## 1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION 2 OF THE STATE OF OREGON 3 In the Matter of the STIPULATION OF FACTS AND 4 Educator License of FINAL ORDER OF 5 6 7 MATTHEW J. NIEBERGALL Jr. ) SUSPENSION OF RIGHT TO APPLY FOR LICENSURE AND PROBATION 8 9 10 On June 9, 2022, the Teacher Standards and Practices Commission 11 (Commission) received a School District Misconduct Report alleging possible 12 professional misconduct on the part of licensed educator, Matthew J. Neibergall Jr. 13 (Niebergall). In addition to the School District Misconduct Report the Commission also 14 received a Department of Human Services (DHS) cross-report alleging the same possible 15 misconduct. The misconduct alleged that Niebergall engaged in personal, inappropriate, 16 and unprofessional communication with a student (ZD) over Instagram. 17 After review of the matters alleged, Niebergall and the Commission agree that 18 their respective interests, together with the public interest, are best served by a 19 stipulation to certain facts and the imposition of a six (6) month suspension of 20 Niebergall's right to apply for an Oregon educator's license and 4 years probation. 21 This Order sets forth the facts upon which the parties have agreed and the 22 sanction to be imposed. Niebergall stipulates that there are sufficient facts contained in 23 the Commission's files and records to support the findings of fact and conclusions of law 24 set forth below. In entering into this stipulation, Neibergall waives the right to a hearing 25 to contest the findings of fact, conclusions of law and order set forth below. By signing below, Niebergall acknowledges, understands, stipulates, and agrees 26 27 to the following: (i) he has been fully advised of his rights to notice and a hearing to 28 contest the findings of fact, conclusions of law, and order set forth below, and fully and finally waives all such rights and any rights to appeal or otherwise challenge this 29 30 Stipulation of Facts and Final Order of Suspension and Probation (Stipulation and Final Order); (ii) this Stipulation and Final Order is a public document and disclosed to the 31 32 public upon request by the Commission; (iii) this Stipulation and Final Order is contingent upon and subject to approval and adoption by the Commission. If the 33 34 Commission does not approve and adopt this Stipulation and Final Order, then neither Niebergall nor the Commission are bound by the terms herein; (iv) he has fully read this 35

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Stipulation and Final Order, and understands it completely; (v) he voluntarily, without

1 any force or duress, enters into this Stipulation and Final Order and consents to issuance 2 and entry of the Stipulated Final Order below; (vi) he states that no promise or 3 representation has been made to induce him to sign this Stipulation and Final Order; 4 and (vii) he has consulted with an attorney regarding this Stipulation and Final Order 5 and has been fully advised with regard to his rights thereto, or waives any and all rights 6 to consult with an attorney prior to entering into this Stipulation and Final Order and 7 issuance and entry of the Stipulated Final Order below. 8 9 STIPULATION OF FACTS 10 1. The Commission has licensed Niebergall since January 14, 2022. Niebergall held 11 12 a Clinical Practices (Student Teaching) License with an endorsement in 13 Substitute Teaching (PK-12). The license was issued on January 14, 2022 and 14 expired on January 14, 2023. During all relevant times, Niebergall was employed 15 by the Portland Public School District (PPSD). 16 17 2. On June 9, 2022 the Commission received a cross-report from the Oregon 18 Department of Human Services - Child Welfare (DHS) alleging misconduct 19 against Niebergall, a licensed educator at Beaumont Middle School (BMS) in the 20 PPSD. Additionally, on July 26, 2022, the Commission received an educator 21 misconduct report from the PPSD alleging the same misconduct as the DHS 22 report. Both reports alleged that Niebergall sent private messages via Instagram 23 to a BMS student, "ZD." The messages between Niebergall and ZD were primarily exchanged during one day (April 12, 2022) and were reported to be 24 25 unprofessional, personal in nature, and demonstrated lack of professional 26 boundaries when communicating with a student. In one of the messages to ZD 27 Niebergall stated "don't let admin (school administration) know about these

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messages."

3. Investigation by DHS, PPSD, and TSPC determined the following:

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- On or about April 12, 2022, between the hours of 10AM and 9:30PM
   Niebergall and ZD messaged one another over Instagram.
- On or about April 12, 2022, Niebergall sent ZD approximately 231 direct messages via Instagram.

On or about April 12, 2022, ZD sent Niebergall approximately 169 direct
 messages via Instagram.
 The text conversation between Neibergall and ZD on April 12, 2022 was

The text conversation between Neibergall and ZD on April 12, 2022 was
personal in nature. Niebergall and ZD discussed topics such as dating and
other topics unrelated to school.

 On May 17, 2022, Niebergall sent ZD a message that stated "k no more discussing it please- thank you I do not want anyone complaining to admin please."

During PPSD's investigation, it was determined that six (6) other students had requested to follow Niebergall on Instagram, and that Niebergall had accepted all six (6) of the follow requests. The students reported that they followed Niebergall on Instagram until he deleted his account in mid-May, 2022. Four (4) of the six (6) students reported that they had shared direct messages with him. The students denied that the conversations that they engaged with Niebergall were inappropriate or crossed any boundaries.

On June 23, 2022, Niebergall met with PPSD staff to discuss this matter, and provided PPSD with the following written statements addressing the allegations:

"I first and foremost would like to apologize to everyone in the room and the individuals affected by my complete lapse of judgment. My actions were unprofessional and a misrepresentation of the values that Portland Public Schools, as well as myself embody. I come from a family of 12 teachers, and it has been my lifelong dream to become one as well. I have always known that I wanted to teach in Portland and fought for the opportunity to student teach and substitute teach in PPS. I am truly grateful that Portland Public Schools allowed me to serve as a student teacher and as an emergency substitute. I will immediately admit without any hesitation that my communications with students were plainly wrong. I offer the following as an explanation for my lapse of judgment and NOT as a justification or excuse for my actions.

As a 22-year-old, the medium of all my communication is via social media.

Social media is, unfortunately, the only way people my age seem to know how to communicate with others. Middle school and high school were especially

difficult for me, and I always admired teachers that tried to connect with me at my level. I was so eager and excited for the opportunity to teach, and I also wanted to connect with my students at their level the same way my favorite teachers connected with me. I now clearly see that I failed to do this in a professional way. Please also know that I suffer from anxiety and depression which stem from the recent and unexpected passing of my mother. These things have led me to seek approval and acceptance from my peers and My students. My intention was never to cause any harm or make any student ever feel uncomfortable. I truly just wanted to be seen as the "cool teacher" by my students. Again, please know that I truly don't offer this information as an excuse or justification, I merely want you to have a full picture of the situation. I clearly see the errors I committed. I failed to make the jump from a 22-year-old immature college student to the professional that I needed to be. I have spent the past 5 1/2 weeks reflecting and correcting this mistake with my therapist.

There has never been a time where I have been more embarrassed and disappointed in myself. I let my family and friends down, I let the administration that took me in down, I let the district down, and I am ashamed of allowing my immaturity and desire to be admired to potentially ruin the very thing I have worked my entire life for, before it even gets started. I truly and sincerely want the opportunity to demonstrate to you that I understand my mistakes and that I will use every part of this episode to learn, to grow, and to continue to strive to be the educator I have always dreamed of becoming. I can say with the utmost confidence that I will never repeat my errors and that I will continue to do whatever it takes to prove that this will never happen ever again. Please know that my tremendous lapse of judgment is not a reflection of my character or ability to educate. I want nothing more than another opportunity to continue to work with Portland Public Schools and to demonstrate to you who I am as an educator and a person."

Upon conclusion of the investigation, PPSD found Niebergall to be in violation of district policy and recommended termination of his employment.

Niebergall interviewed with TSPC Investigative staff on March 1, 2023 in the presence of his attorney, Roland Iparraguirre. During the interview Niebergall took responsibility for his actions and reported that he had started student teaching at BMS as part of his required college curriculum and that he had not yet graduated from college. Niebergall reported that he was asked by BMS administration to serve as an emergency long-term substitute teacher. Niebergall reported that he was interviewed by BMS administration for the emergency substitute teacher position and that he was offered the position the same day of his interview and that he was asked to start working as a substitute the following day. Niebergall described the hiring process as "rushed." Niebergall reported that he began teaching without any formal training or experience. Niebergall reported that since he was expected to start working as a substitute teacher the day after he was offered the position, he was rushed to review several online PPSD newhire trainings in one evening and that he did not recall learning much from them. Niebergall reported that as a 22-year old he is certain that his immaturity and lack of professional judgment will not define his character as a person or compromise his ability to become a caring and committed educator.

IT IS SO STIPULATED:	~ .	1	1
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Matthew J. Niebergall Jr.	Date		
Color	6/1	2/23	
Cristina Edgar, Director of Professional Practices	Date		
Teacher Standards and Practices Commission			

## CONCLUSION OF LAW

The conduct described above constitutes gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(e) (*Using district lawful and reasonable rules and regulations*) and OAR 584-020-0035(1)(c)(D) (*Honoring appropriate adult boundaries with students in conduct and conversations at all times*).

1	The Commission's authority to impose discipline in this matter is based upon
2	ORS 342.175.
3	ORDER
4	The Commission adopts and incorporates herein the above findings of fact and
5	conclusions of law, and based thereon, imposes a suspension of Niebergall's right to
6	apply for his Oregon educator license for a period of six (6) months. Additionally, the
7	commission imposes a term of Probation for not less than four (4) years which would be
8	effective upon reinstatement of licensure. Furthermore, the Commission requires that
9	Niebergall complete a Commission-Approved Boundaries Training Course to be
10	completed prior to reinstatement of licensure.
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12	Issued and dated this day of June, 2023.
13	TEACHER STANDARDS AND PRACTICES COMMISSION
14	STATE OF OREGON
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16	By Sty Su
17	Dr. Anthony Rosilez, Exe <del>cutive</del> Director