

1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2 OF THE STATE OF OREGON
3

4 In the Matter of the Educator License of)
5 GARY WAYNE MCCUTCHAN)
6)
7) DEFAULT ORDER OF SUSPENSION
8) OF RIGHT TO APPLY FOR EDUCATOR
9) LICENSE

10 On September 12, 2012, the Teacher Standards and Practices Commission (Commission)
11 issued a Notice of Opportunity for Hearing to Gary Wayne McCutchan (McCutchan) in which the
12 Commission charged him with Gross Neglect of Duty. The Notice was sent via U.S. First Class Mail
13 and U.S. Certified Mail Receipt 7011 2000 0001 1292 0271 to the address on file with the
14 Commission. The Notice designated the Commission file as the record for purposes of proving a
15 prima facie case. The Certified Mail receipt was returned, signed, to the Commission on September
16 21, 2012. The regular mail was not returned to the Commission. The Notice of Opportunity of
17 Hearing, dated September 12, 2012, and signed by Victoria Chamberlain, Executive Director, stated:

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

24 McCutchan did not request a hearing. The Commission, therefore, finds McCutchan to be in default
25 and enters the following findings of fact, conclusions of law, and final order, based on the files and
26 records of the Commission concerning this matter.

27 **FINDINGS OF FACT**

- 28 1. Gary Wayne McCutchan has been licensed by the Commission since July 17, 2008. McCutchan's
29 Transitional School Psychologist License, with an endorsement in School Psychologist (PP-12),
30 was issued July 17, 2008, and expired on July 17, 2011. McCutchan did not apply for renewal.
31 During all relevant times, McCutchan was employed by the Northwest Regional Education
32 Service District (NWRESD).
33 2. On February 11, 2011, the Commission was notified by the NWRESD that McCutchan may have
34 violated professional standards by failing to provide 60 days notice of resignation as required by
35 contract and State Law ORS 342.553(1). The Commission conducted an investigation and
36 learned that while under contract with NWRESD, McCutchan resigned his employment without
37 providing the required 60 day notice as detailed in McCutchan's employment contract and
38 established in State Law. McCutchan was under contract with NWRESD until June 30, 2010. On
39 May 10, 2010, McCutchan was provided a written offer for a one year contract extension for the

1 period of July 1, 2010 to June 30, 2011. While McCutchan did not sign the contract, McCutchan
2 did report to work under the offered contract, working under this contract from July 1, 2010,
3 until McCutchan left employment on December 10, 2010. On December 1, 2010, McCutchan
4 submitted his resignation to NWRESA effective December 10, 2010; providing only 9 days of
5 notice. McCutchan was provided detailed written information and reminders of the
6 requirements and consequences, regarding McCutchan's breach of contract. McCutchan failed to
7 complete his contract and failed to provide the required 60 day notice of resignation.

8 CONCLUSIONS OF LAW

9 McCutchan's conduct described in section two (2) above, constitutes gross neglect of duty in
10 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5)
11 (*Use professional judgment*); and OAR 584-020-0040(4)(j) (*Resignation from a contract in*
12 *violation of ORS 342.553*).


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

14 FINAL ORDER

15 The Commission hereby suspends Gary Wayne McCutchan's right to apply for licensure for a
16 period of one year, to begin upon the date this order is signed and in effect.

17 IT IS SO ORDERED THIS 15th day of February, 2013.

18 TEACHER STANDARDS AND PRACTICES COMMISSION

19 By: 
20 Victoria Chamberlain, Executive Director
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24

25 NOTICE OF APPEAL OR RIGHTS

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