

BEFORE THE TEACHIS STANDARDS AND PRACTICES COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	STIPULATION OF FACTS AND
Educator License of)	FINAL ORDER OF PUBLIC
MARK R. BINDER)	REPRIMAND AND PROBATION

On June 6, 2018, the Teacher Standards and Practices Commission (Commission) received a report from the Clackamas Education Service District (District) indicating Mark R. Binder (Binder) may have committed an act of gross neglect of duty and/or gross unfitness, specifically, that Binder was under the influence of alcohol at his assigned place of duty.

After review of the matters alleged, Binder and the Commission agree that their respective interests, together with the public interest, are best served by a stipulation to certain facts, the imposition of a public reprimand, and a two (2) year period of probation.

This Order sets forth the facts upon which the parties have agreed and the sanction to be imposed. Binder stipulates that there are sufficient facts contained in the Commission's files and records to support the findings of fact and conclusions of law set forth below. In entering into this stipulation, Binder waives the right to a hearing to contest the findings of fact, conclusions of law and order set forth below.

By signing below, Binder acknowledges, understands, stipulates, and agrees to the following: (i) he has been fully advised of his rights a hearing to contest the findings of fact, conclusions of law, and order set forth below, and fully and finally waives all such rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final Order of Public Reprimand and Probation (Stipulation and Final Order); (ii) this Stipulation and Final Order is a public document and disclosed to the public upon request by the Commission; (iii) this Stipulation and Final Order is contingent upon and subject to approval and adoption by the Commission. If the Commission does not approve and adopt this Stipulation and Final Order, then neither Binder nor the Commission are bound by the terms herein; (iv) he has fully read this Stipulation and Final Order, and understands it completely; (v) he voluntarily, without any force or duress, enters into this Stipulation and Final Order and consents to issuance and entry of the Stipulated Final Order below; (vi) he states that no promise or representation has been made to induce him to sign this Stipulation and Final Order; and (vii) he has consulted with an attorney regarding this Stipulation and Final Order and has been fully

1 advised with regard to his rights thereto, or waives any and all rights to consult with an
2 attorney prior to entering into this Stipulation and Final Order and issuance and entry of
3 the Stipulated Final Order below.

4
5 **STIPULATION OF FACTS**

- 6 1. The Commission has licensed Binder since July 29, 1986. Binder holds a
7 Professional Teaching License, with an endorsement in Special Education:
8 Generalist (PK-12), valid from February 11, 2016, through February 10, 2021.
9 During all relevant times, Binder was employed by the Clackamas Education
10 Service District (CESD) and had been working there since 1989. In Binder's most
11 recent position with CESD, he was serving in a TOSA position working to assist
12 Life Enrichment Education Program (LEEP) teachers across the program and
13 sometimes providing internal substitute teaching coverage for absent LEEP
14 teachers. Prior to that, Binder served as a special education teacher for
15 approximately 29 years at CESD.
16
- 17 2. On June 6, 2018, the Commission received a report from the CESD indicating
18 Binder may have committed acts of gross neglect of duty. Specifically, that on
19 June 6, 2018, Binder reported for duty under the influence of alcohol.
20
- 21 3. Investigation determined that on June 6, 2018, Binder was providing coverage at
22 Ogden Middle School. A classroom Educational Assistants (EA) reported Binder
23 appeared overly emotional for the circumstances and that he smelled of alcohol.
24 The EA asked Binder if he had been drinking. Binder acknowledged having one
25 glass of wine the previous evening. Binder requested a second opinion from
26 another EA, and the other EA agreed that Binder smelled of alcohol. Binder
27 immediately contacted his supervisor and agreed to take a blood alcohol test.
28 Binder was given a breathalyzer test at 10:22 AM, and another test fifteen (15)
29 minutes later. Binder's first test was positive for alcohol at a level of 0.074 BAC,
30 and his second test was positive for alcohol at a level of 0.065 BAC. Binder was
31 immediately placed on administrative leave.
32
- 33 4. Binder acknowledged drinking wine with dinner the previous night, but he did
34 not recall drinking an amount that would have caused those BAC levels the

1 following morning. Binder agreed that he must have had more to drink than he
2 recalls.


3
4 5. On June 8, 2018, Binder sought professional help to assist him with post-
5 traumatic stress disorder from childhood trauma he suffered and repressed, to
6 manage stressors related to serious health issues with a family member, and to
7 address the drinking episode. Between June 8 and 22, 2018, Binder met with a
8 counselor 11 times. Both Binder and his counselor have indicated that his PTSD
9 likely manifested the night of June 5, 2018, as a period of dissociation due to the
10 extreme stress that day relating to his ill family member. Binder has not been
11 identified as having an alcohol abuse disorder, and he has adhered to all mental
12 health treatment recommendations.

13
14 6. There have been no prior reports to TSPC regarding Binder in the 34 years he has
15 been licensed, and there was no discipline in his CESD personnel file. Binder was
16 scheduled to retire at the end of the school year and the district permitted Binder
17 to use his leave and retire without imposing any discipline.

18 ////

19 ////

20 IT IS SO STIPULATED:

21 
22 Mark R. Binder

8-4-2020
Date

23 
24 Trent Danowski, Deputy Director
25 Teacher Standards and Practices Commission

08/05/2020
Date

28 29 CONCLUSION OF LAW

30 The conduct described above constitutes gross neglect of duty in violation of ORS
31 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use*
32 *professional judgment*), OAR 584-020-0025(2)(c) (*Using district lawful and reasonable*
33 *rules and regulations*), and OAR 584-020-0040(4)(g) (*Appearing on duty or at any*
34 *district-sponsored activity while under the influence alcohol or any controlled*
35 *substance*).

1 The Commission's authority to impose discipline in this matter is based upon
2 ORS 342.175.

3 **ORDER**

4 The Commission adopts and incorporates herein the above findings of fact and
5 conclusions of law, and based thereon, imposes a public reprimand upon Mark R.
6 Binder's Oregon educator license.

7 Furthermore, the Commission imposes a period of two (2) years of probation
8 upon Binder's licensure to commence from the date this order is signed by the
9 Commission and subject to the following condition:

- 10 1. Binder shall comply with the Standards for Competent and Ethical Performance
11 of Oregon Educators under Oregon Administrative Rules Chapter 584, Division
12 020.

13
14 Issued and dated this 10 day of August, 2020.

15 **TEACHER STANDARDS AND PRACTICES COMMISSION**
16 **STATE OF OREGON**

17
18 By 

19 Dr. Anthony Rosilez, Executive Director