

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

IN THE MATTER OF:

CINDY J. FALCONE KOURY

) **FINAL ORDER**

)

) OAH Case No. 2025-ABC-07110

)

This matter came before the Teacher Standards and Practices Commission (TSPC or Commission) during its meeting of August 13, 2026, to consider the Proposed Order issued by Senior Administrative Law Judge (ALJ) Joe L. Allen. The Proposed Order advised Cindy J. Falcone Koury (Licensee) of the opportunity to file exceptions. The Commission did receive exceptions to the Proposed Order and has considered those exceptions in issuing this Final Order. Licensee's exceptions largely relate to issues that were previously raised at hearing and the Commission does not find them to be persuasive. The only exception that is well taken is that the Commission has not considered any uncharged conduct in the issuance of the Final Order below and the resulting sanction on Licensee. Substantial modifications to the Proposed Order are identified below.

HISTORY OF THE CASE

On February 19, 2025, the Commission issued a Notice of Opportunity for Hearing (Notice) to Licensee. In the Notice, the Commission alleged Licensee engaged in conduct constituting gross neglect of duty and proposed suspending Licensee's Oregon educator's license for 30 days and placing her on probationary status for four years. On March 10, 2025, Licensee requested a hearing.

On May 8, 2025, the Commission referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Joe L. Allen to preside at hearing. On June 24, 2025, the Commission filed a motion for protective order in this matter. Licensee did not object to the motion and the OAH issued a protective order the same day.

ALJ Allen convened a prehearing conference by telephone on June 27, 2025. The purpose of the prehearing conference was to identify the issues for hearing, select a date for hearing, and establish a calendar for all prehearing filings. Raul Ramirez, Senior Assistant Attorney General (AAG), appeared on behalf of the Commission with Kevin Cooley, Legal Liaison for the Commission. Licensee appeared *pro se*. At the conference, the parties agreed to an in-person hearing on October 14-15, 2025.

On July 18, 2025, the OAH received a request from the assigned AAG to reschedule the hearing in this matter due to a prior matter creating a scheduling conflict of which he was unaware at the time of the prehearing conference. ALJ Allen convened a status conference on

July 24, 2025 to select new hearing dates. AAG Ramirez again appeared for the Commission. Licensee did not appear. The ALJ rescheduled the hearing to November 18-19, 2025. The OAH issued an Amended Notice of In-Person Hearing via email on July 29, 2025.

On October 2, 2025, Licensee filed a motion to postpone the hearing citing the need for additional time to prepare. On October 10, 2025, the Commission notified the OAH that it did not oppose Licensee's motion. ALJ Allen granted the requested postponement. On October 31, 2025, ALJ Allen convened a status conference via telephone to reschedule the hearing. AAG Ramirez appeared with Mr. Cooley for TSPC. Licensee again appeared *pro se*. At the conference, the ALJ rescheduled the hearing to February 24-25, 2026. The ALJ set a due date for exhibits and witness lists of February 13, 2026.

On January 21, 2026, Licensee requested another postponement of the hearing for approximately 60 days, again citing the need for additional time to prepare. the Commission objected. On January 28, 2026, the ALJ denied Licensee's request for postponement. On January 29, 2026, Licensee renewed her request for postponement, seeking a 30-day postponement. On February 6, 2026, ALJ Allen denied Licensee's renewed request to postpone the hearing.

On February 13, 2026, both parties filed exhibits and witness lists with the OAH electronically.

A hearing was held on February 24-25, 2026, at the OAH offices in Salem, Oregon. Licensee appeared without counsel and testified on her own behalf. AAG Ramirez represented the Commission. Mr. Cooley appeared on behalf of TSPC. Testifying on behalf of the Commission were Hailey O'Dell, Cheyenne Loper, Kellie McCollum, Ashley Talburt, Shelby Moffitt, Brandy Ramirez, Leiann Conlogue, Mr. Cooley, and Jessica Caldwell, investigator for the Commission. Ms. O'Dell and Ms. Moffitt also appeared subject to Licensee's subpoenas for her case-in-chief.

The ALJ held the record open for receipt of written closing arguments and set March 13, 2026 as the due date for those closed briefs. In addition, the ALJ set March 27, 2026 as the due date for written responses to closing arguments. Each party filed a written closing argument on March 13, 2026. On March 27, 2026, the Commission notified the ALJ via email that it did not intend to file a response to Licensee's closing argument. Licensee did not file a response to the Commission's closing argument and the record closed on March 27, 2026.

ISSUES

1. Whether Licensee engaged in gross neglect of duty, between May 24 and 29, 2024, while serving as a substitute teacher in a special education classroom by:
 - a. Using her hand to forcibly turn a five-year-old student's head, while escorting him through the lunch line, to prompt him to make a selection on two separate occasions;

- b. Pulling a six-year-old student by the arm down a school hallway to get the student to comply with Licensee's desired direction of travel; and/or
- c. Grabbing a five-year-old student by the wrist and pulling him in the direction she wanted him to go to get the student to comply with her directions to clean up the classroom.

ORS 342.175(1)(b) and OAR 584-020-0040(3)(c), (4)(d),(n).

2. If one or more of the above allegations are proven, whether the Commission may suspend Licensee's Oregon educator's license for 30 days and place her license on probation for a period of four years. ORS 342.177(3).

EVIDENTIARY RULING

Exhibits A1 through A7, offered by the Commission, were admitted into the record without objection. Exhibits R1 and R2, offered by Licensee, were admitted into the record without objection. The ALJ sustained the Commission's relevancy objection to Exhibit R3 and excluded it from the record.

On the second day of hearing, Licensee offered additional exhibits, marked R5 through R7. Licensee did not offer an exhibit marked R4. The ALJ sustained the Commission's timeliness objections to Exhibits R5 and R6 and excluded them from the record. The ALJ admitted Exhibit R7 without objection.

FINDINGS OF FACT

1. The Commission issued a substitute teaching license to Licensee on May 2, 2024. That license is valid until March 15, 2028, and permits Licensee to serve as a substitute teacher for kindergarten through 12th grade. (Ex. A7 at 1.)

2. Licensee was previously licensed to teach in California. Prior to relocating to Oregon, Licensee served as a special education teacher with the Sacramento School District for approximately 17 years. (Test. of Koury; R1 at 1.)

3. In April 2024, Licensee was hired as a substitute teacher by ESS, a private employer supplying substitute teachers to school districts in Oregon. (Ex. A6 at 45.)

4. Washington Elementary School (WES) in the Medford School District (MSD or the District) operates structured special education classrooms known as the Multi-Age Positive Supports (MAPS) classrooms. For kindergarten and first grade students during the 2023-2024 school year, the K-MAPS class was made up of one first grade student and 14 kindergarten students. The K-MAPS classroom was served by two certified special education teachers and three education assistants during that school year. (Test. of Loper and Moffitt.)

5. For the 2023-2024 school year, each student in the K-MAPS classroom had their

own Individualized Education Program (IEPs) outlining their educational, physical, and emotional support needs. Some students also had behavior support plans (BSPs) in place for staff to refer to if the student's behavior began to escalate. The IEPs and BSPs provided the teachers and education assistants with information on actions that frequently trigger problematic behaviors or responses in a given student. Some students in the K-MAPS classroom were non-verbal and had difficulties with communication. (Test. of McCollum, Loper, and Moffitt.)

6. For students requiring education and support in a special education setting, physical touch for guidance or direction can be a triggering event, resulting in escalation of unwanted and often unsafe behaviors by the student. Smaller and younger children can be more susceptible to those triggers as they perceive adults as more intimidating. (Test. of Moffitt.)

7. MSD/WES policies prohibit physical contact with students – particularly those in its MAPS classrooms – unless the student's behaviors create an imminent risk of physical harm to the student, other students, or staff. Moreover, WES limits physical contact with special education students to staff who have received training from the Crisis Prevention Institute (CPI). (Test. of O'Dell, Loper, McCollum, Moffitt, and Talbert.)

8. K-MAPS students enter the WES cafeteria 15 and 30 minutes before general education students – escorted by the special education teachers and classroom assistants – to allow K-MAPS students additional time to make lunch selections and eat their meal before the cafeteria becomes crowded and overstimulating. Due to significant processing disorders or other disabilities, some K-MAPS students are particular about their food choices and take significant time to make their selections while in line. (Test. of O'Dell, Talbert, and Conlogue.)

9. WES faculty and staff understand the need to exhibit patience with K-MAPS students and routinely permit students to take as much time as they need to make their own food selections, generally limiting assistance to offering options of preferred items for the student, if known. (Test. of Conlogue, Talbert, and O'Dell; *see* Ex. A1 at 1.)

10. CPI training directs teachers and staff to limit their physical contact with or restraint of special education students to the rare circumstance in which the student is harming or presenting an imminent risk of physical harm to themselves or others. Otherwise, CPI training requires the use of specific deescalation techniques – such as verbal prompts, visual cues, and cool-down opportunities – that avoid physical contact with the student. (Test. of Moffitt; Ex. R1 at 1.)

11. The ESS employee handbook for substitute teachers prohibits any physical contact with a student and identifies such conduct as grounds for immediate termination from employment. Moreover, the handbook requires substitute teachers employed by ESS to request assistance from regular classroom teachers, school administrators, or support staff in dealing with physically disruptive students. The handbook identifies exceptions when providing limited physical assistance to students with special needs but limits such contact to clearly and formally identified circumstances for special support or safety of the student. (Ex. A6 at 15-16, 18-19.)

12. Licensee signed an acknowledgement and acceptance of the ESS employee

handbook and its terms on April 30, 2024. (Ex. A6 at 45.)

13. On Friday, May 24, 2024, Licensee began serving as a substitute special education teacher in the WES K-MAPS classroom. Licensee was expected to serve in that role throughout the remainder of the school year while one of the regularly assigned teachers, Jensen Verden, was out on medical leave. (Test. of Loper and Koury.)

14. Prior to beginning that assignment, WES provided Licensee with access to each student's IEP as well as BSPs for those students in the K-MAPS class with identified behavioral triggers. (Test. of Loper.)

15. On Licensee's first day at WES, the co-teacher for the K-MAPS classroom, Cheyenne Loper, was absent due to illness. As such, Licensee managed the classroom with the assistance of the regularly assigned educational assistants. (Test. of Koury.)

16. Licensee accompanied the K-MAPS students to the cafeteria at lunch time. While in the cafeteria, Licensee noted that a five-year-old student, CW, was lingering in line and apparently having some difficulty selecting food items. Licensee stood behind CW and, when his gaze diverted from the food selections, she placed her open palm on the top of his head, wrapped her fingers around his skull, and applied force to turn CW's head back toward the food selections. CW wrinkled his nose in response and attempted to get away by bending his knees to lower his body. When unsuccessful at escaping Licensee's grip, CW made a food selection and went to a table to eat by himself. (Test. of O'Dell and Talbert; Exs. A1 at 1 and A3 at 2.)

17. WES cafeteria staff observing the interaction between CW and Licensee noted Licensee appeared to be frustrated with CW. She used what staff considered a forceful tone with him to prompt him to make a selection and ultimately used physical force to gain compliance. (Test. of O'Dell and Talbert; *see also* Ex. A1.)

18. Due to the nature of CW's disabilities, the regularly assigned special education teachers permit him to sit at a table by himself to eat his lunch. Following the cafeteria line incident on May 24, 2024, CW retreated to a table alone to eat lunch. Licensee informed CW that he needed to move and eat with the rest of the class. When CW protested by stating his teacher allows him to sit alone, Licensee responded by saying she was his teacher now and he had to sit with the class. (Test. of Conlogue; Ex. A3 at 2.)

19. On May 28, 2024, the WES kitchen manager, Lie Conlogue, sent an email to the school principal, Shelby Moffitt informing her of the lunchtime incident between Licensee and CW. (Test. of Conlogue and Moffitt; Ex. A1.)

20. On May 28, 2024, while attempting to gain compliance from another student (M), Licensee grabbed onto the top of M's headphones, which he uses as a sensory accommodation, and forcibly turned his head in the direction she wanted him to look. (Test. of Talbert; Exs. A2 at 1 and A3 at 2.)

21. At about 9:30 a.m. on May 29, 2024, two WES staff members, Brandi Ramirez

and Kellie McCollum, observed Licensee escorting AN, a non-verbal student, in the hallway outside the K-MAPS classroom. At that time, Licensee had a hold of AN's right arm just above the wrist and she was pulling him in the direction of the classroom. Both staff members noted that AN was leaning away from Licensee and seemed to want to break free of her grasp. (Ramirez and McCollum; Ex. A3 at 2-3.)

22. When Licensee saw Ms. Ramirez, she immediately released AN's wrist. At that time, AN moved away from Licensee and went to Ms. Ramirez, who accompanied AN into the classroom. (Test. of Ramirez and McCollum; Ex. A3 at 2-3.)

23. On May 29, 2024, at approximately 10:20 a.m., the co-teacher for the K-MAPS classroom observed Licensee interacting with CM, a five-year-old non-verbal student with significant communication and behavior needs. CM's IEP and BSP instructed staff not to use the word "no" in prompts to CM, as it was known to escalate his behaviors. Licensee was attempting to get CM to clean up an area of the classroom and CM was agitated and non-responsive to Licensee's attempts. Licensee grabbed CM by the wrist and began pulling him toward the area she wanted him to clean. CM became increasingly agitated and began hitting Licensee. Following this interaction, WES decided to limit Licensee's interactions with CM. (Test. of O'Dell and Loper; Ex. A4 at 3.)

24. Additionally, on May 29, 2024, WES staff observed Licensee attempting to prompt AN to clean up an area of the classroom. At that time, AN was lying on top of classroom table. WES staff understood this to be a common habit of AN. When AN failed to respond to Licensee's verbal prompts, Licensee grabbed AN by his left wrist and left ankle and moved him off the table and onto the floor. (Test O'Dell and Koury; Ex. A3 at 4.) AN landed on the floor on the right side of his body. (Test. of O'Dell.)

25. Also on May 29, 2024, while attempting to get AN to line up for recess, Licensee grabbed AN by the shirt collar and pulled him backward. At that time, AN was holding a computer cable. Licensee took hold of AN's wrist and lightly slapped his hand to prompt him to release the cable. Licensee also placed her hands on AN's shoulders to keep him in line. When AN leaned back against her, Licensee took a step backward, allowing AN to fall to the floor. (Test. of Loper; Ex. A4 at 3.)

26. At approximately 11:30 a.m. on May 29, 2024, Ms. Loper sent an email to the principal and vice principal at WES expressing concern, based on her own observations and staff reports, about Licensee's physical interactions with K-MAPS students. (Test. of Loper and Moffitt; Ex. A2 at 1.)

27. Later that same date, the WES principal conducted an investigation into complaints of that Licensee was using physical contact with students. Several WES staff met with the school principal and provided additional information regarding Licensee's interactions with students in the K-MAPS classroom. The WES principal compiled her findings and forwarded them to both the MSD and ESS. WES also requested that ESS remove Licensee from the K-MAPS classroom assignment. (Test. of Moffitt; Ex. A3.)

28. On May 31, 2024, ESS initiated an investigation into Licensee's interactions with students and notified Licensee that she was currently blocked from applying for or accepting assignments within the MSD. (Ex. A5 at 1.)

29. Licensee did not read the ESS employee handbook and was unaware the employer prohibited physical contact with students. Additionally, Licensee relied on her experience and training in California school districts to inform and guide her assessment of when physical contact is appropriate. (Test. of Koury.)

CONCLUSIONS OF LAW

1. Licensee engaged in gross neglect of duty as alleged in the Commission's Amended Notice by using her hand to forcibly turn a five-year-old student's head, pulling a six-year-old student by the arm down a school hallway, and grabbing a five-year-old student by the wrist and pulling him in the direction she wanted him to go.
2. The Commission may suspend Licensee's Oregon educator's license for 30 days and place her license on probation for a period of four years

OPINION¹

The Commission alleges that Licensee engaged in repeated conduct constituting gross neglect of duty and proposes to suspend her Oregon educator's license and place the license in probationary status for a period of four years following the suspension. Specifically, TSPC contends that Licensee engaged in the unreasonable and impermissible use of force by using her hands to physically control or direct students of a combined kindergarten-first grade classroom. As the proponent of that position, The Commission bears the burden of proving its allegations by a preponderance of the evidence. ORS 183.450(2) and (5); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (in administrative actions, the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance standard.) 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, 402 (1987).

The burden of proof encompasses two burdens, the burden of production and the burden of persuasion. *Marvin Wood Products v. Callow*, 171 Or App 175 (2000) (Conceptually, the burden of proof encompasses two distinct burdens: the burden of producing evidence of a particular fact (*i.e.*, the burden of production), and the burden of convincing the trier of fact that the alleged fact is true (*i.e.*, the burden of persuasion)). Accordingly, any party advocating a particular position bears the burdens of production and persuasion as to that position. A party may not rely on an absence of evidence in the record to meet its burden. *May Trucking Co. v. Dept. of Transportation*, 203 Or App 564, 572-573 (2006) (rejecting petitioner's contention of an absence of evidence in the record and finding, "It was petitioner's obligation to make sure that there is evidence in the record supporting its position.").

Licensee served as a substitute teacher – for the Medford School District – in the Washington Elementary School's special education classroom, known as the K-MAPs classroom, between May 24 and 29, 2024. Of those six days, four were school days, May 24, and 27 through 29, 2024. Over those four school days, the preponderant weight of the evidence indicates Licensee used physical force – in violation of the policies of her employer and the

¹ The Commission has modified this section to remove references to uncharged conduct because the Commission does not rely on that in determining the appropriate sanction in the case. The Commission has also modified this section to explain its reasoning for the sanctions imposed.

school district – on three separate occasions involving three separate special education children, two of whom were non-verbal.

Gross neglect of duty.

Pursuant to ORS 342.175(1)(b) and OAR 584-020-0040(3)(c), the Commission may discipline a licensee for “[g]ross neglect of duty.”

OAR 584-020-0040(4) defines “gross neglect of duty,” in part, as follows:

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:

* * * * *

(d) Unreasonable physical force against students, fellow employees, or visitors to the school, except as permitted under ORS 339.250²; [and]

* * * * *

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

OAR 584-020-0010(5) requires an ethical and competent educator in Oregon to demonstrate commitment to the ongoing use of professional judgment. In addition, OAR 584-020-0020 provides standards for competent and ethical performance of Oregon educators and reads, in part:

(1) The competent educator is a student of human behavior and uses this knowledge to provide a climate that is conducive to learning and that respects the rights of all persons without discrimination. The competent educator assumes responsibility for the activities planned and conducted through the district’s program, and assists colleagues to do the same. The competent educator gathers relevant information and uses it in the planning and evaluation of instructional activities.

(2) The competent teacher demonstrates:

* * * * *

(d) Skill in the supervision of students[.]

² ORS 339.250 sets forth each student’s responsibility to comply with school district policies and rules, requires school districts to adopt policies pertaining to student discipline, and authorizes, with limitations, school districts to enforce those policies.

OAR 584-020-0025(2)(e) requires a competent teacher to demonstrate skill in the use of a school district's lawful and reasonable rules and regulations. Moreover, OAR 581-020-0030(2)(b) mandates a competent teacher to also demonstrate skill in communicating with administrators, students, staff, parents, and other patrons of a district.

i. Licensee used unreasonable physical force to prompt a student in the lunch line on May 24, 2024.

On May 24, 2024, Licensee was serving her first day as a substitute teacher for the WES K-MAPS classroom. At lunch time, Licensee and classroom aides escorted the students into the lunchroom. According to the record, students of the K-MAPS classroom are permitted to enter the lunchroom approximately 10-15 minutes ahead of other classrooms to allow special education students more time to make food selections. It was common knowledge for WES faculty and staff that students in the MAPS classroom tended to take longer to make decisions, in part because they could be easily distracted or their preferred option was not available.

While escorting the students, Licensee was standing behind a five-year-old boy, CW, who was taking his time deciding what he wanted for lunch. The evidence establishes that Licensee placed her open palm on top of CW's head, as if palming a basketball, and physically turned his head to face the available food selections, in order to prompt him to make a food choice.

The record reflects that WES has a policy prohibiting physical touch with special education students, except for in the rare circumstance it becomes necessary to prevent physical harm to the student or others. Moreover, Licensee's direct employer, ESS, has an express policy prohibiting substitute teachers from engaging in physical touch with any student. ESS policy requires substitutes to seek assistance from teachers, school administrators, or support staff to guide student behaviors.

Nothing about CW's momentary indecision indicates that his behavior presented an imminent risk to his safety or that of others. Moreover, despite having at least two educational aides present to assist her, Licensee elected not to seek assistance from any WES personnel. Licensee's conduct in this instance constitutes unreasonable physical force exerted upon CW and thus constitutes gross neglect of duty under OAR 584-020-0040(4)(d). In addition, Licensee's failure to seek assistance from school faculty or staff demonstrated a lack of skill in the use of WES's lawful and reasonable rules related to physical touch, as required by OAR 584-020-0025(2)(e), as well as a lack of skill in communicating with students and school staff as required by OAR 581-020-0030(2)(b). As such, Licensee's conduct constitutes gross neglect of duty pursuant to OAR 584-020-0040(4)(n).

ii. Licensee used unreasonable physical force to prompt a student in the school hallway on May 29, 2024.

The record reflects that, on the morning of May 29, 2024, Licensee grabbed a student, AN, by the arm just above the wrist and pulled that student toward the classroom. That act was observed by two different staff members, from two separate vantage points. At hearing,

Licensee did not deny the allegation but attempted to downplay the incident first by asserting she initially tried holding AN's hand, but it was too sweaty to hold onto. Licensee then asserted that she had to grab AN's arm because he was attempting to run down the hall out into the street. The Commission is not persuaded by Licensee's testimony.

Licensee's admission that she resorted to physical contact by grabbing AN's hand violates both the MSD's policy regarding physical contact with special education students and her own employer's written policy prohibiting physical contact with any student while serving as a substitute teacher. Moreover, Licensee's shifting justifications, provided at hearing, are self-serving and unsupported by the evidence.

At hearing, Licensee attempted to assert AN was refusing her verbal prompts and that she took his hand to avoid him running into an open classroom off the same hallway as the K-MAPS classroom. Licensee then testified that she was attempting to keep AN from running out a door, at the end of the hall, leading to the street. The record reveals flaws in Licensee's assertions because she was observed by two staff members, one walking ahead of her in the opposite direction and one a few paces behind her, traveling in the same direction as AN and Licensee. Based on the testimony of each witness to the incident, when Licensee noticed the staff member behind her, she immediately released AN's wrist. At that moment, AN did not make a beeline for either the open classroom door or the exterior door. Instead, the record reflects AN calmly walked to the staff member walking behind Licensee and accompanied her to the classroom.

Licensee's action of releasing AN as soon as she noticed she was being observed by WES staff indicates she more likely than not knew her actions were prohibited. On this record, the Commission finds Licensee's conduct constitutes unreasonable physical force exerted upon AN and thus constitutes gross neglect of duty under OAR 584-020-0040(4)(d).

Moreover, her failure to seek assistance from a regular classroom teacher, school administrator, or support staff – two of which were located in the same hall with her and AN – demonstrate a lack of skill in the use of WES's lawful and reasonable rules related to physical touch, as required by OAR 584-020-0025(2)(e), as well as a lack of skill in communicating with students and school staff as required by OAR 581-020-0030(2)(b). As such, Licensee's conduct of holding AN by the arm while escorting him down the hallway constitutes gross neglect of duty pursuant to OAR 584-020-0040(4)(n).

iii. Licensee used unreasonable physical force to prompt a student to clean up the classroom on May 29, 2024.

Finally, the record reflects that on the morning of May 29, 2024, Licensee again used physical contact and force to gain compliance from CM. According to the record, on that occasion, Licensee attempted to get CM to clean up a portion of the classroom using verbal prompts. When that did not work, Licensee grabbed CM by the wrist and attempted to pull him to the area she wanted him to clean.

According to the record, CM is a non-verbal student with significant communication and behavior needs. CM is prone to escalation when staff use the word "no" with him and does not

respond well to physical direction. Moreover, the record reveals that CM's behavior can escalate quickly when he is dysregulated. All that information was contained in CM's IEP and BSP. Despite being provided with that information, Licensee elected to lay hands on CM to gain his compliance. It did not have the intended effect. Following that incident, WES limited Licensee's access to CM and his behavior was addressed by the co-teacher. At hearing, Licensee's simply asserted that she did not know she was not allowed to put hands on the students or that she had to stop at verbal prompts when attempting to gain compliance. Licensee's claimed lack of knowledge provides no defense to her misconduct.

Licensee's actions of grabbing CM by the wrist on May 29, 2024 constitutes unreasonable physical force exerted upon AM and thus constitutes gross neglect of duty under OAR 584-020-0040(4)(d). Moreover, her failure to seek assistance from a regular classroom teacher or support staff present in the classroom demonstrate a lack of skill in the use of WES's lawful and reasonable rules related to physical touch, as required by OAR 584-020-0025(2)(e), as well as a lack of skill in communicating with students and school staff as required by OAR 581-020-0030(2)(b). As such, Licensee's conduct of holding CM by the wrist to gain his compliance constitutes gross neglect of duty pursuant to OAR 584-020-0040(4)(n).

Proposed penalty.

For the violations above, the Commission proposes to suspend Licensee's Oregon educator's license for 30 days and place the license in probationary status for a period of four years. ORS 342.177(3) provides for discipline by the Commission after hearing and states:

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.
- (e) Revoke the right to apply for a license or registration.
- (f) Impose a civil penalty pursuant to subsection (6) of this section.

Licensee failed to acknowledge responsibility for her conduct during the hearing. The record demonstrates Licensee's inability or unwillingness to comply with the standards of professional competency promulgated by the Commission. Pursuant to ORS 342.117(3)(c), the Commission may suspend a license for up to one year. Here, the Commission limits the proposed suspension to 30 days. On this record, that the sanction appropriate based on each established act of gross neglect of duty. Additionally, ORS 342.177(3)(b) permits the Commission to place a licensee on probation for up to four years. Here, the Commission seeks the maximum period of probation and based on the findings above, that period of probation is appropriate as well.

FINAL ORDER

Based on the record above, the Commission issues the following order:

Cindy J. Falcone Koury's Oregon educator's license is suspended for 30 days. Ms. Falcone Koury's Oregon educator's license is placed in probationary status for a period of four years starting upon reinstatement of her license.

IT IS SO ORDERED THIS 27 day of August, 2026.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: _____

A handwritten signature in blue ink that reads "Rachel Alpert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rachel Alpert, Executive Director

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