, which was also through her clothing.

19

- 20 3. On June 7, 2016, Fay was charged by the Jackson County Grand Jury with four
- 21 felony counts of Using a Child in Display of Sexually Explicit Conduct (ORS
- 22 163.670), two felony counts of Attempt of Using a Child in Display of Sexually
- 23 Explicit Conduct (ORS 163.670/161.405), two felony counts of Encouraging Child
- Sexual Abuse in the Second Degree (ORS 163.686), four felony counts of Possession
- of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree
- 26 (ORS 163.689), two felony counts of Luring a Minor (ORS 167.057) and two
- 27 misdemeanor counts of Sexual Abuse in the Third Degree (ORS163.415). On June 4,
- 28 2017, as part of a plea agreement, Fay was convicted of one count of Using a Child in
- 29 Display of Sexually Explicit Conduct (ORS 163.670), one count of Attempt of Using a
- Child in Display of Sexually Explicit Conduct (ORS 163.670/161.405), one count of
- Luring a Minor (ORS 167.057), and one count of Sexual Abuse in the Third Degree

I	(ORS163.415). Fay was sentenced in part, to a total of approximately 11 years in
2	prison, 3 years of post-prison supervision, and required to register as a sex offender.
3	
4	CONCLUSIONS OF LAW
5	Richard Fay's criminal convictions constitute gross neglect of duty in violation of
6	ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5)
7	(Use professional judgment); and OAR 584-020-0040(1) (The Commission will deny,
8	revoke or deny the right to apply for a license or charter school registration to any
9	applicant or educator who, has been convicted of any of the crimes listed in ORS
10	342.143, or the substantial equivalent of any of those crimes if convicted in another
11	jurisdiction), including ORS 163.670— Using a Child in a Display of Sexually Explicit
12	Conduct, ORS 167.057 – Luring a Minor, and ORS 163.415 –Sex Abuse in the Third
13	Degree. This conduct also constitutes gross unfitness in violation of ORS 342.175(1)(c);
14	OAR 584-020-0040(5)(c) (Conviction of violating any federal, state, or local law. A
15	conviction includes any final judgment of conviction by a court whether as the result of
16	guilty plea, no contest plea or any other means); OAR 584-020-0040(5)(d)
17	(Commission of an act listed in OAR 584-020-0040(1)); and OAR 584-020-0040(5)(e)
18	(Admission of or engaging in acts constituting criminal conduct, even in the absence of
19	a conviction).
20	
21	Pursuant to ORS 342.175(3) and OAR 584-020-0040(1) the Teacher Standards
22	and Practices Commission must revoke Fay's license and Fay's right to apply for a
23	license based on conviction of any of the crimes listed in ORS 342.143(3)(a), or the
24	substantial equivalent of any of those crimes.
25	
26	Furthermore, the conduct underlying Fay's indictments and convictions
27	constitutes gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-
28	0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use professional judgment); OAR
29	584-020-0040(4)(k)(Violation of any rule or order of the Commission); OAR 584-
30	020-0040(4)(f) (Any sexual conduct with a student) as defined by OAR 584-020-
31	0005(5): OAR 584-020-0040(4)(0) as it incorporates OAR 584-020-0025(1)(c)(D)

1	(Honoring appropriate adult boundaries with students in conduct and conversations			
2	at all times); and OAR 584-020-0035(3)(a)(Maintain the dignity of the profession by			
3	respecting and obeying the law, exemplifying personal integrity and honesty).			
4	Additionally, Fay's criminal convictions and conduct related to his convictions			
5	constitute "gross unfitness" in violation of ORS 342.175(1)(c); OAR 584-020-0040(3)(c)			
6	and (d) as defined by OAR 584-020-0040 (5) (Gross unfitness is any conduct which			
7	renders an educator unqualified to perform his or her professional responsibilities).			
8				
9	The Commission's authority to impose discipline in this matter is based upon			
10	ORS 342.175.			
11				
12	FINAL ORDER			
13	The Commission hereby revokes Richard M. Fay's Oregon educator license and			
14	revokes Fay's right to apply for an Oregon educator license.			
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16	IT IS SO ORDERED THIS 23 rd day of March, 2018.			
17	TEACHER STANDARDS AND PRACTICES COMMISSION			
18				
19 20 21 22 23	By: Dr. Anthony J. Rosilez, Executive Director			
24	NOTICE OF APPEAL OR RIGHTS			
25 26 27 28 29	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 182, 482 TO THE OREGON COURT OF APPEALS			