

1                   BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

2                               ON BEHALF OF

3                   TEACHER STANDARDS AND PRACTICES COMMISSION

In the Matter of the Teaching License of  
TAMMY LEA KINNEY

OAH Case No. 1001670

FINAL ORDER BY DEFAULT OF  
REVOCATION OF RIGHT TO APPLY  
FOR A LICENSE

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5           On March 23, 2010, the Teacher Standards and Practices Commission (Commission)  
6 issued a Notice of Opportunity for Hearing to Tammy Lea Kinney (Kinney), in which the  
7 Commission charged her with Gross Neglect of Duty pursuant to OAR 584-020-0040(4)(f), OAR  
8 584-020-0040(4)(c), OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5); and  
9 OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-0035(1)(c)(D), OAR 584-020-  
10 0035(a)(c)(C) and OAR 584-020-0035(3)(a). Ms. Kinney requested a hearing. A hearing was  
11 scheduled before Administrative Law Judge John Mann at 9 a.m. on October 13, 2010. Ms.  
12 Kinney failed to appear at the scheduled time and place of the hearing.

13           The Notice of Opportunity for Hearing informed Ms. Kinney that if she failed to appear at  
14 the hearing the Commission would adopt an order of default and that the records contained the  
15 files of the Commission would automatically become a part of the contested case record upon  
16 default for purposes of proving a prima facie case. The Commission, therefore, finds Ms.  
17 Kinney in default and enters the following findings of fact, conclusions of law and order, based  
18 on the files and records of the Commission concerning this matter.

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20                               **FINDINGS OF FACT**

- 21           1. The Commission has licensed Kinney as an educator in Oregon since April 28, 1989. Kinney's  
22           current Basic Teaching License issued July 27, 2007, expired on July 26, 2010. During all  
23           relevant times Kinney was employed as a teacher in the Ontario School District.  
24           2. On October 22, 2008, and October 29, 2008, Kinney kissed a male student of the Ontario  
25           School District in her classroom.

- 1 3. Kinney did not report the kissing that occurred on October 22, 2008, until October 24, 2008.  
2 Kinney's statements to school officials and police contained numerous inconsistencies of fact,  
3 and differed with regard to specific details depending on whom Kinney related the events to.  
4 Kinney's statements differed from security camera video footage that supported the student's  
5 version of the events. On October 29, 2008, Kinney reported to school officials and police that  
6 the same male student had again approached her, embraced and kissed her against her will.  
7 4. On October 22, 2008, a male student approached Kinney, kissed her and propositioned her in  
8 her classroom. Kinney did not report this conduct to her supervisor until two days later.  
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### 10 CONCLUSIONS OF LAW

11 Kinney's conduct as described in paragraph 2 above constitutes gross neglect of duty in  
12 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(f) (Any sexual conduct with a student)  
13 and OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use professional  
14 judgment); and OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-0035(1)(c)(D)  
15 (Honoring appropriate adult boundaries with students in conduct and conversation at all times).

16 Kinney's conduct as described in paragraph 3 above constitutes gross neglect of duty in  
17 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(c) (Knowing falsification of any document  
18 or knowing misrepresentation directly related to licensure, employment, or professional duties);  
19 OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-0035(1)(c)(C) (Reporting to the  
20 educator's supervisor if the educator has reason to believe a student is or may be becoming  
21 romantically attached to the educator), and OAR 584-020-0035(3)(a) (Maintain the dignity of the  
22 profession by respecting and obeying the law, exemplifying personal integrity and honesty); and  
23 OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use professional judgment).

24 Kinney's conduct as described in paragraph 4 above constitutes gross neglect of duty in  
25 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-  
26 0035(1)(c)(C) (Reporting to the educator's supervisor if the educator has reason to believe a  
27 student is or may be becoming romantically attached to the educator); and OAR 584-020-  
28 0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use professional judgment).

29 The Commission has the authority to impose discipline in this matter under ORS  
30 342.120 through 342.430 and OAR Chapter 584.

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1 **FINAL ORDER**

2 The Commission hereby revokes Tammy Lea Kinney's right to apply for a teaching  
3 license.

4 IT IS SO ORDERED THIS 5<sup>th</sup> day of November, 2010.

5 TEACHER STANDARDS AND PRACTICES COMMISSION

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8 By:   
9 Victoria Chamberlain, Executive Director

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14 NOTICE OF APPEAL OR RIGHTS

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