## BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION

2	OF THE STATE OF OREGON			
3 4 5	In the Matter of the ) STIPULATION OF FACTS, Teaching License of ) ORDER OF SUSPENSION ROGELIO RIZO VIVANCO ) AND PROBATION			
6	On or about January 17, 2003, the Teacher Standards and Practices Commission			
7	(Commission) received a report from Sandra Lawson, Assistant Superintendent, Newberg			
8	Public Schools, indicating that Rogelio Rizo Vivanco (Vivanco) used his school computer to			
9	access sexually explicit material on the Internet.			
10	After review of the matters alleged, Mr. Vivanco and the Commission agree that their			
11	respective interests, together with the public interest, are best served by a stipulation to certain			
12	facts and the imposition of a ninety (90) day suspension, followed by a period of probation of			
13	two (2) years.			
14	This Order sets forth the facts upon which the parties have agreed and the sanction to			
í	be imposed. Mr. Vivanco stipulates that there are sufficient facts contained in the Commission'			
16	files and records to support the findings of fact and conclusions of law set forth below. In			
17	entering into this stipulation, Mr. Vivanco waives the right to a hearing to contest the findings of			
18	fact, conclusion of law and order set forth below.			
19	Mr. Vivanco understands that the probation will be subject to specific conditions.			
20	This stipulation is contingent upon approval and adoption of the Order by the			
21	Commission. If the Commission does not adopt this Order, neither Mr. Vivanco nor the			
22	Commission are bound by these Stipulations and Mr. Vivanco retains all rights to a hearing on			
23	the allegations.			
24	STIPULATION OF FACTS			
25	1. Mr. Vivanco holds a Basic Teaching License issued August 3, 2001, valid through			
26	October 26, 2004, with a Basic Elementary Endorsement.			

1	2. Mr. Vivanco was employed by Newberg Public Schools as a teacher at Edwards		
2	Elementary School beginning August 28, 2000. Mr. Vivanco resigned in lieu of termination on		
3	January 13, 2003.		
4	3. A District-owned computer with Internet access was present in Mr. Vivanco's		
5	classroom for his use in connection with his assigned responsibilities. The District has a clearly		
6	defined, acceptable use policy. The District's policy prohibits the use or attempted use of		
7	equipment for Internet access of sexually explicit materials.		
8	4. Mr. Vivanco used his classroom computer on multiple occasions to access sexually		
9	explicit materials through the District's Internet connection in violation of District policy regarding		
10	Internet use.		
11	5. Mr. Vivanco admits that he should not have used the District computer for viewing		
12	sexually explicit materials and has expressed remorse for doing so.		
13 14 15 16 17 18	IT IS SO STIPULATED:    Copular   Liverage   2/-6-03     Rogelio Rizo Vivanco   Date     Victoria Chamberlain, Executive Director     Teacher Standards and Practices Commission		
19	ULTIMATE FINDING OF FACT		
20	Rogelio Rizo Vivanco used the computer equipment owned by his employer, Newberg		
21	Public Schools, located on school premises, to access sexually explicit materials. Mr. Vivanco		
22	was fully aware that accessing such materials at the workplace with a District owned computer		
23	was inappropriate and in violation of District policy.		
24	CONCLUSION OF LAW		
25	Rogelio Rizo Vivanco's inappropriate use of a district computer constitutes Gross		
26	Neglect of Duty in violation of OAR 584-020-0040(4)(q). The Commission's authority to impose		
	discipline in this matter is based upon ORS 342.175.		

ORDER

Rogelio Rizo Vivanco's Basic Teaching License is suspended for a period of ninety (90) days effective May 9, 2003. At the end of this suspension period, Mr. Vivanco's Basic Teaching License will be reinstated upon:

- 1. Submission of a complete application and fees pursuant to OAR 584-050-0015(3); and
- 2. Submission of documentation that he has undergone an evaluation by a psychotherapist or medical professional acceptable to the Commission, and the evaluator submits a written report to the Commission attesting (a) Mr. Vivanco is fit to work with children and teenagers, and (b) there is a high probability he will not use school district equipment to access sexually explicit materials or engage in similar inappropriate behavior. Any costs associated with the assessment or treatment will be the responsibility of Mr. Vivanco.

Upon the reinstatement of licensure, Mr. Vivanco shall be placed on probation by the Commission for a period of two (2) years subject to the following terms and conditions:

1. Mr. Vivanco shall substantially comply with any treatment or counseling as

- recommended by the individual who completed the evaluation described above.

  Mr. Vivanco shall authorize and sign any consent forms as necessary for the treatment provider or counselor to furnish records to or discuss Mr. Vivanco's compliance in treatment with the Commission.
- 2. Mr. Vivanco shall comply with all Standards for Competent and Ethical Performance of Oregon Educators under Oregon Administrative Rules, Chapter 584, Division 020.
- 3. Mr. Vivanco shall provide information as requested by the Commission to verify that he has complied with the conditions of probation, including a statement from a future employing district that he has complied with the Standards for Competent and Ethical Performance of Oregon Educators under OAR Chapter 584, Division 020.

	Violation of the terms of this probation may constitute an independent basis for the		
2	Commission to impose discipline, up to and including revocation of Mr. Vivanco's teaching		
3	license subject to Mr. Vivanco's right to a hearing on the issue of whether he violated probation		
4	IT IS SO ORDERED this day of May, 2003		
5	TEACHER STANDARDS AND PRACTICES COMMISSION		
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7 8	By: White Manual Manual Victoria Chamberlain, Executive Director		
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10	Approved as to form:		
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12			
13	Paul B. Gamson OSB# 82264		
14	Attorney for Rogelio Rizo Vivanco	[040203]	