

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

3 In the Matter of the) STIPULATION OF FACTS,
4 Educator License of:) FINAL ORDER OF SUSPENSION
5 PATRICK SCOTT BIRKBY) AND PROBATION
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8 On or about February 6, 2014, the Teacher Standards and Practices Commission
9 (Commission) received a report from Wade Smith, Superintendent of the Hermiston School
10 District, indicating that licensed educator Patrick Birkby (Birkby) may have violated
11 professional standards.

12 After review of the matters alleged, Birkby and the Commission agree that their
13 respective interests, together with the public interest, are best served by a stipulation to certain
14 facts and suspension of his Oregon educator license followed by a period of probation and
15 fulfillment of specific probation requirements.

16 This document sets forth the facts upon which the parties have agreed and the stipulated
17 sanction to be imposed. Birkby stipulates that there is sufficient evidence in the Commission's
18 files and records to support the findings of fact, conclusions of law, and order set forth below.

19 By signing below, Birkby acknowledges, understands, stipulates, and agrees to the
20 following: (i) he has been fully advised of his rights to notice and a hearing to contest the
21 findings of fact, conclusions of law, and order set forth below, and fully and finally waives all
22 such rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final
23 Order of Suspension and Probation (Stipulation and Final Order); (ii) this Stipulation and Final
24 Order is a public document and disclosed to the public upon request by the Commission; (iii)
25 this Stipulation and Final Order is contingent upon and subject to approval and adoption by the
26 Commission. If the Commission does not approve and adopt this Stipulation and Final Order,
27 then neither Birkby nor the Commission are bound by the terms herein; (iv) he has fully read
28 this Stipulation and Final Order, and understands it completely; (v) he voluntarily, without any

1 force or duress, enters into this Stipulation and Final Order and consents to issuance and entry
2 of the Stipulated Final Order below; (vi) he states that no promises or representation has been
3 made to induce him to sign this Stipulation and Final Order; and (vii) he has consulted with an
4 attorney regarding this Stipulation and Final Order and has been fully advised with regard to his
5 rights thereto, or waives any and all rights to consult with an attorney prior to entering into this
6 Stipulation and Final Order and issuance and entry of the Stipulated Final Order below. This
7 Order sets forth the facts upon which the parties have agreed and the sanction to be imposed.
8 In entering into this stipulation, Birkby waives the right to a hearing to contest the findings of
9 fact, conclusions of law and order set forth below.

10 **STIPULATION OF FACTS**

- 11 1) The Commission has licensed Birkby since July 12, 2006. Birkby currently holds an
12 Initial II Teaching License with endorsements in Advanced Mathematics (HS, ML),
13 Multiple Subjects (MIDLVL), and Physical Education (ML/HS, ECE/ELE L); valid
14 November 28, 2011, through November 27, 2014. On May 22, 2014, Birkby made
15 timely application for renewal of his license. During all relevant times, Birkby was
16 employed by the Hermiston School District.
- 17 2) On February 6, 2014, the Commission received a complaint from the administration
18 of the Hermiston School District indicating Birkby may have committed acts which
19 constitute gross neglect of duty. Subsequent investigation determined the following:
- 20 a) In January 2012, Birkby was disciplined by his employer for violating district
21 policy regarding electronic communications and appropriate staff and student
22 interactions. This discipline was a result of an incident where Birkby was found
23 to have been texting a female student and counseling her regarding her personal
24 problems. Birkby's discipline included the specific directive to cease all texting
25 and electronic communications with students.
- 26 b) On January 28, 2014, female student MB made a report to local law enforcement
27 alleging Birkby was harassing her by attempting to communicate with her
28 electronically against her wishes and making comments that made her feel
29 uncomfortable. Investigation discovered that Birkby was using social media

1 programs like Facebook and Snapchat to communicate with students. Birkby's
2 communications took place during school hours and after hours, including
3 school breaks and weekends. Investigation determined that his behavior was in
4 violation of district policies, in violation of the prior written directive. Female
5 students AP and AH told investigators that Birkby was communicating with
6 them as well. During the course of the school district's and Commission's
7 investigation, Birkby admitted to unprofessional electronic communications with
8 students and explained his intentions as attempts to help the involved students
9 who were experiencing problems at home. Birkby also explained that he stopped
10 his electronic communications with MB when he learned that she felt
11 uncomfortable.
12

13 IT IS SO STIPULATED:

14 Patrick Scott Birkby
15 Patrick Scott Birkby

4/25/2016
Date

16 Victoria Chamberlain
17 Victoria Chamberlain, Executive Director
18 Teacher Standards and Practices Commission

5-16-16
Date

19
20 **CONCLUSION OF LAW**

21 Patrick Scott Birkby's conduct as described above constitutes gross neglect of duty in
22 violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR
23 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(B) (*Using*
24 *and maintaining district property, equipment, and materials appropriately*), OAR
25 584-020-0025 (2)(e) (*Using district lawful and reasonable rules and regulations*);
26 OAR 584-020-0040(4)(o) as is incorporates OAR 584-020-0035(1)(c)(A) (*Not*
27 *demonstrating or expressing professionally inappropriate interest in a student's*
28 *personal life*), OAR 584-020-0035(1)(c)(B) (*Not accepting or giving or exchanging*
29 *romantic or overly personal gifts or notes with a student*), and OAR 584-020-
30 0035(1)(c)(D) (*Honoring appropriate adult boundaries with students in conduct*
31 *and conversation at all times*).

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

ORDER

The Commission hereby adopts and incorporates herein the above stipulation of facts, conclusions of law, and based thereon orders as follows:

1) Patrick Scott Birkby's teaching license is hereby suspended for 30 days from the date this order is entered.

2) Patrick Scott Birkby is placed on probation for a period of four years following reinstatement of the suspended license. Birkby must apply and qualify for reinstatement of the license as provided under the Commission's rules.

3) During the first six months this order is in effect, and as a condition of probation:

a) Birkby will successfully complete a 3-month course of weekly counseling sessions; and

b) Birkby will successfully complete a course regarding ethical teacher conduct and professional boundaries. The course is subject to Commission approval and must be a minimum of 6 hours or as otherwise approved by the Commission.

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1 4) Birkby shall comply with the Standards for Competent and Ethical Performance of
2 Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.
3 Violation of any term or condition of probation shall constitute an independent basis
4 for the Commission to revoke Birkby's educator license or otherwise impose
5 discipline, after first providing Birkby with notice and opportunity for hearing.

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7 IT IS SO ORDERED this 20th day of June, 2016.

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9 TEACHER STANDARDS AND PRACTICES COMMISSION

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11 By: 
12 Victoria Chamberlain, Executive Director