

Program (IEP) meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion. ORS 342.175(1)(b); OAR 584-020-0040(4)(c), (n).

2. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross unfitness by failing to hold two required IEP meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion. ORS 342.175(1)(c); OAR 584-020-0040(5)(b).

3. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by self-publishing a collection of student essays that contained sensitive and personal information about the students, including two instances of possible child abuse of two separate students; and failing to report the two instances of possible child abuse to DHS, law enforcement or the administration as required. ORS 342.175(1)(b); OAR 584-020-0040(4)(n), (s).

4. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by violating school policy and failing to have her students retake the Oregon Assessment of Knowledge and Skills (OAKS) test after not meeting state and district benchmarks. ORS 342.175(1)(b); OAR 584-020-0040(4)(n).

5. Whether Respondent's educator license should be suspended or revoked. ORS 342.175(1)(b), (c); ORS 342.177(3).

EVIDENTIARY RULINGS

Exhibits A2 through A5, offered by the Commission, were admitted into evidence without objection. Respondent objected to Exhibit A1 as containing unreliable hearsay. The objection was overruled and Exhibit A1 was admitted into evidence. Exhibits R1 through R16, offered by Respondent, were admitted into evidence without objection.

The Commission adopts the ALJ's credibility determination as articulated by the ALJ below:

CREDIBILITY DETERMINATION

"A witness testifying under oath or affirmation is presumed to be truthful unless it can be demonstrated otherwise. ORS 44.370 provides, in relevant part:

A witness is presumed to speak the truth. This presumption, however, may be overcome by the manner in which the witness testified, by the character of the testimony of the witness, or by evidence affecting the character or motives of the witness, or by

contradictory evidence.

A determination of a witness' credibility can be based on a number of factors other than the manner of testifying, including the inherent probability of the evidence, internal inconsistencies, whether or not the evidence is corroborated, and whether human experience demonstrates that the evidence is logically incredible. *Tew v. DMV*, 179 Or App 443 (2002).

The Commission presented evidence that during the 2009-2010 school year, Respondent failed to conduct lawful Individual Education Program (IEP) meetings for students KR and FC-E. Respondent, on the other hand, testified that she did conduct the IEP meetings for both students. Thus, a credibility determination is necessary.

I begin with an overview of IEP requirements and then examine witness testimony.

Overview of Individual Education Program (IEP) requirements

An IEP is a written plan for a child's education services. School districts must have an IEP in effect for each child with a disability at the beginning of each school year. The IEP must be reviewed and updated at least once each year. *See* OARs 581-015-2200, 581-015-2220, 581-015-2225.

School districts must notify parents in writing sufficiently in advance of the IEP meeting so that one or both parents can attend the meeting. School districts must schedule the IEP meeting at a mutually agreed upon time and place. The written notice to the parents must state the purpose, time, and place of the IEP meeting, as well as who will attend. *See* OAR 581-015-2190.

IEP team members who must attend the IEP meeting include one or both parents, the child where appropriate, a regular education teacher¹ of the child, a special education teacher (or provider) of the child, a representative of the school district (who may also be another member of the team), an individual who can interpret the results (who may also be another member of the team), and other individuals with knowledge or expertise that have been invited by the parent or the school district. *See* OAR 581-015-2210.

In developing, reviewing and revising the IEP, the IEP team must consider, among other things, the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. (*See* OAR 581-015-2205.)

The IEP must include, among other things, a statement of the child's present levels of academic achievement and functional performance; a statement of measurable annual goals; a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided; and a statement of the specific special education and related services and

¹ The "regular" education teacher was referred to as the "general" education teacher in the hearing. (*Hearing record.*)

supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. (See OAR 581-015-2200.)

Any IEP team member may be excused from the IEP meeting if the parent and the school district consent to the excusal in writing, and the team member submits written input into the development of the IEP to the parent and the IEP team before the meeting. See OAR 581-015-2210.

The school district may hold the IEP meeting without a parent in attendance provided the school district has provided written notice of the IEP meeting, and has documented its attempts to arrange a mutually agreed on time and place for the IEP meeting. See OARs 581-015-2190, 581-015-2195.

IEP meetings may be held by alternative means, including video conferences and conference calls. See OAR 581-015-2195.

1. Whether Respondent conducted a lawful IEP meeting for student KR on 11/03/09.

Respondent. During the 2009-2010 school year, Respondent was a Special Education teacher at Monroe Middle School (MMS). Student KR was one of the students assigned to Respondent. The annual IEP for student KR was due on or about November 3, 2009.

Respondent testified that on November 3, 2009, during the parent-teacher conferences in the cafeteria at MMS, she conducted an IEP meeting with the mother of KR. Respondent also testified that she had Brian Holte, a fellow teacher at MMS, come over to her table in the cafeteria and participate in the IEP meeting as the general education teacher.

Respondent testified that she subsequently filled out and prepared the IEP document for student KR.

Brian Holte. Brian Holte is a teacher at MMS, and has been for 15 years.

Mr. Holte testified that he has no recollection of participating in an IEP meeting with Respondent and the mother of KR during the parent-teacher conferences on November 3, 2009. Mr. Holte testified that such a meeting would have stood out in his mind as “unusual.” Mr. Holte further testified that he would not have considered the meeting an “IEP meeting.”

Mr. Holte also testified that the statement he gave to Ms. Linder during the investigation was accurate.

Cheryl Linder. In 2009 and 2010, Cheryl Linder was the Educational Support Services Administrator for the Eugene 4J School District (District). In 2010, Ms. Linder investigated various allegations against Respondent, including the allegation that Respondent had failed to conduct IEP meetings for students KR and FC-E during the 2009-2010 school year.

Ms. Linder testified that, during the investigation, she spoke with the mother of KR, who denied participating in an IEP meeting with Respondent on November 3, 2009, and who denied receiving any IEP meeting notices. Ms. Linder also testified that she spoke with Mr. Holte who denied being present for an IEP meeting on November 3, 2009.

Peter Tromba. In 2009 and 2010, Peter Tromba was the Principal of MMS. In 2010, Mr. Tromba investigated various allegations against Respondent, including the allegation that Respondent had failed to conduct IEP meetings for students KR and FC-E during the 2009-2010 school year.

Mr. Tromba testified that, during the investigation, he spoke with the mother of KR, who denied that an IEP meeting took place on November 3, 2009, and who denied receiving any IEP meeting notices. Mr. Tromba also testified that he spoke with Mr. Holte, who denied attending an IEP meeting on November 3, 2009.

Molly Hammans. In 2009 and 2010, Molly Hammans was a Special Education teacher at MMS. During the 2010-2011 school year, student KR was assigned to Ms. Hammans.

Ms. Hammans testified that on November 1, 2010, while conducting the annual IEP meeting for student KR, she was informed by both the mother of KR and Carol Welch, the occupational therapist, that the 2009 IEP meeting for KR had not taken place.

Ms. Hammans testified that she informed Ms. Linder of the allegation, and was advised to speak with the general education teacher, Mr. Holte, that Respondent had listed on the IEP document as attending the 2009 meeting.

Ms. Hammans testified that she spoke with Mr. Holte, who denied attending an IEP meeting for student KR on November 3, 2009. Ms. Hammans also testified that she was unable to find any supporting documents, such as Respondent's meeting notes, to verify that an IEP meeting had taken place on November 3, 2009.

I find, by a preponderance of the evidence that Mr. Holte and the mother of KR did not participate in an IEP meeting for student KR on November 3, 2009. I further find that Respondent did not conduct a lawful IEP meeting for student KR on November 3, 2009.

Accordingly, the testimony of Respondent will not be relied upon when it contradicts the evidence presented by the Commission.

2. Whether Respondent conducted a lawful IEP meeting for student FC-E on 6/01/10.

Respondent. During the 2009-2010 school year, student FC-E was one of the students assigned to Respondent. The annual IEP for student FC-E was due on or about June 1, 2010.

Respondent testified that she conducted an IEP meeting with the mother of FC-E by

telephone on December 1, 2009.

However, when questioned by the Commission, Respondent admitted that she did not have a general education teacher present for the phone conversation, and she did not obtain a written waiver from the mother of FC-E for the absence of the general education teacher.

Ms. Hammans. During the 2010-2011 school year, student FC-E was assigned to Ms. Hammans.

Ms. Hammans testified that in September 2010, while scheduling the annual IEP meeting for student FC-E, she became aware that there was no IEP on student FC-E for the 2009-2010 school year. Ms. Hammans testified that she informed Ms. Linder of the matter, and was advised to look through Respondent's working files and log book for evidence of the IEP, which she did.

Ms. Hammans testified that there was no evidence of the IEP in Respondent's working files. Ms. Hammans also testified that there was no evidence of the IEP in the Electronic Student Information System (ESIS or eSIS),² or in the District office.

Ms. Hammans testified that although Respondent's log book indicated that Respondent held a phone meeting with the mother of FC-E on June 1, 2010, there was no supporting documentation to verify that an IEP meeting had actually taken place on that date. Ms. Hammans testified that there were no written notes from Respondent indicating who was present for the phone meeting, what was discussed, or what goals were set for student FC-E. Ms. Hammans also testified that there was no typed or written IEP for student FC-E.

I find, by a preponderance of the evidence, that Respondent did not conduct a lawful IEP meeting for student FC-E on June 1, 2010. I further find that the testimony of Respondent will not be relied upon when it contradicts the evidence presented by the Commission.”

FINDINGS OF FACT

Background

1. During the period of 2003-2010, Respondent was employed by the Eugene 4J School District (District). Respondent obtained her Initial teaching license in October 2002. (Test. of Robin; Ex2. A1, R7.)

2. From 2003 through 2008, Respondent worked as a Special Education teacher at North Eugene High School (NEHS). Respondent initially taught under a Conditional Assignment Permit. Respondent obtained her Special Education endorsement in 2005.

While at NEHS, Respondent had a caseload of 33-40 students, and 90 minutes of prep time for her classes. Respondent also had administrative support for such things as scheduling the IEP meetings, sending out notices to parents, and typing up the IEPs. NEHS had a total of three Special Education teachers.

² ESIS was the computer system at MMS during the 2009-2010 school year. (Test. of Hammans, Linder.)

Respondent was respected by her peers and well-liked by her students. Respondent supported student growth in and out of the classroom. Respondent took part in the Black Student Union, and the Gay and Straight Alliance. Respondent was an advocate for the students at NEHS. (Test. of Robin, Keyworth; Exs. R6, R7.)

3. From 2008 through 2009, Respondent worked as a Special Education teacher at Pathfinders, a school in Eugene. Respondent had a caseload of 12 students. Respondent also had administrative support for such things as scheduling the IEP meetings, sending out notices to parents, and typing up the IEP. (Test. of Robin.)

4. In June 2009, Respondent was transferred by the District to Monroe Middle School (MMS). (Test. of Robin; Ex. A4.)

5. In September 2009, Respondent held an Initial II teaching license, with special endorsements in Language Arts, Social Studies, and Special Education. (Ex. R8.)

6. During the 2009-2010 school year, Respondent worked as a Special Education teacher at MMS. Respondent had a caseload of 47 students, and 50 minutes of prep time for classes. Respondent had less administrative support at MMS, and was ultimately responsible for scheduling the IEP meetings, sending out notices to parents, and typing up the IEPs.³

Respondent taught 6th and 7th grade Language Arts and Social Studies, as well as a Language Arts support class.

Respondent's 7th grade class contained students with ADHD, autism, behavioral problems, and learning disabilities. The class contained four students that functioned at a lower grade level, one student that had a "no contact" order with two others in the same class, and one student who was designated as a "risk of violence to self or others," and required 1:1 supervision at all times.

Respondent described the students in her 7th grade class as "overly defiant," "off task," "feral," and "at risk." Respondent opined that the female students made the class a "hostile environment," and the male students made the class a "constant battle."

Respondent and the 7th grade class were not a good fit. Respondent had a holistic management style in the classroom, which was ineffective at controlling the 7th grade class. Respondent struggled to develop a curriculum for the students with differing grade levels. Respondent was "over her head."

Nancy Schaal-McHarry and Ashley Reed were the instructional assistants (IAs) assigned to help Respondent in the classroom. Ms. Schaal-McHarry described the students in the 7th grade class as some of the most "difficult" she had ever experienced.

³ Nora Haggerty, an instructional assistant and IEP scheduler at MMS, assisted the Special Education teachers in scheduling the IEP meetings and sending out the notices to the parents. (Test. of Robin, Hammans; Ex. R9.)

Rita Marie Verdugo was the IA assigned to the student that required 1:1 supervision at all times. Ms. Verdugo described the 7th grade class as “difficult” and “unruly.” Respondent and the IAs were often brought to tears at the end of the day after dealing with the 7th grade class.

At some point during the fall 2009, Respondent developed acute anxiety and was placed on part-time disability leave by her physician. In November and December 2009, Respondent worked part-time at MMS. On or about January 1, 2010, Respondent returned to full-time work at MMS.

In January 2010, the District hired a behavioral specialist to implement changes in Respondent’s 7th grade class. The behavioral specialist initially observed the class to identify the problems. The behavioral specialist then implemented a more structured management style and teaching approach, which worked well with the students. The behavioral specialist taught Respondent and the IAs how to set up systems and procedures in the classroom, including a reward system for appropriate behaviors. The 7th grade class dramatically improved. (Test. of Robin, Schaal-McHarry, Verdugo, Tromba; Ex. A1.)

7. During the period of 2009-2011, Molly Hammans worked as a Special Education teacher at MMS. Ms. Hammans taught 7th and 8th grade. (Test. of Hammans; Ex. A1.)

8. Respondent and Ms. Hammans both received training on the federal and state requirements for IEPs. As the Special Education teachers at MMS, Respondent and Ms. Hammans were required to conduct annual IEP meetings for students on IEPs. Respondent and Ms. Hammans were ultimately responsible for notifying the parents in advance of the upcoming IEP meetings; obtaining written waivers from the parents when required; conducting the IEP meetings with the appropriate IEP team members present; typing up the IEPs and entering the updated information into ESIS;⁴ finalizing the IEPs;⁵ and sending a copy of the finalized IEPs to the parents and service providers of each student. (Test. of Robin, Hammans, Ex. A1 at 5.)

Individualized Education Program

9. An IEP is a written plan for a child’s education services. School districts must have an IEP in effect for each child with a disability at the beginning of each school year. The IEP must be reviewed and updated at least once each year, but may be conducted more frequently if requested. (See OARs 581-015-2200, 581-015-2220, 581-015-2225.)

10. School districts must notify parents in writing sufficiently in advance of the IEP meeting so that one or both parents can attend the meeting. School districts must schedule the IEP meeting at a mutually agreed upon time and place. The written notice to the parents must

⁴ Staff logged into ESIS by using their login name and password. ESIS was the data warehouse. It contained the forms needed for IEPs (including notices), and it stored the updated IEP data after the teacher typed the IEP. ESIS also kept an electronic record of when teachers logged into the system to enter data, and when IEPs were finalized. (Test. of Hammans.)

⁵ Finalizing an IEP document in ESIS required the teacher to push a button. If the teacher did not push the button, the IEP document was considered written but not finalized. (Test. of Hammans.)

state the purpose, time, and place of the IEP meeting, as well as who will attend. (See OAR 581-015-2190.)

11. IEP team members who must attend the IEP meeting include one or both parents, the child where appropriate, a regular education teacher of the child, a special education teacher (or provider) of the child, a representative of the school district (who may also be another member of the team), an individual who can interpret the results (who may also be another member of the team), and other individuals with knowledge or expertise that have been invited by the parent or the school district. (See OAR 581-015-2210.)

12. In developing, reviewing and revising the IEP, the IEP team must consider, among other things, the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. (See OAR 581-015-2205.)

13. The IEP must include, among other things, a statement of the child's present levels of academic achievement and functional performance, a statement of measurable annual goals, a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided; and a statement of the specific special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. (See OAR 581-015-2200.)

14. Any IEP team member may be excused from the IEP meeting if the parent and the school district consent to the excusal in writing, and the team member submits written input into the development of the IEP to the parent and the IEP team before the meeting. (See OAR 581-015-2210.)

15. The school district may hold the IEP meeting without a parent in attendance provided the school district has provided written notice of the IEP meeting, and has documented its attempts to arrange a mutually agreed on time and place for the IEP meeting. (See OARs 581-015-2190, 581-015-2195.)

16. IEP meetings may be held by alternative means, including video conferences and conference calls. (See OAR 581-015-2195.)

Respondent's behavior at MMS

Inappropriate behavior with staff and students

17. On September 11, 2009, Respondent yelled at an IA in front of students. Respondent later grabbed the IA by the arms in the hallway. The IA asked Respondent not to yell at her again. Respondent told the IA that "this has happened before and I can't guarantee it won't happen again." (Ex. A1 at 34-37.)

18. On October 20, 2009, during 5th period, Respondent scolded student 1 and lightly smacked her in the upper arm. Respondent also grabbed the shoulders of student 2 and directed him back to his seat. At some point during that period, Respondent took a female student into an adjacent classroom and asked the assistant to watch the student because Respondent was ready to “throttle her.” (Ex. A1 at 34-37.)

19. On October 21, 2009, during 5th period, Respondent told student 3 to “shut up” and that she looked “handicapped.” Respondent also forcefully slammed student 3’s binder when the student was misbehaving. (Ex. A1 at 34-37.)

20. On November 3, 2009, during 5th period, Respondent grabbed student 3’s chin. Student 3 pulled away from Respondent. Respondent told student 3 to go to the office. (Ex. A1 at 34-37.)

21. Peter Tromba, Principal of MMS, and Katherine Kiraly, Assistant Principal of MMS, were notified of Respondent’s inappropriate behaviors with students and staff. Mr. Tromba and Ms. Kiraly spoke with the individuals involved. Mr. Tromba met with Respondent to discuss the allegations on October 21 and November 12, 2009. (Ex. A1 at 34-37.)

22. On March 5, 2010, Mr. Tromba sent Respondent a written Notice of Suspension (Notice). In the Notice, Mr. Tromba informed Respondent that she was going to be suspended for two days without pay for the inappropriate behaviors she had exhibited with students and staff on September 11, October 20, October 21, and November 3, 2009. Mr. Tromba also notified Respondent that the two days of suspension would be charged by converting two days of leave that Respondent had taken on 1/22/10 and 1/25/10 into unpaid leave.⁶ (Ex. A1 at 34-37.)

Failing to conduct a lawful IEP for student KR

23. During the 2009-2010 school year, student KR was one of the students assigned to Respondent. The annual IEP for student KR was due on or about November 3, 2009. (Ex. A1 at 7-8, 16.)

24. On the evening of November 3, 2009, MMS held parent-teacher conferences in the school cafeteria. Each teacher sat at a designated table in the cafeteria and met with parents for a short period of time.

The mother of student KR attended the parent-teacher conferences and met with KR’s teachers. The mother of KR did not participate in an IEP meeting with Respondent on November 3, 2009. The mother of KR did not receive a notice scheduling an IEP meeting with Respondent for the date of November 3, 2009.

Brian Holte, a teacher at MMS, conducted parent-teacher conferences at his table in the school cafeteria. Each conference lasted approximately 10 minutes in length. Mr. Holte was

⁶ During the hearing, Respondent testified that she was notified of the suspension on November 3, 2009, and that she served the suspension in the fall of 2009. However, Respondent’s testimony is contradicted by the written Notice of Suspension that was issued to Respondent on March 5, 2010. (Ex. A1 at 34-37.)

fully scheduled for the entire evening. Mr. Holte did not participate in an IEP meeting for student KR with Respondent on November 3, 2009. (Test. of Tromba, Linder, Hammans, Holte; Ex. A1 at 6-7.)

25. In January 2010, the mother of KR met with Respondent. (Ex. A1 at 6.)

26. Sometime in February 2010, Respondent logged into ESIS and entered IEP information on student KR. In the IEP document that she prepared, Respondent falsely asserted that she held an annual IEP meeting for KR on November 3, 2009; that the mother of KR attended the IEP meeting; and that Brian Holte attended the IEP meeting as the regular education teacher. Respondent did not finalize the IEP document or distribute copies to the parent and service providers of KR. (Test. of Linder, Hammans; Ex. A1 at 6-8, 16-23.)

27. There is no evidence in student KR's records of any IEP meeting notices being sent to the mother of KR.⁷ (Ex. A1 at 8.)

28. Failing to conduct an annual IEP meeting and failing to finalize an IEP document violates a student's due process rights, and prevents the student's teachers from having the information necessary to serve the student correctly. (Ex. A1 at 7-9.)

Failing to conduct a lawful IEP for student FC-E

29. During the 2009-2010 school year, student FC-E was one of the students assigned to Respondent. The annual IEP for student FC-E was due on or about June 1, 2010. (Ex. A1 at 9.)

30. On June 1, 2010, Respondent contacted the mother of FC-E by telephone. Respondent did not take any notes of the phone conversation. Respondent did not have any IEP team members present for the phone conversation. Respondent did not obtain a written waiver from the mother of FC-E for the absence of the IEP team members, including the general education teacher. Respondent did not enter any IEP information on student FC-E in ESIS. Respondent did not prepare or finalize an IEP document on student FC-E for the 2009-2010 school year. (Test. of Hammans, Linder, Robin; Ex. A1 at 9-10.)

31. There is no documentary evidence in Respondent's working files of an IEP meeting for student FC-E taking place on June 1, 2010. There is no evidence in student FC-E's records of any IEP meeting notices being sent to the mother of FC-E. (Ex. A1 at 9-10.)

32. The District reported student FC-E "out of compliance" on its annual Oregon Department of Education census report. The District was unable to receive funding for services that were delivered to student FC-E during the 2009-2010 school year. (Test. of Hammans, Linder; Ex. A1 at 9-10.)

Publishing student essays and failing to report child abuse

⁷ When a Notice of Team Meeting (the notice scheduling the IEP meeting) was prepared in ESIS, it was printed out and sent to the parent, and a copy of the Notice was placed in the student's record/file. (Test. of Hammans.)

33. Respondent is a mandatory reporter of child abuse. At the first staff meeting at MMS, all of the staff, including Respondent, were informed of their obligation to report child abuse. (Test. of Robin; Ex. A at 11.)

34. During the 2009-2010 school year, Respondent assigned a writing exercise to the students in her 7th grade class. The assignment consisted of writing memoirs or short stories based on a series of prompts from a book. Respondent edited the students' writings. (Test. of Robin; Ex. A1 at 11-12.)

35. At the end of the year, Respondent placed a collection of the students' writings in a book that was sent home with all of the students in the 7th grade class. The students chose the writing that they wanted published. The students were aware that their writings would be shared with others. (Test. of Robin.) In one of the published writings, a student wrote:

Changes.

7. I have been through a lot. Changes most of all. I've moved lost friends, and people. I had to move because my parents split up. I have lost one friend and one family member. They both shot them selves. That's why i'm so messed up! Laugh out loud.

Have I ever been Embarrassed?

8. I have never been Embarrassed. As you can tell, I haven't. I just lied. Laugh out loud. Well, when I got suspeded because i throw a flashlight at my friend []. I was scared to come back to school. Because everybody would make fun of me. I got through it though.

What scared me as a kid?

9. I was always scared of my dad when he had parties. He would get drunk and take it out on my. He would ground me; tell me to do everything in the house that was already done. He would hit my Butt with a belt. Now I live with my mom, I have the bestest friend down the street. At The Brewer Apartments. I love my life after me and my mom moved out. That is the only stuff I remember.

Impacts in my life!

10. I have lost a friend, family member, and animals. I lost my friend [] he shot himself. My moms step brother, I call him uncle Scott. He also shot himself because of depression. All the animals I have lost died, or got hit by a car. I have cried so much this passed year. I learned that people can make really bad choices. My uncle and [] made a really bad choice!

(Ex. A1 at 28; emphasis in original.) In another published writing, a student wrote:

One time when I was eight, I was at my foster parents house. [] and my sister [] and some other girl, I can't remember her name and I snuck some candy from the kitchen cabinet. The funny thing is we were all crowded into the cabinet with the door closed. It was really crowded. We were hiding but then we were caught. The wicked foster parents made us eat all the candy until it was gone. It took us a couple of hours to eat the huge pile of candy.

First [] threw up. They told her to eat her vomit, but she didn't. Then my sister and the other girl gave up eating the candy. I ended up eating all of the candy by myself. On the next day the other girl threw up and on the day after that it was my sister. I never threw up.

(Ex. A1 at 30.) In a third published writing, a student wrote:

1. My very first memory is of me sitting on the couch. My dad was sitting in a chair. I don't think we were doing anything.
2. When I was little I lived watching Barney and Bob the Builder. I remember watching barney and when I got bored I would climb the entertainment center. It fell on me. My favorite toys were The Rescue Heros.
3. I'm not a very violent person but I like beating up on my older sister. I have never won.
4. When I was little I wanted to be a soccer player, playing for The manchester United. But now I want to be a sports broadcaster for a hockey team.
5. I have always loved to ride my bike. When I was little I rode my bike around the block all the time.
6. Elementary school is boring. I was pretty quiet and bored.
7. When I was little they did not have iPods since they hadn't been invented yet. They did not have digital cameras yet either.
8. When I was little I was afraid of Ronald MacDonald and of the dark. I still am.
9. In my spare time I like to play hockey in my back yard. I am

never very bad, but sometimes I am.

10. My first crush was []. I started liking her in the third grade. [] hates me. She found out in the fifth grade. I made the mistake of telling []. [] told everybody including []. Everybody wanted me to talk to her. In the sixth grade [] got sick of me so she wrote a harassment form on me.

11. A happy moment was when I was told I got to run camera two.

(Ex. A1 at 31.)

36. Respondent did not notify law enforcement, the local office of the Department of Human Services, or the administration regarding any of the information disclosed in the student writings. (Test. of Robin; Ex. A1 at 10-11.)

37. Respondent did not send out a communication to the parents about the publication. Respondent did not receive permission from the parents or the administrator before publishing the collection of student writings. (Ex. A1 at 10-11.)

38. On July 14, 2010, Cheryl Linder, the Educational Support Services Administrator for the District, met with a parent of one of the students from Respondent's 7th grade class, who raised concerns regarding the publication. (Ex. A1 at 10.)

Failing to retest students on the OAKS test

39. At the beginning of the 2009-2010 school year, all of the staff at MMS, including Respondent, were informed of the school's expectations (and building requirement) that students failing to meet the benchmark or performance standard on the OAKS test would be tested a second time and possibly a third time. (Test. of Tromba; Ex. A1 at 12.)

40. During the 2009-2010 school year, Cecilia Brands was the testing coordinator for MMS. Ms. Brands prepared an OAKS testing schedule with input from the teachers, who were responsible for administering the test to their students. Ms. Brands scheduled almost all of the students for two rounds of testing.⁸ Respondent was scheduled to initially test her students during February 17 through February 19, 2010, and to retest her students during April 6 through April 9, 2010. (Test. of Brands; Ex. A1 at 12-13.)

41. On or about February 17, 2010, Respondent administered the first round of OAKS testing to her 6th grade class.⁹ Sometime after February 17, 2010, Respondent administered the first round of OAKS testing to her 7th grade class.¹⁰ Nearly all of Respondent's students failed to

⁸ Some of the teachers asked for three rounds of testing. (Test. of Brands; Ex. A5.)

⁹ Ms. Brands assisted Respondent with the first round of testing of the 6th grade class. (Test. of Brands.)

¹⁰ Ms. Brands rescheduled Respondent's 7th grade class for their first round of testing. (*Id.*)

meet the benchmark or performance standard on the test.¹¹ (Test. of Brands; Exs. A1 at 12-13, 32-33, A5.)

42. During the last part of March 2010, Ms. Brand reminded Respondent of the second round of OAKS testing that was scheduled for April 6 through April 9, 2010. Respondent told Ms. Brand that she could not test her students during that period of time. Ms. Brand rescheduled the second round of OAKS testing for Respondent and sent out a reminder to Respondent regarding the new testing schedule. (Test. of Brands, Robin; Ex. A1 at 12-13, 32-33.)

43. Respondent did not retest her students on the OAKS test before the end of the school year. Respondent's actions negatively affected her students and MMS as follows: Respondent's students were not given the opportunity to improve their test scores, to meet the performance standards, or to excel and be eligible for additional opportunities in school; and MMS failed to make Adequate Yearly Progress for the 2009-2010 school year. (Test. of Brands, Tromba, Robin; Ex. A1 at 12-13, 32-33.)

Additional information

44. In 2010, Mr. Tromba and Ms. Linder were notified of the various allegations against Respondent. Mr. Tromba and Ms. Linder conducted an investigation into the allegations. (Test. of Tromba, Linder; Ex. A1.)

45. During the 2010-2011 school year, Respondent was on leave from MMS. (Test. of Robin.)

46. On March 29, 2011, Mr. Tromba and Ms. Linder met with and interviewed Respondent regarding the allegations.¹²

When questioned about the IEP meeting for student KR, Respondent asserted that she conducted an ad-hoc IEP meeting on November 3, 2009, in the midst of conferences; that she met with KR's mother for a conference, and then called over a regular education teacher – Brian Holte – to give input necessary to complete the IEP; and that KR's mother was aware that this unconventional meeting was an IEP.

When questioned about the IEP meeting for student FC-E, Respondent asserted that she conducted the IEP meeting by phone. (Exs. A1, R12.)

47. On August 19, 2011, after concluding their investigation, Mr. Tromba and Ms. Linder issued a letter to Superintendent Sheldon Berman, recommending termination of Respondent's employment with the District. The letter stated, in pertinent part:

INTRODUCTION

¹¹ The testing results indicate that only a small number of students actually met the performance standard. (Ex. A1 at 32-33.)

¹² Christine Nesbit and Jeff Jackson were also present in the meeting. (Ex. R12.)

During the 2009-2010 school year, Jane Robin worked as a Special Education teacher at Monroe Middle School in the 4J school district. She taught 6th and 7th grade Language Arts and Social Studies as well as a Language Arts support class. She was responsible for a special education caseload of students as well. These responsibilities include coordinating and conducting annual Individual Education Plan (IEP) reviews, communication with parents and staff, collaboration with colleagues, specially designed instruction related to goal areas, monitoring progress toward goals, student assessments, and all associated paperwork related to special education.

During the 2010-2011 school year, we received reports that there were problems with practices and procedures that Ms. Robin had been responsible for in the prior year. These problems included claims that:

1. Ms. Robin had attested to meetings happening that had not happened, falsifying an IEP.
2. Ms. Robin had not completed an IEP as required and she failed to communicate goal areas of a student's IEP, with the effect that the student did not receive the services.
3. Ms. Robin failed to report two instances of child abuse in violation of her obligation as a mandatory reporter.
4. Ms. Robin distributed a book of student writing that revealed personal and sensitive student information.
5. Ms. Robin did not have eligible students retested for the state OAKS test, in violation of district and building testing protocol.

Because of the serious nature of these allegations, we conducted an investigation that included interviews with staff, parents and Ms. Robin. This document describes the evidence collected and sets forth our conclusions about each of the allegations, and in its totality describes the bases upon which we recommend termination.

INVESTIGATION AND FINDINGS

1. Falsification of an IEP for Student KR

On November 1, 2010, a Monroe Middle School special education teacher, Molly Hammans, held an IEP meeting for Student KR.

This was an annual IEP review. During this meeting, she was informed by both the parent for KR and Carol Welch (an Occupational Therapist for the District) that the previous IEP review due in 2009 was not held. The 2009 IEP review was Ms. Robin's responsibility to schedule and conduct.

Ms. Hammans checked eSIS for evidence of the IEP and discovered that an IEP for KR for 2009 had been recorded in the District's student information system (eSIS). A copy of the eSIS record is attached as Attachment 1. The document states that the IEP meeting for KR had been held on November 3, 2009, and lists the parent, Carol Welch¹³ and Brian Holte (a Monroe Middle School language arts teacher) as attendees. All of these individuals said at the November 1, 2010 IEP meeting that they never attended the 2009 IEP meeting. The parent told Ms. Hammans that she had asked several times for a meeting during 2009 and finally met with Ms. Robbins [sic] in January of 2010, two months after the IEP was due.

Ms. Hammans reported the issue to Ms. Linder who began an investigation to determine if the meeting had been held as described by Ms. Robin in the IEP document. On November 8, 2010, Ms. Linder met with Brian Holte (the language arts teacher at Monroe) to ask about his participation in the 2009 IEP. Mr. Holte was asked if he recalled participating in the IEP meeting. He had no recollection of the meeting and said, "That since he sits on less than 10 meetings per year, he would have remembered if he was present."

Ms. Linder contacted Ruth Mann and Gunawan Darmadi in the Computer Information Services department (CIS) to have them determine when the IEP had been entered into the electronic system. CIS was able to determine that the IEP information was entered into eSIS in February 2010 by Ms. Robin, but was not finalized. ***. We conclude that Ms. Robin had written a draft document but had never formalized the document and had not sent it to the parent or to other service providers.

On March 29, 2011, Ms. Robin was asked about KR's IEP. With regard to the document – wherein she attests to having an IEP meeting with KR's mother on November 3, 2009 – Ms. Robin stated that on that day was the Monroe Middle School parent conferences and that she conducted an ad-hoc IEP meeting in the midst of conferences. (Parent conferences are held with over 20 teachers and hundreds of parents in the cafeteria). She said that

¹³ The document does not list Carol Welch as attending. (Ex. A1 at 16.)

she met with KR's mother for a conference, and then called over a regular education teacher – Brian Holte – to give the input necessary to complete the IEP. She stated in the interview that this approach was “sleazy and quasi-legal and would have been done by anyone.” Ms. Robin also said that she was forced to use this approach because KR's mother was difficult to reach and that she had not responded to written meeting notices that were sent by mail and with KR. Ms. Robin indicated that KR's mother was aware that this unconventional meeting was an IEP.

After the March 29, 2011 meeting with Ms. Robin, Mr. Tromba followed up on Ms. Robin's assertions regarding KR's IEP. On March 30, 2011, Mr. Tromba was able to contact KR's mother immediately. She stated that “through September and October 2009 she tried to contact Ms. Robin and get an IEP meeting scheduled.” It was not until January 2010 that she was able to have any kind of formal meeting. She had a clear recollection of the November 3, 2009 parent conferences (she recalled the names and subject areas of all of KR's teachers). She did not recall Ms. Robin asking Mr. Holte to come over to discuss anything; in fact, she is certain she did not talk to Mr. Holte at all. She does recall meeting with Ms. Madathil (Monroe guidance counselor) to complain that KR had not had an IEP meeting. With regard to meeting notices, KR's mother said she was never given a written notice to attend an IEP meeting, either in the mail or from KR. She said, “KR has always been good getting stuff home and I do check my mail. I would have done anything to be at an IEP meeting.”

Mr. Tromba also followed up with Brian Holte about conference night. Mr. Holte stated that he recalled the conference night, but did not recall meeting with KR's parent. He also stated that he did not go to the area where Jane Robin was holding parent conferences, and that he was not at any IEP meeting that year concerning KR in any context.

Federal law (the Individuals with Disabilities in Education Act) and Oregon Administrative Rules require the District to conduct and write an annual IEP review at least every 365 days. (*OAR 581-015-2225; 34 CFR 300.324(a)(4), (a)(5), (a)(6), and (b)(1)*). The District is also required to “Ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation; and to inform each teacher and provider described in the above of his or her specific responsibilities for implementing the child's IEP and specific accommodations,

modification and supports that must be provided for or on behalf of the child in accordance with the IEP.” (34 CFR 300.323; OAR 581-015-2220).

Regarding the IEP meeting for KR, Ms. Linder has been unable to locate any evidence that the November 3, 2009 annual IEP review was conducted on time and within the 365 days required. This document listed names of other required members as having attended a meeting, which they did not attend. The IEP that had been written was a draft document that Ms. Robin had entered into our electronic system 3 months after the due date and never finalized. Additionally, there is no evidence that Ms. Robin distributed the document to service providers as required by IDEA and Oregon Administrative Rules. In addition, examination of the records for KR shows no evidence of meeting notices being sent out to parents.

Ms. Robin is an experienced special education teacher who was aware of the legal requirement to complete an annual IEP meeting and IEP document for KR in 2009. She also is aware of her obligation to contact the parent in advance of the meeting, by writing if necessary, and of her obligation to include a general education teacher and other service providers for KR in the IEP meeting.

Based on our investigation, Ms. Robin did not conduct an IEP meeting for KR in 2009, although it was her basic job responsibility as his case manager to do so. We find she was negligent in failing to conduct an IEP meeting for KR.

We also find that not only did Ms. Robin fail to conduct an annual IEP review, she knowingly falsified the IEP document for KR, thereby creating a false impression of a meeting that never happened. Specifically, she authored an IEP document for KR in the District’s student records system, stating that an IEP meeting had taken place, when it had not, and naming staff members as having been in attendance who were not present. We find that Ms. Robin’s actions were not the product of mistake or lack of knowledge, as she tried to claim that she did involve Brian Holte in the meeting and that she did hold the IEP meeting during conference night. We find Ms. Robin’s claims to have actually held an IEP meeting (both in the IEP document and in our meeting with her on March 29, 2011) to be false and an attempt to cover up her earlier mistake in not holding one. In sum, we find that Ms. Robin has; (1) knowingly falsified a document related to her professional responsibilities, and (2) violated District and TSPC

standards to be honest and demonstrate integrity.

In addition, Ms. Robin failed to finalize the IEP document for 2009. While less serious than falsifying an IEP document, this failure constitutes a serious neglect of duty. This action violates the student's due process rights and prevented [his/her] teachers from having the information necessary to serve the student correctly. (*34 CFR 300.323; OAR 581-015-2200 et seq.*). Failing to finalize an IEP means that the district was unable to fully inform all staff charged with providing the student's educational needs. This action resulted in the district's failure to provide direct and targeted instruction that would have been identified by the IEP team as required by IDEA.

2. Failure to Conduct IEP for FC-E

On September 23, 2010, Ms. Hammans notified Ms. Linder that it appeared that there was no IEP in eSIS for FC-E. The last recorded IEP was dated 08-09. Ms. Robin had failed to write the annual IEP for FC-E, a student on Ms. Robin's caseload for the 2009-10 school year. Specifically, Ms. Hammans – after seeing no finalized IEP for 2009 in eSIS for this student – contacted his parent for a meeting. The parent then stated that Ms. Robin had had a phone conversation with her, but that no general education teacher was present.

Ms. Linder requested that Ms. Hammans search all working files and Ms. Robin's IEP phone log (left by Ms. Robin at Monroe for reference) for evidence that the meeting had been held. Ms. Hammans located a note indicating that a phone conversation had occurred with [] the parent of FC-E, on 6/1/10 at 4:00 pm. The note did not indicate whether there were any other participants in the phone conversation including a general education teacher. Ms. Hammans was unable to locate any written documentation that Ms. Robin should have produced as a result of an IEP meeting. She also was unable to locate any documentation that a general education teacher (a required member of the IEP team) had participated in the phone meeting.

On review, Ms. Linder determined that the IEP for FC-E was Ms. Robin's responsibility, and that it was due by 6/11/10. Ms. Linder also searched Education Support Services (ESS) Records Department for documentation of the meeting and the annual plan (IEP). No documentation was located. As a result of the investigation into the missing IEP for FC-E, Ms. Linder concluded that no legal IEP meeting had been held and directed Ms.

Hammans to hold an IEP meeting for FC-E as soon as possible. Further, since Ms. Linder was unable to confirm that an annual IEP was held for FC-E within the required 365 day window, the District claimed this student as “out of compliance” on our annual Oregon Department of Education census report and was unable to receive funding for services delivered during the 2009-2010 school year. In addition, examination of the records for FC-E shows no evidence that Ms. Robin sent IEP meeting notices to FC-E’s parent as required by law. OAR 581-015-2195.

We interviewed Ms. Robin about the fact that we could not find any IEP for FC-E and there being no completed record of an IEP meeting in eSIS. Ms. Robin stated that she normally held IEP meetings with this particular parent by telephone and that she was surprised no general education teacher was there by phone. She asserted that in her working files, there would be notes from a general education teacher. As described above, the files were searched and no such notes were found.

We conclude that Ms. Robin failed to complete the legally required IEP document for FC-E. Also, beyond paperwork completion, she did not conduct a legal IEP meeting during the year she was this student’s case manager. Again, conducting an IEP meeting and preparing an IEP document for this student was both legally required and a most basic expectation of Ms. Robin as his case manager. Ms. Robin’s failure to conduct a meeting and complete the IEP document for FC-E was negligent and a breach of basic expectations. In addition, her actions violated FC-E’s due process rights and prevented his teachers from having the information necessary to serve him correctly. (*34 CFR 300.323; OAR 581-015-2220 and 581-015-2225*).

3. Failure to Report or Follow-up on Suspected Abuse of Students

On July 14, 2010, Ms. Linder met with the mother of JK, a 7th grade student in Ms. Robin’s 7th grade language class. The mother and her husband were worried about a self-published book that was sent home with students as a culminating collection of student work that had been assigned in the language arts class. Contained within this collection were autobiographic essays portraying students’ personal life experiences, including some disclosures of child abuse that should have triggered Ms. Robin’s obligations as a mandatory reporter of child abuse. In one example within this collection, a student is describing he and his siblings being forced to eat candy and directed to eat their own vomit. In the second

example, a student wrote,

“I was always scared of my dad when he had parties. He would get drunk and take it out on my. He would ground me; tell me to do everything in the house that was already done. He would hit my Butt with a belt. Now I live with my mom. I have the bestest friend down the street. At the Brewer Apartments. I love my life after me and my mom moved out. That is the only stuff I remember.”

Excerpts from this book are enclosed at Attachment 4.

At our interview on March 29, 2011, Ms. Robin verified that she had sent the collection out and that she did not call law enforcement or the local office of the Department of Human Services regarding any of the information in the collection. In one instance, Ms. Robin called the mother of a student who disclosed abuse by her father. Ms. Robin reported, “I followed up with Mom. I learned she was not concerned with Dad: the hitting was not a current part of their relationship.” Mr. Tromba followed up with the question, “What if the mother was not entirely truthful or was covering up something?” Ms. Robin responded, “It did not cross my mind.” Mr. Tromba pointed out that that is why the mandatory reporting law exists: to take the guesswork out of such situations. In another instance (the vomit incident), Ms. Robin said that that student’s work came in late and that she was least familiar with his work. Again, she did not report this possible incident of child abuse.

District policy, administrative rule, and state law require Ms. Robin, upon reasonable cause, to report child abuse to law enforcement or the local office of the Department of Health and Human Services. (ORS 419B.005(1)(a)(B) and (F); District Administrative Rule G2400). During the first staff meeting of the 2009-2010 school year, Ms. Robin, along with all other staff, were informed of their obligation to report child abuse. This notice is repeated annually at a staff meeting in every school each year. District Administrative Rule G2400 – Reporting Child Abuse – provides:

Rule: Oregon Revised Statutes (ORS 419B.010) requires any school employee having reasonable cause to believe that any child with whom he or she comes in contact has suffered abuse or that any person with whom he or she comes in contact has abused a child to immediately report it by telephone or otherwise to the local office of the Department of Human Services or to a law

enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

Abuse is defined in the statute as:

Any assault of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury;

Any mental injury to a child which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child;

Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child;

Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare[.]

In sum, we find that Ms. Robin failed to report two cases of child abuse in violation of her obligation as a mandatory reporter under ORS 419B.010 and District policy. Her response in one case was to call a parent and in another case to take no action whatsoever.

4. Other Issues Relating to Publication of Student Work

Apart from the issue of her obligations as a mandatory reporter, the set of student essays that Ms. Robin published to the class contained personal and sensitive information. Examples of these include revelations about students' "regrets" (such as punching one's sister) and being in love with other (named) students. (See Attachment 4).

When asked about this, Ms. Robin explained that the students

knew that the essays would be published to the rest of the class, and that she was engaging them in an exercise of writing memoirs or short stories based on a question and answer series. Ms. Robin stated that she did not recall sending out a communication to parents about the publication, and she did not receive any parent or administrator's permission before publishing the materials.

We do not find fault with the writing exercise Ms. Robin led. Rather, we find that it was not good judgment for her to publish such personal materials about the students. By publishing them, she exposed overly personal content of students to others. We find that in so doing, she failed to demonstrate the skill we expect in communications and in recognizing the worth and dignity of all persons, as set forth in the District 4J Standards of Performance for Teachers.

5. Failure to Schedule Re-Testing for OAKS

On July 26, 2010, Mr. Tromba was notified that Monroe Middle School did not make Adequate Yearly Progress for the 2009-10 school year because Monroe's IEP students did not meet their performance targets. Mr. Tromba investigated why this was true and discovered one possible contributing factor: students in Ms. Robin's language arts tested only once on OAKS. This is a major variance from district and school testing expectations that state that students who do not meet either the benchmark or their performance standard will be tested a second and possibly a third time.

On March 29, 2011, we asked Ms. Robin why she did not test her students more than once. She said, "It's hard to imagine that they didn't retest, or that Cecelia (Cecelia Brands, Monroe's testing coordinator) didn't come grab them." When we pointed out that she had five months for retesting, Ms. Robin stated, "There is plenty of time. There is no excuse. It's hard to imagine I didn't retest." Attachment 5 is a record of OAKS testing opportunities afforded to Ms. Robin's students and shows, with minor exception, students of her class were not provided the opportunity to retest.

On March 30, 2011, Mr. Tromba interviewed Monroe's testing coordinator. Ms. Brands said that she had a schedule for Ms. Robin. She went to Ms. Robin before the second scheduled test administration to remind her and offer support. Ms. Robin said, "I can't test this week." The testing coordinator then changed the schedule of other teachers and classes to create a time for Ms. Robin to test. The coordinator then sent out a reminder to Ms.

Robin of the test schedule; however, Ms. Robin did not test her students at the appointed time.

With regard to state testing, Mr. Tromba has concluded that despite support and frequent reminders and notice, Ms. Robin consciously violated building and district testing guidelines. Her IEP students – who should be the students the teacher is getting the most data about – were not allowed the opportunity to demonstrate they [sic] learning and their progress towards their IEP goals. Her actions negatively affected students because the students and parents were not able to accurately gauge their progress. She also negatively affected the Special Education Program, Monroe Middle School, and the 4J School District, by lowering the changes that her students would meet the assessment’s standards.

These actions violate the 4J District Standards of Performance for Teachers in the Procedures standards: (1) The teacher observes the rules, regulations, and procedures of the school and the district; and (2) The teacher maintains an appropriate system of assessing, recording, and communicating student progress and attendance. They also violate the 4J Instructional standard (7): Student performance and progressed [sic] are assessed. Because Ms. Robin did not provide opportunities to better measure student progress and deprived the students of the chance of meeting the academic standard, she violated the TSPC standard for curriculum and instruction (OAR 584-020-0015(3)(d)) that requires “skill in identifying and initiating any needed change which helps each student toward realization of personal learning potential.”

Additional Background Concerning Jane Robin

Ms. Robin has been employed by the Eugene School District as a special education teacher since September 2003. On December 8, 2009, we presented Ms. Robin with a notice of proposed suspension for her interactions with students, including her inappropriate use of force. She subsequently was suspended for two days without pay.

In sum, Ms. Robin’s personnel file does not reveal any mitigating circumstances that would be relevant to our recommendation.

Recommendation of Termination

We find Ms. Robin to have consciously violated basic District expectations of a special education teacher and state and federal laws. Specifically:

1. Ms. Robin knowingly falsified an IEP document for student KR, falsely claiming in a report in eSIS that an IEP meeting took place when it did not and naming staff members as having been in attendance who were not present.

2. Ms. Robin failed to conduct legally required IEP meetings for two students for whom she was responsible (KR and FC-E). Ms. Robin also failed to complete the legally required documents pertaining to those IEPs, and to make available those documents for other service providers. These actions violated the students' due process rights and prevented their teachers from having the information necessary to serve the students correctly (34 CFR 300.323; OAR 581-015-2220).

3. Ms. Robin failed to report two cases of suspected child abuse as required by District policy and law.

4. Ms. Robin published a set of student essays that contained personal and sensitive information about students in a class publication. Ms. Robin made no attempt to get permission from parents or school administrators before sending it out to students. Her actions demonstrated poor judgment and a failure to recognize the dignity and worth of all students.

5. Ms. Robin neglected vital assessment opportunities for her students, in violation of District and building procedures, and to the detriment of her students, the school and the District.

Individually, each of these actions is a serious violation of law, policy, or basic employment expectations, and merit discipline. However, the incidents are not isolated. Rather, before us – and you – is substantial evidence of multiple instances of gross neglect of duty and unfitness and insubordination. Whether viewed individually, or together, they are egregious. For all the reasons set forth in this letter, we recommend the dismissal of Jane Robin from the Eugene 4J school district.

(Ex. A1 at 5-14; emphasis in original.)

48. On October 8, 2011, Respondent signed a separation agreement with the District. (Test. of Robin; Ex. A3.)

49. Respondent's Initial II license expired on September 28, 2012. (Test. of Robin; Ex. R8.)

50. On or about March 7, 2013, Tanya Figgat, investigator for the Commission Investigator, interviewed Respondent regarding the allegations.

When questioned about the IEP meeting for student KR, Respondent asserted that she conducted an IEP meeting with the mother of KR and Brian Holte on November 3, 2009, during parent teacher conferences at MMS.

With regards to the IEP meeting for student FC-E, Respondent asserted that she conducted the IEP meeting by phone. (Ex. A4.)

CONCLUSIONS OF LAW

1. During the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by failing to hold two required IEP meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion.

2. During the 2009-2010 school year, Respondent engaged in conduct constituting gross unfitness by failing to hold two required IEP meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion.

3. During the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by self-publishing a collection of student essays that contained sensitive and personal information about the students, including two instances of possible child abuse of two separate students; and failing to report the two instances of possible child abuse to DHS, law enforcement or the administration as required.

4. During the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by violating school policy and failing to have her students retake the OAKS test after not meeting state and district benchmarks.

5. Respondent's educator license should be revoked.

OPINION

The Commission contends that Respondent engaged in conduct constituting gross neglect of duty and gross unfitness. The Commission further contends that Respondent's educator license should be revoked. The Commission has the burden of proving the allegations by a preponderance of evidence. ORS 183.450(2), *Reguero v. Teacher Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on TSPC in disciplinary action); *Cook v. Employment Division*, 47 Or App 437 (1980) (the standard in administrative hearings is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General*

Contractor v. Tandy Corp., 303 Or 390 (1987). As set forth below, the Commission has met its burden.

1. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by failing to hold two required IEP meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion.

ORS 342.175 is titled “Grounds for discipline; reinstatement” and provides, in part:

(1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(b) Gross neglect of duty;

OAR 584-020-0040 is titled “Grounds for Disciplinary Action” and provides, in part:

(4) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following may be admissible as evidence of gross neglect of duty. Consideration may include but is not limited to:

(c) Falsification of any document or knowing misrepresentation directly related to licensure, employment, or professional duties;

(n) Substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030;

OAR 584-020-0010 is titled “The Competent Educator” and provides, in part:

The educator demonstrates a commitment to:

(1) Recognize the worth and dignity of all persons and respect for

each individual;

(5) Use professional judgment;

OAR 584-020-0025 is titled "Management Skills" and provides, in part:

(2) The competent teacher demonstrates skills in:

(e) Using district lawful and reasonable rules and regulations.

During the 2009-2010 school year, Respondent worked as a Special Education teacher at MMS. Respondent was required to conduct annual IEP meetings for students on IEPs, and was aware of the federal and state requirements for IEPs.

Respondent was responsible for notifying the parents in advance of the upcoming IEP meetings; obtaining written waivers from the parents when required; conducting the IEP meetings with the appropriate IEP team members present; typing up the IEPs and entering the updated information into ESIS; finalizing the IEPs; and sending a copy of the finalized IEPs to the parents and service providers of each student.

Student KR

During the 2009-2010 school year, student KR was one of the students assigned to Respondent. The annual IEP for student KR was due on or about November 3, 2009.

On the evening of November 3, 2009, MMS held parent-teacher conferences in the school cafeteria. Each teacher sat at a designated table in the cafeteria and met with parents for a short period of time.

The mother of student KR attended the parent-teacher conferences and met with KR's teachers. The mother of KR did not participate in an IEP meeting with Respondent on November 3, 2009. The mother of KR did not receive a notice scheduling an IEP meeting with Respondent for the date of November 3, 2009.

Brian Holte, a teacher at MMS, conducted parent-teacher conferences at his table in the school cafeteria. Each conference lasted approximately 10 minutes in length. Mr. Holte was fully scheduled for the entire evening. Mr. Holte did not participate in an IEP meeting with Respondent and the mother of KR on November 3, 2009.

The evidence in the record establishes that Respondent failed to conduct a lawful IEP meeting for student KR on November 3, 2009, which violated KR's due process rights and prevented KR's teachers from having the information necessary to serve the student correctly.

Sometime in February 2010, Respondent logged into ESIS and entered IEP information on student KR. In the IEP document that she prepared, Respondent falsely asserted that she held an annual IEP meeting for KR on November 3, 2009; that the mother of KR attended the IEP meeting; and that Brian Holte attended the IEP meeting as the regular education teacher. Respondent did not finalize the IEP document or distribute copies to the parent and service providers of KR.

On March 29, 2011, during an interview with Mr. Tromba and Ms. Linder, Respondent asserted, despite evidence to the contrary, that she conducted the IEP meeting for student KR on November 3, 2009, and that the mother of KR and Mr. Holte both attended the meeting.

Additionally, on March 7, 2013, during an interview with the Commission investigator, Respondent continued to assert that she conducted the IEP meeting for student KR on November 3, 2009, and that the mother of KR and Mr. Holte both attended the meeting.

The Commission finds that by failing to conduct a lawful IEP meeting for student KR by the annual due date, Respondent failed to recognize the worth and dignity of student KR, his mother, and his teachers at MMS; failed to use professional judgment; and failed to demonstrate skill in using and following the District's rules and regulations.

The Commission also finds that by asserting in an IEP document that she had held an IEP meeting for student KR on November 3, 2009, when she had not, and that the mother of KR and Mr. Holt were present for the meeting when they were not, Respondent falsified an IEP document for student KR to make it appear that compliance had been met.

The Commission further finds that by asserting to Mr. Tromba, Ms. Linder, and Ms. Figgat that she had held an IEP meeting for student KR on November 3, 2009, when she had not, and that the mother of KR and Mr. Holte were present for the IEP meeting when they were not, Respondent misrepresented facts to the administration and the Commission.

The Commission also finds that Respondent's actions in this matter constituted a substantial deviation from professional standards of competency. Therefore, Respondent engaged in conduct constituting gross neglect of duty, in violation of ORS 342.175(1)(b).

Respondent contends that the District failed to search Ms. Haggerty's records for evidence of IEP notices being sent to the mother of KR. However, if IEP notices were sent to the mother of KR, copies of those notices would have been placed in student KR's file. As indicated in the record, there is no evidence in student KR's records of any IEP meeting notices being sent to the mother of KR. Thus, Respondent's argument is unpersuasive.

Respondent also contends that other teachers were late conducting or finalizing IEPs at MMS. However, it is Respondent's conduct that is at issue in this matter, not other teachers at MMS. Consequently, Respondent's argument is unpersuasive.

Student FC-E

During the 2009-2010 school year, student FC-E was one of the students assigned to Respondent. The annual IEP for student FC-E was due on or about June 1, 2010.

On June 1, 2010, Respondent contacted the mother of FC-E by telephone. However, Respondent did not take any notes of the phone conversation. In addition, Respondent did not have any of the IEP team members present for the phone conversation.

Moreover, Respondent did not obtain a written waiver from the mother of FC-E for the absence of the IEP team members, including the general education teacher. Furthermore, Respondent did not enter any IEP information on student FC-E in ESIS. In addition, Respondent did not prepare or finalize an IEP document on student FC-E for the 2009-2010 school year.

The evidence in the record establishes that Respondent failed to conduct a lawful IEP meeting for student FC-E on June 1, 2010, which violated FC-E's due process rights and prevented FC-E's teachers from having the information necessary to serve the student correctly.

As a direct result of Respondent's actions, the District reported student FC-E "out of compliance" on its annual Oregon Department of Education census report. In addition, the District was unable to receive funding for services that were delivered to student FC-E during the 2009-2010 school year.

On March 29, 2011, during an interview with Mr. Tromba and Ms. Linder, Respondent asserted, despite evidence to the contrary, that she conducted the IEP meeting for student FC-E by phone. Additionally, on March 7, 2013, during an interview with the Commission investigator, Respondent continued to assert that she conducted the IEP meeting for student FC-E by phone.

The Commission finds that by failing to conduct a lawful IEP meeting for student FC-E by the annual due date, Respondent failed to recognize the worth and dignity of student FC-E, his mother, and his teachers at MMS; failed to use professional judgment; and failed to demonstrate skill in using and following the District's rules and regulations.

The Commission also finds that by asserting to Mr. Tromba, Ms. Linder and Ms. Figgat that she had held an IEP meeting for student FC-E, when she had not, Respondent misrepresented facts to the administration and the Commission.

The Commission further finds that Respondent's actions in this matter constituted a substantial deviation from professional standards of competency. Therefore, Respondent engaged in conduct constituting gross neglect of duty, in violation of ORS 342.175(1)(b).

Respondent contends that phone IEP meetings are allowed. However, Respondent did not have any IEP team members present for the phone conversation on June 1, 2010, and did not obtain a written waiver from the mother of FC-E for the absence of the IEP team members, including the general education teacher. As such, Respondent failed to conduct a lawful IEP meeting for student FC-E on June 1, 2010, which violated student FC-E's due process rights.

Consequently, Respondent's argument is unpersuasive.

2. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross unfitness by failing to hold two required IEP meetings for students KR and FC-E; falsifying related IEP records for KR to make it appear compliance had been met; and misrepresenting facts to the administration and the Commission by stating that the IEP meetings had been held despite no evidence to support the assertion.

ORS 342.175 provides, in part:

(1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(c) Any gross unfitness;

OAR 584-020-0040 provides, in part:

(5) Gross unfitness is any conduct which renders an educator unqualified to perform his or her professional responsibilities. Conduct constituting gross unfitness may include conduct occurring outside of school hours or off school premises when such conduct bears a demonstrable relationship to the educator's ability to fulfill professional responsibilities effectively. The following may be admissible as evidence of gross unfitness. Consideration may include but is not limited by:

(b) Fraud or misrepresentation;

As previously determined, Respondent failed to conduct a lawful IEP meeting for student KR on November 3, 2009; falsified related IEP records for student KR to make it appear that compliance had been met; failed to conduct a lawful IEP meeting for student FC-E on June 1, 2010; and misrepresented facts to the administration and the Commission by stating that the IEP meetings for students KR and FC-E had been held when they had not.

The Commission finds that by failing to conduct lawful IEP meetings for students KR and FC-E, which violated the students' due process rights and prevented their teachers from having the information necessary to serve them correctly, Respondent engaged in conduct that

rendered her unqualified to perform her professional responsibilities.

The Commission also finds that by falsifying related IEP records for student KR to make it appear compliance had been met, Respondent engaged in conduct that rendered her unqualified to perform her professional responsibilities.

The Commission further finds that by misrepresenting facts to the administration and the Commission by stating that the IEP meetings for students KR and FC-E had been held when they had not, Respondent engaged in conduct that rendered her unqualified to perform her professional responsibilities.

Therefore, Respondent engaged in conduct constituting gross unfitness in violation of ORS 342.175(1)(c).

Respondent contends that the charge of fraud or misrepresentation requires a clear and convincing standard of proof. However, the standard of proof in a contested case hearing is proof by a preponderance of the evidence. *See, Cook v. Employment Division*, 47 Or App 437 (1980) (the standard in administrative hearings is preponderance of the evidence). In addition, as set forth in this order, the Commission has met its burden of proof. Thus, Respondent's argument is unpersuasive.

3. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by self-publishing a collection of student essays that contained sensitive and personal information about the students, including two instances of possible child abuse of two separate students; and failing to report the two instances of possible child abuse to DHS, law enforcement or the administration as required.

ORS 342.175 provides, in part:

(1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(b) Gross neglect of duty;

OAR 584-020-0040 provides, in part:

(4) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following may be admissible as evidence of gross neglect of duty. Consideration

may include but is not limited to:

(n) Substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030;

(s) Failing to report child abuse pursuant to ORS 419B.010.

OAR 584-020-0010 provides, in part:

The educator demonstrates a commitment to:

(1) Recognize the worth and dignity of all persons and respect for each individual;

(5) Use professional judgment;

ORS 419B.010 is titled “Duty of officials to report child abuse; exceptions; penalty” and provides, in part:

(1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. ***.

ORS 419B.015 is titled “Report form and content; notice” and provides, in part:

(1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child’s age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and

the identity of the perpetrator.

As a teacher, Respondent is a mandatory reporter of child abuse. At the first staff meeting at MMS, Respondent was informed of her obligation to report child abuse.

During the 2009-2010 school year, Respondent assigned a writing exercise to the students in her 7th grade class. The assignment consisted of writing memoirs or short stories based on a series of prompts from a book. Respondent edited the students' writings.

At the end of the year, Respondent placed a collection of the students' writings in a book that was sent home with all of the students in the 7th grade class. The book contained writings from two students that disclosed two separate incidents of abuse. The book also contained writings from a student that disclosed personal and sensitive information, including claims of beating up an older sister and having a crush on a named student in school.

Respondent failed to notify law enforcement, the local office of the Department of Human Services, or the administration regarding the two incidents of child abuse that were disclosed in the students' writings. In addition, Respondent failed to obtain permission from the students' parents or the school administrator before publishing the collection of student writings.

The Commission finds that by failing to report the two incidents of disclosed child abuse, Respondent violated her mandatory duty to report child abuse. ORS 419B.010.

The Commission also finds that by publishing a book of students' writings containing personal and sensitive information regarding the students at MMS (including the two incidents of disclosed child abuse) without first obtaining permission from the students' parents or the school administrator, Respondent failed to use professional judgment; and failed to recognize the worth and dignity of the students in her 7th grade class.

The Commission further finds that Respondent's actions substantially deviated from professional standards of competency. Accordingly, Respondent engaged in conduct constituting gross neglect of duty, in violation of ORS 342.175(1)(b).

Respondent contends that she did not believe that the children disclosing the abuse were "currently" in danger or at risk. However, as a mandatory reporter of child abuse, Respondent does not get to make that determination. Thus, Respondent's argument is unpersuasive.

4. Whether, during the 2009-2010 school year, Respondent engaged in conduct constituting gross neglect of duty by violating school policy and failing to have her students retake the OAKS test after not meeting state and district benchmarks.

ORS 342.175 provides, in part:

- (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right

of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(b) Gross neglect of duty;

OAR 584-020-0040 provides, in part:

(4) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following may be admissible as evidence of gross neglect of duty. Consideration may include but is not limited to:

(n) Substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030;

OAR 584-020-0010 provides, in part:

The educator demonstrates a commitment to:

(2) Encourage scholarship;

(4) Raise educational standards;

(5) Use professional judgment;

OAR 584-020-0025 provides, in part:

(2) The competent teacher demonstrates skills in:

(e) Using district lawful and reasonable rules and regulations.

At the beginning of the 2009-2010 school year, Respondent was informed of the school's expectations (and building requirement) that students failing to meet the benchmark or

performance standard on the OAKS test would be tested a second time and possibly a third time.

Cecilia Brands was the testing coordinator for MMS. Ms. Brands prepared an OAKS testing schedule with input from the teachers, who were responsible for administering the test to their students. Ms. Brands scheduled almost all of the students for two rounds of testing. Respondent was scheduled to initially test her students during February 17 through February 19, 2010, and to retest her students during April 6 through April 9, 2010.

On or about February 17, 2010, Respondent administered the first round of OAKS testing to her 6th grade class. Sometime after February 17, 2010, Respondent administered the first round of OAKS testing to her 7th grade class. Nearly all of Respondent's students failed to meet the benchmark or performance standard on the test.

During the last part of March 2010, Ms. Brand reminded Respondent of the second round of OAKS testing that was scheduled for April 6 through April 9, 2010. Respondent told Ms. Brand that she could not test her students during that period of time. Ms. Brand rescheduled the second round of OAKS testing for Respondent and sent out a reminder to Respondent regarding the new testing schedule. Respondent failed to retest her students on the OAKS test before the end of the school year.

The evidence in the record establishes that Respondent's failure to retest her students on the OAKS test resulted in her students not being given the opportunity to improve their test scores, to meet the performance standards, or to excel and be eligible for additional opportunities in school.

The evidence further establishes that Respondent's failure to retest her students on the OAKS test contributed to MMS not making adequate yearly progress for the 2009-2010 school year.

The Commission finds that by failing to retest her students on the OAKS test, Respondent violated school policy and expectations; and failed to demonstrate skill in using and following the District's rules and regulations.

The Commission also finds that by failing to retest her students on the OAKS test, Respondent failed to use professional judgment; failed to raise educational standards; and failed to encourage scholarship.

The Commission further finds that Respondent's actions substantially deviated from professional standards of competency. Therefore, Respondent engaged in gross neglect of duty, in violation of ORS 342.175(1)(b).

Respondent contends that she forgot to retest her students because she was focused on "writing," the benchmark for that school year. However, Ms. Brands reminded Respondent when the second round of OAKS testing was scheduled. As such, Respondent's argument is unpersuasive.

5. Whether Respondent's educator license shall be suspended or revoked.

The Commission contends that Respondent's educator license should be revoked. Respondent contends it should be suspended for 90 days.

ORS 342.175 provides, in pertinent part:

(1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(b) Gross neglect of duty;

(c) Any gross unfitness;

ORS 342.177 provides, in relevant part:

(3) The commission shall render its decision at its next regular meeting following the hearing. If the decision of the commission is that the charge described in ORS 342.175(1) has been proven, the commission may take any or all of the following disciplinary action against the person charged:

(a) Issue a public reprimand.

(b) Place the person on probation for a period not to exceed four years and subject to such conditions as the commission considers necessary.

(c) Suspend the license or registration of the teacher or administrator for a period not to exceed one year.

(d) Revoke the license or registration of the teacher or administrator.

OAR 584-020-0045 is titled "Factors for Imposing Disciplinary Sanctions" and provides:

The Commission may consider one or more of the following factors, as it deems appropriate, in its determination of what sanction or sanctions, if any, should be imposed upon a finding

that an educator has violated any standard set forth in OAR 584-020-0040:

- (1) If the misconduct or violation is an isolated occurrence, part of a continuing pattern, or one of a series of incidents;
- (2) The likelihood of a recurrence of the misconduct or violation;
- (3) The educator's past performance;
- (4) The extent, severity, and imminence of any danger to students, other educators, or the public;
- (5) If the misconduct was open and notorious or had negative effects on the public image of the school;
- (6) The educator's state of mind at the time of the misconduct and afterwards;
- (7) The danger that students will imitate the educator's behavior or use it as a model;
- (8) The age and level of maturity of the students served by the educator;
- (9) Any extenuating circumstances or other factors bearing on the appropriate nature of a disciplinary sanction; or
- (10) To deter similar misconduct by the educator or other educators.

As indicated above, the Commission may discipline a teacher for engaging in gross neglect of duty and/or gross unfitness by taking any or all of the disciplinary actions set forth in ORS 342.177(3), which contemplates license revocation as a disciplinary action.

After reviewing the record in its entirety, the ALJ found that the sanction proposed by the Commission was appropriate in this matter and was supported by the reliable evidence in the record. The Commission also finds that the proposed sanction is appropriate. The above findings and conclusions reflect a series of incidents, rather than a single isolated occurrence of misconduct. Moreover, the effect of Respondent's misconduct was significant and had negative effects on the public image of the school. The most significant effect of her misconduct was on the education of two special education students, who for one year received education without the individualized planning necessitated by their learning requirements. Another effect was the loss of funding that the District—and by extension, its other students and educators—suffered when it reported student FC-E as “out of compliance” for the 2009-2010 school year. The public image of the school was also negatively affected: the misconduct related to the IEP meetings was open

and notorious at least to the parents who were entitled to participate in those meetings, and the misconduct related to the improperly published student essays was open and notorious to all families in Respondent's class. Finally, Respondent's actions following her IEP misconduct—and particularly during the Commission's investigation—reveal her mental state to be unwilling or unable to accept responsibility for her actions or understand their significance. Under those circumstances, and notwithstanding any extenuating circumstances that might apply to Respondent's case, Respondent should have her license revoked.¹⁴

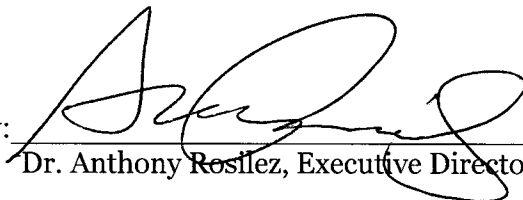
Respondent contends that a suspension of 90 days is more appropriate and cites to various cases set forth in Exhibits R14 through R16 in support of her contention. However, the cases cited by Respondent are different than the case at issue in several respects. First, Respondent was found in this case to have misrepresented facts to the school district administration and the Commission. This is a significant factor in determining that revocation is an appropriate sanction. Second, the cases cited by Respondent involve violations of rules in three distinct categories, whereas the present case involves violations in all three categories. Respondent's attempt to equate these discrepancies is not persuasive. Third, none of the cases involve the same combination of OAR 584-020-0045 factors as discussed in the previous paragraph. In summary, revocation is an appropriate sanction because the conduct at issue is more serious than in any of the cases cited, including that Respondent was also found to be grossly unfit. The revocation sanction is also appropriate as a deterrent for future misconduct. By statute, Respondent will be eligible to seek reinstatement of her revoked license after one year from the date of this order.¹⁵

ORDER

Now therefore, Jane Robin's right to apply for an Oregon educator teaching license is hereby revoked.

It is so Ordered this 7 day of November, 2018.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: 
Dr. Anthony Restiez, Executive Director

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provision of ORS 183.482 to the Oregon Court of Appeals.

¹⁴ The Commission has modified this paragraph to elaborate on the reasons for why revocation is appropriate in this case.

¹⁵ The Commission has modified this paragraph to elaborate on the reasons why the Commission has found the sanction of revocation to be appropriate in this case, as opposed to the sanction suggested by Respondent.