

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

4   In the Matter of the Educator License of        )        DEFAULT ORDER OF  
5   KIMBERLY DAWN DURHAM                            )        REVOCATION OF RIGHT TO APPLY FOR AN  
6    )        EDUCATOR LICENSE  
7  
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9               On December 20, 2012, the Teacher Standards and Practices Commission (Commission)  
10   issued a Notice of Opportunity for Hearing to Kimberly Dawn Durham (Durham) in which the  
11   Commission charged her with Gross Neglect of Duty. The Notice was sent via U.S. First Class Mail  
12   and U.S. Certified Mail Receipt 7011 2000 0001 1292 0042 to the address on file with the  
13   Commission. The Notice designated the Commission file as the record for purposes of proving a  
14   prima facie case. The Certified Mail receipt was returned, signed to the Commission on December  
15   24, 2012. The regular mail was not returned to the Commission. The Notice of Opportunity of  
16   Hearing, dated December 20, 2012, and signed by Victoria Chamberlain, Executive Director, stated:

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

24   Durham did not request a hearing. The Commission, therefore, finds Durham to be in default and  
25   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.   Kimberly Dawn Durham has never been licensed by the Commission. On June 16, 2012, the  
29       Commission received Durham's application for her Student Teaching / Practicum. Durham's  
30       application was referred to investigations based on information disclosed during the application  
31       process.  
32   2.   The investigation determined that on August 17, 2011, Durham was convicted of "Maintenance of  
33       Location for Unlawful Activities" in the Superior Court of Riverside California. Durham  
34       explained, as part of her application, that this conviction was due to Durham's husband  
35       operating a meth lab out of their home. Durham stated she was not involved, but due to living in  
36       the house, Durham was convicted of a lesser crime. As a result of Durham's conviction, she was  
37       sentenced to 360 hours of community service and formal probation for 36 months. Durham's  
38       statements to the Commission investigator were determined to be inconsistent with statements  
39       Durham had previously provided police, and official police reports regarding the incident.

1 **CONCLUSIONS OF LAW**

2 Durham's conduct and convictions constitutes gross neglect of duty in violation of ORS  
3 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use professional*  
4 *judgment*); OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-0035(3)(a) (*Maintain the*  
5 *dignity of the profession by respecting and obeying the law, exemplifying personal integrity and*  
6 *honesty*); and OAR 584-020-0040(3)(a) (*The Commission may initiate proceedings to suspend or*  
7 *revoke the license or registration of an educator under ORS 342.175 or deny a license or*  
8 *registration to an applicant under 342.143 who: Has been convicted of a crime not listed in section*  
9 *(1) of this rule, if the Commission finds that the nature of the act or acts constituting the crime for*  
10 *which the educator was convicted render the educator unfit to hold a license*). This conduct also  
11 establishes that you do not possess good moral character required to hold a license under ORS  
12 342.143(2).  
13

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

15 **FINAL ORDER**

16 The Commission hereby revokes Kimberly Dawn Durham's Right to Apply for an Educator  
17 license.

18 IT IS SO ORDERED THIS 21<sup>st</sup> day of June, 2013.

19 TEACHER STANDARDS AND PRACTICES COMMISSION

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21 By: \_\_\_\_\_  
22 Victoria Chamberlain, Executive Director  
23

24 **NOTICE OF APPEAL OR RIGHTS**

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