

1 **FINDINGS OF FACT**

- 2 1. Richard M. Fay has been licensed by the Commission since September 12, 2002.
3 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
10 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
14 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
17 one case, Fay physically met with one student and caused her to touch his penis over
18 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
24 Sexual Abuse in the Second Degree (ORS 163.686), four felony counts of Possession
25 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
30 Child in Display of Sexually Explicit Conduct (ORS 163.670/161.405), one count of
31 Luring a Minor (ORS 167.057), and one count of Sexual Abuse in the Third Degree

1 (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)(o) as it incorporates OAR 584-020-0035(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.
15

16 IT IS SO ORDERED THIS 23rd day of March, 2018.

17 TEACHER STANDARDS AND PRACTICES COMMISSION
18

19 By: 
20 Dr. Anthony J. Rosilez, Executive Director
21

22
23 **NOTICE OF APPEAL OR RIGHTS**
24

25
26 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY
27 BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE
28 SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF
29 ORS 183.482 TO THE OREGON COURT OF APPEALS.