## 1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION 2 OF THE STATE OF OREGON 3 4 In the Matter of the STIPULATION OF FACTS AND 5 Educator License of ) FINAL ORDER OF SUSPENSION 6 AUSTIN D. NIEVE ) OF RIGHT TO APPLY FOR 7 LICENSURE AND PROBATION 8 9 On May 3, 2022, the Teacher Standards and Practices Commission (Commission) 10 received a report from the South Lane School District (District) that Austin D. Nieve (Nieve) 11 may have committed an act of gross neglect of duty and/or gross unfitness. The report alleged 12 Nieve engaged in inappropriate teacher/student boundaries with two (2) students from 13 Harrison Elementary School. 14 After review of the matters alleged, Nieve and the Commission agree that their respective 15 interests, together with the public interest, are best served by a stipulation to certain facts, to the 16 imposition of a ninety (90) day suspension of Nieve's right to apply for an Oregon educator 17 license and a two (2) year period of probation. 18 This Order sets forth the facts upon which the parties have agreed and the sanction to be 19 imposed. Nieve stipulates that there are sufficient facts contained in the Commission's files and 20 records to support the findings of fact and conclusions of law set forth below. In entering into 21 this stipulation, Nieve waives the right to a hearing to contest the findings of fact, conclusions of 22 law and order set forth below. 23 By signing below, Nieve acknowledges, understands, stipulates, and agrees to the 24 following: (i) he has been fully advised of his rights to notice and a hearing to contest the 25 findings of fact, conclusions of law, and order set forth below, and fully and finally waives all 26 such rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final 27 Order of Suspension of Right to Apply for Licensure and Probation (Stipulation and Final 28 Order); (ii) this Stipulation and Final Order is a public document and disclosed to the public 29 upon request by the Commission; (iii) this Stipulation and Final Order is contingent upon and 30 subject to approval and adoption by the Commission. If the Commission does not approve and 31 adopt this Stipulation and Final Order, then neither Nieve nor the Commission are bound by the 32 terms herein; (iv) he has fully read this Stipulation and Final Order, and understands it 33 completely; (v) he voluntarily, without any force or duress, enters into this Stipulation and Final 34 Order and consents to issuance and entry of the Stipulated Final Order below; (vi) he states that 35 no promise or representation has been made to induce him to sign this Stipulation and Final

Order; and (vii) he has consulted with an attorney regarding this Stipulation and Final Order

and has been fully advised with regard to her rights thereto, or waives any and all rights to

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consult with an attorney prior to entering into this Stipulation and Final Order and issuance and entry of the Stipulated Final Order below.

## FINDINGS OF FACT

1. Austin D. Nieve has been licensed by the Commission since March 13, 2022. Nieve held an Emergency Substitute Teaching License, with an endorsement in Substitute (PK-12), valid from March 13, 2022, through July 19, 2022. During all relevant times, Nieve was employed by the South Lane School District (SLSD).

2. On May 3, 2022, the Commission received a report from the SLSD indicating Nieve may have committed acts which constitute gross neglect of duty and/or gross unfitness. The SLSD reported Nieve engaged in inappropriate teacher/student boundaries with two (2) students from Harrison Elementary School (HES).

3. Investigation found that Nieve began working for the SLSD at the start of the 2021-2022 school year as a Community Resource Specialist, a classified position. In that role, Nieve connected social service agencies with students and their families in need of support. On January 21, 2022, following a request by school administrators to school employees who were eligible for an Emergency Substitute Teaching License to fill in gaps for teaching staff shortages, Nieve submitted an application for an Emergency Substitute Teaching License, which was issued on March 13, 2022. Prior to this, Nieve had no prior teaching training and the district provided no significant training after his licensure.

4. Investigation found that on March 28, 2022, Nieve told a HES administrator that during spring break, students MA and KW had spent nights at Nieve's residence. On March 31, 2022, Nieve was observed by HES staff sitting in the library and consoling with MA who was seated on Nieve's lap. On April 1, 2022, a HES staff member walked by Nieve's office and observed MA sitting on Nieve's lap. When asked about this, Nieve said the parents allowed this and that MA could also to refer to him as "dad". In April 2022, Nieve separated from the district. In May 2022, the parents of MA reported Nieve was communicating with MA via Snapchat to coordinate rides to sports practices. Prior to receiving his license and after, Nieve served as a coach for non-school sponsored basketball and soccer teams which KW and MA play on. On occasion and with parental consent, Nieve transported one, both, or other students he worked with as a resource specialist in his personal automobile. Nieve also transported and escorted KW and MA to the movies and an arcade.

1 5. Investigation found that at times, responsibilities Nieve had as a resource coordinator and 2 the expectations of a licensed teacher were in conflict. Practices such as working closely with 3 students and families and consideration of Nieve involvement of working as a surrogate 4 guardian for MA created unforeseen boundary issues which Nieve, an untrained teacher 5 attempting to support the district's substitute teacher issues, was unable to recognize. 6 7 IT IS SO STIPULATED: 8 9 119/2023 10 Austin D. Nieve 11 12 13 Trent Danowski, Deputy Director 14 Teacher Standards and Practices Commission 15 16 CONCLUSIONS OF LAW 17 Austin D. Nieve's conduct as described in section 4 above constitutes gross neglect of 18 duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-19 020-0010(1) (Recognize the worth and dignity of all persons and respect for each individual), OAR 584-020-0010(5) (Use professional judgment), OAR 584-020-0025(2)(e) (Using district 20 lawful and reasonable rules and regulations); OAR 584-020-0040(4)(0) as it incorporates 21 22 OAR 584-020-0035(1)(b) (Refrain from exploiting professional relationships with any student for personal gain, or in support of persons or issues), OAR 584-020-0035(1)(c)(A) (Not 23 demonstrating or expressing professionally inappropriate interest in a student's personal life), 24 and OAR 584-020-0035(1)(c)(D) (Honoring appropriate adult boundaries with students in 25 conduct and conversations at all times). 26 The Commission's authority to impose discipline in this matter is based upon ORS 27 28 342.175. 29 FINAL ORDER 30 The Commission hereby suspends Austin D. Nieves right to apply for an Oregon teacher 31 license for a period of ninety (90) days. 32 Furthermore, the Commission imposes a period of two (2) years of probation upon 33 Nieve's licensure to commence from the date the license is issued by the Commission and 34 subject to the following conditions: 35 1. Nieve shall comply with the Standards for Competent and Ethical Performance of

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1	Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.
2	2. Nieve shall successfully complete a Commission approved training course on
3	teacher/student boundaries within 90 days of the adoption of this final order and
4	provide evidence to the Commission of such training.
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6	Issued and dated this day of June, 2023.
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8	TEACHER STANDARDS AND PRACTICES COMMISSION
9	STATE OF OREGON
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14	By:
15	Dr. Anthony Rosilez, Executive Director
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8	MOMEOU OF A PRICE OF PAGAZING
19	NOTICE OF APPEAL OR RIGHTS
20	YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW
21	MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM
22	THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE
23	PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS.