

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

In the Matter of the)	DEFAULT ORDER OF
Educator License of)	REVOCATION OF STUDENT TEACHING
)	CLEARANCE & RIGHT TO APPLY
LARRY J. GUTIERREZ)	

On December 23, 2021, the Teacher Standards and Practices Commission (Commission) issued a Notice of Opportunity for Hearing to Larry J. Gutierrez, (Gutierrez) in which the Commission charged him with Gross Neglect of Duty and /or Gross Unfitness. The Notice was sent via U.S. First Class Mail and U.S. Certified Mail Receipt 7021 0350 0000 8183 8060 to the address on file with the Commission. The Notice designated the Commission file as the record for purposes of proving a prima facie case. The Certified Mail receipt was returned to the Commission signed. The regular first class mail was not returned to the Commission, and assumed delivered. The Notice of Opportunity of Hearing, dated December 23, 2021, and signed by Anthony Rosilez, Executive Director, stated:

“IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING, WITHDRAW YOUR REQUEST FOR HEARING, OR IF YOU FAIL TO APPEAR AT A HEARING, OR NOTIFY THE COMMISSION THAT YOU WILL NOT APPEAR AT HEARING, THE COMMISSION WILL ADOPT AN ORDER OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF YOUR LICENSE OR OTHER DISCIPLINE.”

On May 11, 2022, TSPC Investigative staff sent Gutierrez a final email regarding a settlement, and sent a deadline for Gutierrez to respond before 5PM on May 16, 2022. The email indicated that failure to respond would result in the case moving into default. As of June 3, 2022 TSPC received no response from Gutierrez. The Commission, therefore, finds Gutierrez to be in default and enters the following findings of fact, conclusions of law, and final order, based on the files and records of the Commission concerning this matter.

FINDING OF FACT

1. The Commission received Gutierrez's application for background clearance to begin student teaching. Gutierrez applied to the Commission on September 22, 2020, and the application is currently pending. During all relevant times, Gutierrez was employed by the Jefferson County School District (JCSD).
2. On December 2, 2020, TSPC received a cross-report from the Oregon Department of Human Services – Child Welfare (DHS) alleging misconduct by Larry J. Gutierrez. The report alleges that Gutierrez contacted and solicited a minor female on social media. It was alleged that Gutierrez requested topless photos of the juvenile and asked to "meet up" to engage in sexual activity.
3. An investigation conducted by the JCSD, the Madras Police Department (MPD) and the Oregon State Police (OSP) determined the following:
 - On April 10, 2020, Madras High School (MHS) staff received a message on the school's Facebook page that Gutierrez had engaged in inappropriate behavior with a minor aged female (MJ) on social media.
 - The message sent to the MHS Facebook account provided screenshots of conversations between Gutierrez and MJ.
 - In the messages between Gutierrez and MJ, she tells him that she is 14 years old.
 - In the messages between Gutierrez and MJ, Gutierrez requested nude photos from her.
 - In the messages, Gutierrez requested that MJ meet up with him for sex.
 - The conversation with MJ is highly sexual and inappropriate. A copy of the conversation with MJ is documented below.
 - Police identified and located MJ.
 - Gutierrez interviewed with police detectives on April 13, 2020.
 - During that interview, Gutierrez admitted to conversing with MJ, whom he knew to be 14 years old, over social media.

- Gutierrez told police that he had tried meeting and dating women over the age of 18 via online dating, but that it hadn't worked.
- Gutierrez reported to police that based on not having any luck dating, Gutierrez began viewing pornography for masturbatory purposes.
- Gutierrez stated that the pornography viewing caused him to start having fantasies about engaging in physical and emotional relationships with underage juvenile females.
- Gutierrez reported that he had an "addiction to dating" and tried to stop, but that it had been difficult to do so.
- Gutierrez told police that he believed he had an addiction to sex.
- The police showed Gutierrez copies of the messages between he and MJ.
- Gutierrez reported that he had no intention of meeting up with MJ or any female.
- Gutierrez reported that he had requested a photo of MJ's nude chest only to confirm that the person he was talking to was the same person who had sent him an earlier photo.
- On April 15, 2021, Gutierrez's residence computers and phones were searched by police. No child pornography of "evidentiary value" was found.
- The Jefferson and Crook County District Attorney's Office reviewed this matter and declined to pursue criminal charges.
- According to JCSD records, Gutierrez declined to participate in their investigation or in a pre-termination hearing.
- JCSD terminated your employment on May 22, 2021. Gutierrez did not appeal the decision.

The following is a copy of the narrative of your online social media conversation with MJ:

MJ: "Hookup? With me?"

Gutierrez: "Why not"

MJ: "Okay :) when do u wanna meet"

1 Gutierrez: *"you down?"*

2 MJ: *"Yeah. I'm up for it. What did you have in mind?"*

3 Gutierrez: *"First take a picture with thumbs up"*

4 MJ: **Sends generic picture of female teenage with a thumbs up*

5 *hand motion to Gutierrez.*

6 Gutierrez: *"Cute".*

7 MJ: *"Thank you <3"*

8 Gutierrez: *"Can we do your place"*

9 MJ: *"No I'm sorry"*

10 Gutierrez: *"why"*

11 MJ: *"Cuz my brother is here. Can we chill at yo place?"*

12 Gutierrez: *"Sure"*

13 MJ: *"Sweet :) Gimmie address?"*

14 Gutierrez: *"How are you gonna come here"*

15 MJ: *"Small town ill just bike over"*

16 Gutierrez: *"what about your parents"*

17 MJ: *"I'll just say I'm going for a bike ride. I ride my bike all the*

18 *time."*

19 Gutierrez: *"How about I pick you up"*

20 MJ: *"Okay where would u pick me up? I can't text without Wi-Fi*

21 *my phone is shitty"*

22 Gutierrez: *"Give me your address"*

23 MJ: *"No way I cant have you pick me up in front of my place!"*

24 Gutierrez: *"I will pick you up nearby".*

25 MJ: *"Hmm can you pick me up at the baseball field near the post*

26 *office?"*

27 Gutierrez: *"No way"*

28 MJ: *"okay where then?"*

29 Gutierrez: *"A block away from your house"*

30 MJ: *"Aight well I live at *address omitted by MJ"*

31 Gutierrez: *"how old are you again"*

32 MJ: *"14 lmao we been over this"*

1 Gutierrez: *"Have you ever had sex before"*
2 MJ: *"Mm I had a boyfriend and we fooled around a bit but*
3 *never had sex for real"*
4 Gutierrez: *"Can you show me what you have"*
5 MJ: *"I'm sorry my body is kinda small...I don't like doing nudes"*
6 Gutierrez: *"It cannot be that small lol"*
7 MJ: **MJ sends another generic photo of a juvenile female in a t-*
8 *shirt to Gutierrez.*
9 Gutierrez: *"what about chest"*
10 MJ: *"That is my chest I have v small boobs"*
11 Gutierrez: *"I cannot see :)"*
12 MJ: *"Yeah it's me in a shirt lol. Where are we gonna meet? Can I*
13 *pls just skate over"*
14 Gutierrez: *"Take off shirt"*
15 MJ: *"Nooooooooooooo that'll make me uncomfy" Pics are lame. I*
16 *sent a pic!"*
17 Gutierrez: *"I wanna see. I cannot see your chest with black shirt on".*
18 MJ: *"I will show in person...Pics can be saved..."*
19 Gutierrez: *"Show me right now"*
20 MJ: *"No nude pics!!! That's final".*
21 Gutierrez: *"Just the chest"*
22 MJ: *"NooooooooOOOOOOO :("*
23 Gutierrez: *"Ok".*

- 24
25 4. On July 12, 2021, Commission investigative staff interviewed Gutierrez. During
26 the interview, Gutierrez told TPSC investigative staff that all of his statements
27 provided previously to law enforcement were truthful and accurate. Gutierrez
28 reported that he initially thought that MJ was 18 years old based on a prior
29 conversation with her and then later confirmed she was 14. Gutierrez
30 acknowledged that he had asked for nude photos of MJ's chest, but that was
31 because he sensed "something was wrong with the scenario" and indicated to
32 Commission investigative staff that he wanted to use the photos to verify who he

1 was talking to. Gutierrez admitted to asking MJ to “hook up” with him but stated
2 that in his Mexican culture “hook up” means “something different.” Gutierrez
3 reported he was just seeking a friendship with MJ. Gutierrez was asked what he
4 meant when he asked MJ to “show me what you have” and he admitted that he
5 was referring to having MJ show him her genitals. Gutierrez denied ever
6 soliciting or conversing with any other minors online and stated he had been
7 lonely at the time this occurred and reported he suffered from “immense anxiety
8 and depression.” Gutierrez told Commission investigative staff that he declined to
9 participate in the JCSD pre-termination hearing and investigation because he
10 didn’t think staff would believe him. Gutierrez reported that he felt the school
11 would side with the police and wouldn’t listen to his side of the story. Gutierrez
12 reported that he hoped to return to the classroom and complete his degree in the
13 future and stated that he was open to receiving additional training in areas such
14 as boundaries and professional communication. Gutierrez also indicated that he
15 now stays away from all online communication and only seeks out friendships
16 with people whose age can be verified.

17 18 **CONCLUSIONS OF LAW**

19 The conduct described above constitutes gross neglect of duty in violation of ORS
20 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(1)
21 (*Recognize the worth and dignity of all persons and respect for each individual*),
22 OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(e)
23 (*Using district lawful and reasonable rules and regulations*); OAR 584-020-
24 0040(4)(o) as it incorporates OAR 584-020-0035(1)(b) (*Refrain from exploiting*
25 *professional relationships with any student for personal gain, or in support of*
26 *persons or issues*), OAR 584-020-0035(1)(c)(A) (*Not demonstrating or expressing*
27 *professionally inappropriate interest in a student's personal life*), and OAR 584-
28 020-0035(1)(c)(D) (*Honoring appropriate adult boundaries with students in*
29 *conduct and conversations at all times*).

30
31 The Commission’s authority to impose discipline in this matter is based
32 upon ORS 342.175.

1 **FINAL ORDER**

2 The Commission hereby revokes Gutierrez's teaching clearance and his right to
3 apply for licensure/clearance for one (1) year.

4
5 IT IS SO ORDERED THIS 19 day of September, 2022.

6
7 TEACHER STANDARDS AND PRACTICES COMMISSION

8 By: Anthony J. Rosilez
9 Dr. Anthony Rosilez, Executive Director

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11 NOTICE OF APPEAL OR RIGHTS

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13 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY
14 BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE
15 SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF
16 ORS 183.482 TO THE OREGON COURT OF APPEALS.