1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION 2 OF THE STATE OF OREGON 3 4 In the Matter of the Educator DEFAULT ORDER OF 5 License of) PUBLIC REPRIMAND 6 KENNETH W. KESTER 7 8 9 On October 23, 2023, the Teacher Standards and Practices Commission (Commission) issued a Notice of Opportunity for Hearing to Kenneth W. Kester (Kester) in 10 which the Commission charged him with Gross Neglect of Duty. The Notice was sent via 11 U.S. First Class Mail and U.S. Certified Mail Receipt 9589 0710 5270 0844 8661 66 to the 12 13 address on file with the Commission. The Notice designated the Commission file as the 14 record for purposes of proving a prima facie case. Neither the certified mail nor the first-15 class mail was returned to the Commission and was assumed to be delivered and received. 16 The Notice of Opportunity of Hearing, dated October 23, 2023, and signed by Anthony 17 Rosilez, Executive Director, stated: 18 "IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY 19 PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED 20 UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR 21 REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING, WITHDRAW 22 YOUR REQUEST FOR HEARING, IF YOU FAIL TO APPEAR AT A HEARING, OR 23 NOTIFY THE COMMISSION THAT YOU WILL NOT APPEAR AT HEARING, THE 24 COMMISSION WILL ADOPT AN ORDER OF DEFAULT WHICH MAY INCLUDE 25 THE REVOCATION OR SUSPENSION OF YOUR LICENSE OR OTHER DISCIPLINE." 26 27 28 As of the writing of this Default Order, Kester has not requested a hearing nor responded to 29 the Commission. The Commission, therefore, finds Kester to be in default and enters the 30 following findings of fact, conclusions of law, and final order, based on the files and records 31 of the Commission concerning this matter. 32 33 FINDINGS OF FACT 34 1. The Commission has licensed Kester since August 25, 1977. Kester held an 35 Oregon Substitute Teaching License that was issued on June 24, 2020 and 36 expired on June 23, 3023. During all relevant times, Kester was employed by the 37 St. Helens School District (SHSD).

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the St. Helens School District. The report alleged that Kester was watching/listening to pornographic material on his cell phone during a 12th grade social studies class. Multiple students reported hearing a female voice making sexual moaning sounds coming from his phone. The students reported hearing the sexual moaning while Kester was looking at his phone during class and

2. On October 24, 2022, TSPC received a School District Misconduct Report from

- reported that they heard the moaning on at least two (2) separate occasions. The students reported to school administration that they believed Kester was
- watching pornographic videos on his cell phone.
- 3. According to district records, on October 6, 2022, multiple students from a 12th
 - grade social studies class at the St. Helens High School (SHHS) reported to
 - school administrators that Kester, their substitute teacher, was watching pornography videos on his cell phone while in class. Students reported that they
 - heard pornographic type sounds (female moaning) coming from Kester's phone.
 - Student witnesses report that Kester was seated in front of the classroom and
 - stated that they heard the moans at least two times; the moans lasting longer the
 - second time. After the hearing the moaning a second time, several students went
 - to the SHHS office and reported what they had witnessed. SHSD administration
 - spoke to Kester about this matter, and he reported that his ex-wife had sent him a
- video of her making moaning noises as a prank. The SHSD terminated Kester
 - from his position as a substitute with the SHSD.
- 4. TSPC Investigative Staff mailed Kester a Request to Interview letter on August 8,
 - 2023 by both certified and regular mail, to the address on file with TSPC. Kester
 - did not respond within the 14 day time limit as required by the letter. TSPC staff attempted to contact Kester by phone on August 23, 2023 and again on August
 - 24, 2023, but there was no response to the two voicemails left on the phone
 - number of record that requested that Kester contact TSPC. Additionally, TSPC
 - staff sent Kester an email to the email address on record with TSPC on August 24,
- 2023. The email requested that Kester contact TSPC immediately to schedule an

| 1 | interview. As of the writing of this Notice of Hearing (October 23, 2023) Kester |
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| 2 | has not responded to any of TSPC's attempts to contact him. |
| 3 | CONCLUSIONS OF LAW |
| 4 | The conduct described in section three (3) above constitutes gross neglect of |
| 5 | duty in violation of ORS 342.175(1)(b); OAR 584-020-0010(5) (Use professional |
| 6 | judgment), OAR 584-020-0025(2)(e) (Using district lawful and reasonable rules |
| 7 | and regulations). |
| 8 | The conduct described in section four (4) above constitutes gross neglect of |
| 9 | duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as incorporates |
| 10 | OAR 584-020-0010(5) (<i>Use professional judgment</i>), and OAR 584-020-0040(4)(p) |
| 11 | (Subject to the exercise of any legal right or privilege, failure or refusal by an |
| 12 | educator under investigation to respond to request for information, to furnish or to |
| 13 | participate in interviews with a Commission representative relating to a |
| 14 | Commission investigation). |
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| 16 | The Commission's authority to impose discipline in this matter is based upon ORS |
| 17 | 342.175. FINAL ORDER |
| 18 | The Commission hereby issues a public reprimand upon Kenneth W. Kester's |
| 19 | Educator licensure. |
| 20 21 | IT IS SO ORDERED THISday of December, 2023. |
| 22 | TEACHER STANDARDS AND PRACTICES COMMISSION |
| 23 24 25 | By: |
| 26 27 | NOTICE OF APPEAL OR RIGHTS |
| 28 29 30 31 | YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS. |