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**BEFORE THE  
TEACHER STANDARDS AND PRACTICES COMMISSION**

IN THE MATTER OF THE ) **CORRECTED**  
TEACHING LICENSE OF ) **FINAL ORDER**  
)  
**JULIE A. HAMILTON** ) OAH Case No. 1202758

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7 This matter came before the Commission to consider the Proposed Order issued by  
8 Administrative Law Judge (ALJ) Alison Green Webster. No exceptions were filed. The  
9 Commission now enters this Final Order.

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11 **HISTORY OF THE CASE**

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13 On September 29, 2011, the Teacher Standards and Practices Commission (TSPC) issued  
14 a Notice of Opportunity For Hearing (Notice), charging Julie A. Hamilton, Respondent herein,  
15 with gross neglect of duty in violation of ORS 342.175(1)(b). Respondent timely requested a  
16 hearing.

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18 On April 10, 2012, TSPC referred the hearing request to the Office of Administrative  
19 Hearings (OAH). The OAH assigned the matter to Senior ALJ Alison Greene Webster.

20  
21 ALJ Webster convened a prehearing conference on June 8, 2012. Assistant Attorney  
22 General Judith Anderson appeared for TSPC and Attorney Aruna Masih appeared for  
23 Respondent.

24  
25 The hearing was held on October 8, 2012, in Tualatin, Oregon. TSPC was represented by  
26 Assistant Attorney General Anderson and Attorney Masih represented Respondent. The  
27 following witnesses testified at the hearing: Sande Brown, Principal at Gearhart Elementary  
28 School; Jennifer Glasson, a teacher at Gearhart Elementary School; Jan Robison, Secretary at  
29 Gearhart Elementary School; Respondent; Melissa Schacher, parent; and Dorothy "Dot" Russell,  
30 Oregon Education Association.

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32 The record closed at the conclusion of the hearing on October 8, 2012.

33  
34 **ISSUES**

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36 1. Whether Respondent neglected to have students complete required work samples  
37 and/or neglected to maintain student information with Mastery In Motion, and if so, whether  
38 Respondent's conduct constituted gross neglect of duty in violation of ORS 342.175(1)(b) and  
39 OAR 584-020-0040(4)(n), as it incorporates OAR 584-020-0010(5) (use of professional  
40 judgment); OAR 584-020-0010(1) (recognizing worth and dignity of others and respect for each  
41 individual) and OAR 584-020-0025(2)(c) (using and maintaining required student records).  
42

1 2. Whether Respondent falsely reported to her Principal that she had appropriately  
2 documented and filed student work samples and, if so, whether this conduct constituted gross  
3 neglect of duty in violation of ORS 342.175(1)(b) and OAR 584-020-0040(4)(n), as it  
4 incorporates OAR 584-020-0010(5) (use of professional judgment); OAR 584-0025(2)(e) (using  
5 lawful and reasonable rules of district); OAR 584-020-0025(2)(c) (using and maintaining student  
6 records as required by law, policies and procedures), and OAR 584-020-0040(4)(c) (knowing  
7 falsification or knowing misrepresentation related to professional duties).

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9 3. If one or more of the violations are proven, what is the appropriate sanction?  
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### 11 EVIDENTIARY RULINGS 12

13 Exhibits A1 to A9, offered by TSPC, were admitted into the record without objection.  
14 Exhibits R1 through R5, R9, R11, R12, R16 through R18 and R21 through R23 offered by  
15 Respondent were admitted without objection.

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17 Exhibits R6, R7 and R8 were excluded as not relevant. Exhibits R10, R13, R14, R15 and  
18 R19 and R20 were not offered into evidence.

### 19 FINDINGS OF FACT 20

21  
22 1. Respondent Julie A. Hamilton has been a licensed educator in Oregon since 1999. In  
23 2007, after spending nine years with the Springfield School District, Respondent transferred to  
24 the Seaside School District to teach fifth grade at Gearhart Elementary School. (Test. of  
25 Hamilton.)

26  
27 2. During the 2007-2008 and 2008-2009 school years, Gearhart Elementary School used  
28 a computer software program/data base known as Mastery in Motion (MIM) to document and  
29 record student work sample scores. Teachers were required to collect and score student work  
30 samples to meet the standards and requirements of the Oregon Department of Education. The  
31 schools and school districts had some flexibility in the subject areas in which they chose to  
32 record and retain student work samples. (Test. of Brown.)

33  
34 3. During the 2007-2008 school year, Respondent's fifth grade students completed  
35 classroom work samples in the following subject matters: problem solving (math), reading,  
36 science, speaking and writing. (Ex. A8.) Teachers at Gearhart Elementary School were  
37 expected to have their students complete work samples in each of these subject areas before the  
38 end of the school year. Teachers were also expected to score the work samples and to record and  
39 track the scores in the MIM database. In addition, teachers were expected to retain a hard copy  
40 of the students' work samples in a portfolio as part of the students' cumulative file. (Test. of  
41 Brown.)

42  
43 4. During the 2007-2008 school year, Respondent had her students do some of their class  
44 work, including their science work sample assignment, in oversized workbooks. At some point  
45 late in the school year, Respondent realized that the work samples in the oversized workbooks  
46 were difficult to photocopy due to the large size of the pages. She discussed this problem with

1 the then other fifth grade teacher and with Principal Sande Brown. Principal Brown advised  
2 Respondent that retaining a hard copy of the work in the students' files was not essential, as long  
3 as the students' science scores were accurately recorded in MIM. Therefore, at the conclusion of  
4 the 2007-2008 school year, Respondent completed her student work sample records in each  
5 required subject area and recorded her students' data in MIM, but she did not include a copy of  
6 the science work sample in the students' portfolios. Respondent also did not use separate scoring  
7 sheets for the speaking exercise. She instead used her grade book to record the scores, and input  
8 the students' scores into MIM from her grade book. (Test. of Hamilton.)  
9

10 5. At the outset of the 2007-2008 school year, Principal Brown had all teachers read and  
11 sign a Gearhart Elementary School Staff Handbook. Respondent read and signed the Handbook  
12 on August 30, 2008. Among other things, the Handbook addressed Student Information retained  
13 by the school, including Mastery in Motion/Work Samples. The Handbook stated: "All teachers  
14 grades 2-5 should be recording throughout the year the results of work sample assessments in  
15 Mastery in Motion." (Ex. A4; test. of Brown.)  
16

17 6. With a new curriculum in place for the 2008-2009 school year, the district decided to  
18 revamp the student work sample/MIM subject matter areas and collection standards. The district  
19 advised teachers to wait on administering the reading work sample assignments to students until  
20 a subcommittee decided how these work samples should be handled. Around this same time, all  
21 teachers at Gearhart Elementary School were given the standards and instructions for completing  
22 the student work samples in math. (Test. of Brown; Ex. A3 at 1; Ex. A5.)  
23

24 7. In March 2009, Principal Brown emailed her staff the district's revised 2009 Work  
25 Sample Guidelines. For fifth graders, the guidelines again required student work samples in five  
26 subject areas: reading, writing, speaking, math and science. The published guidelines also stated  
27 as follows:  
28

29 Teachers will administer the following assessments to elicit independent and  
30 authentic samples of student work and score them work using the State Scoring  
31 Guides unless otherwise noted. A passing work sample will "meet" or "exceed"  
32 in all areas. The best work sample from each subject will be recorded and  
33 maintained in the student's portfolio.  
34

35 (Ex. A5 at 3-4; test. of Brown.)  
36

37 8. In May 2009, after some of the elementary school teachers expressed concerns about  
38 the tool selected for the reading assessment and work sample, school administrators decided to  
39 remove the reading work sample requirement for the year. On May 21, 2009, Principal Brown  
40 emailed staff revised expectations for reading work samples for the 2008-2009 school year.  
41 Specifically, Principal Brown advised the second through fifth grade teachers that if they had not  
42 already entered their students' work sample reading data into MIM, they did not need to do so.  
43 In a June 1, 2009, email, Principal Brown also reminded staff to send home to parents a copy of  
44 the student's MIM data page along with an explanation sheet from MIM. (Ex. A3 at 2; Ex. A6;  
45 test. of Brown.)  
46

1 9. Late in the school year, as the students' writing work sample, Respondent had her  
2 students complete a writing exercise on the "Three Branches of Government." (Test. of  
3 Hamilton; Ex. A8 at 1-2.) Respondent graded the students' writing samples and recorded the  
4 grades in her grade book. She also brought the students' writing samples to a staff scoring  
5 meeting. (Test. of Hamilton; Ex. R21 and R22; test. of Brown.)  
6

7 10. Although Respondent used the students' "Three Branches of Government" writing  
8 scores for the writing assessment/work sample, Respondent inadvertently sent these scored  
9 writing samples home with the students. Therefore, Respondent did not have a copy of the  
10 students' writing work to place in the students' work sample portfolios. (Test. of Respondent.)  
11

12 11. For her fifth grade students' science work sample, Respondent's students completed  
13 a science project called "Hairy Head." As she had done the year before, Respondent had the  
14 students report their scientific findings in their oversized workbooks. Also, as she had done the  
15 year before, Respondent graded the students' science work samples and entered the grades into  
16 her grade book, but she did not photocopy the science work samples for the students' portfolios.  
17 Though she did not discuss the matter with Principal Brown, Respondent assumed that she  
18 would again be permitted to not retain a photocopy of the students' science work samples in the  
19 student portfolios as long as she had accurately recorded the students' scores into MIM. (Test. of  
20 Respondent; Exs. R21 and R22.)  
21

22 12. Respondent completed the speaking work sample assignment with her fifth grade  
23 students and recorded the students' scores in her grade book. She did not use scoring sheets for  
24 the assignment and, as a result, did not have any separate paperwork to document the speaking  
25 assessment in the students' portfolios. (Test. of Respondent.)  
26

27 13. On June 9, 2009, Respondent sat down at her computer to record her students' work  
28 sample data in MIM. She had recorded the students' scores by hand in her grade book and  
29 wanted to transfer the required data into the MIM database. Respondent had difficulty accessing  
30 MIM and locating data that she had entered previously. She called another staff member, third  
31 grade teacher Jennifer Glasson, and explained that was having "an emergency with Mastery in  
32 Motion" and needed Ms. Glasson's technical assistance. During the discussion, Respondent  
33 advised Ms. Glasson that she and that year's other fifth grade teacher, Ms. Reis (who was also  
34 present in the room at that time), had not done the reading work samples. She also mentioned  
35 she did not have copies of the students' other work samples. Respondent then made a comment  
36 to the effect that, if the data she had previously entered could not be retrieved, she would have to  
37 "fake it" or make up new scores for the students. Respondent made this comment facetiously,  
38 though Ms. Glasson did not take it that way. Ms. Glasson was concerned that Respondent was  
39 planning to enter made up reading scores into MIM for her students. (Test. of Glasson; test. of  
40 Hamilton.)  
41

42 14. While Ms. Glasson assisted Respondent in accessing MIM, Respondent asked Ms.  
43 Glasson her understanding of the school's policies for retaining student work samples. Ms.  
44 Glasson told Respondent that Respondent was supposed to keep a copy of the MIM report, report  
45 cards and another report (AIMSweb) in the student's cumulative folder, and keep the student's  
46 third and fifth grade work samples in a work sample folder. Ms. Glasson added that once the

1 student's fifth grade work samples were added to the folder, the fourth grade samples were to go  
2 home with the student.<sup>1</sup> Ms. Glasson expressed concern that if Respondent did not complete the  
3 reading work samples, she would not have any fifth grade samples to put in the student folders.  
4 Ms. Glasson helped Respondent access the data in MIM that Respondent had entered previously,  
5 but Ms. Glasson came away from this conversation very concerned that Respondent was  
6 falsifying student scores in MIM and not completing her student work sample requirements.  
7 (Test. of Glasson; test. of Hamilton; Ex. A1.)  
8

9 15. Later that evening, Ms. Glasson contacted Principal Brown about her conversation  
10 with Respondent and Ms. Reis earlier in the day. Ms. Glasson expressed her concerns that  
11 Respondent and Ms. Reis had entered made up scores into MIM and had not completed their  
12 required student work sample assessments. (Test. of Brown; test. of Glasson; Ex. A1.)  
13

14 16. On June 10, 2009, the last day of the school year, Principal Brown met with each  
15 teacher to make sure that the teacher had completed all steps to close out the year. During  
16 Principal Brown's "check out" meeting with Respondent, Respondent assured Principal Brown  
17 that she had completed student work sample records and filed portfolios and that she had  
18 recorded the MIM data. (Ex. A7; test. of Brown.) Because Principal Brown had heard Ms.  
19 Glasson's concerns the previous night, she specifically asked Respondent whether she had  
20 removed the fourth grade samples and added the fifth grade samples to the students' work  
21 sample portfolios and whether she had recorded the fifth grade work sample data into MIM.  
22 Respondent answered affirmatively, prompting Principal Brown to sign off on Respondent's  
23 check out form. (Ex. A1 at 5; Ex. A7; test. of Brown.) Although Respondent knew during her  
24 check out meeting with Principal Brown that the students' writing samples had inadvertently  
25 been sent home with the students and were not available to place in the students' portfolios, she  
26 did not so advise Principal Brown at that time. Respondent also did not advise Principal Brown  
27 during this meeting that she had not placed a copy of the science work sample in her students'  
28 portfolios. (Test. of Hamilton.)  
29

30 17. After her conversations with Ms. Glasson and Respondent, Principal Brown  
31 downloaded copies of the MIM reports for the fifth grade students and reviewed the fifth grade  
32 students' work sample portfolios.<sup>2</sup> She determined, among other things, that Respondent had  
33 entered into MIM student data for speaking, writing and math, but not for science. She also  
34 found that Respondent had not removed the students' fourth grade work samples, had not placed  
35 a copy of the MIM report in the cumulative file and had not retained a copy of the students'  
36 writing or science work samples or a score sheet for the speaking assessment in the student  
37 portfolios. Ms. Brown then called a parent of a student in Respondent's class (the parent was

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<sup>1</sup> The school retained the students' third and fifth grade work in the cumulative file, but returned fourth grade work samples to the students after a year because third grade and fifth grade are considered benchmark assessment years. (Test. of Brown; test. of Glasson.)

<sup>2</sup> In her end of the year meeting, Ms. Reis also told Principal Brown that she had entered all the required work sample data into MIM and had filed the work in the students' portfolios. Principal Brown later determined that Ms. Reis had not completed the required work samples and had not entered data into MIM. (Test. of Brown; Ex. A8 at 3-4.)

1 also an administrator for the school district), to confirm which documents Respondent had sent  
2 home in the student's report card envelope. The parent reported that his fifth grade daughter's  
3 report card envelope did not contain a MIM report, whereas his third grade daughter had one in  
4 hers. (Ex. R20 at 4; Ex. A3 at 4; test. of Brown.)  
5

6 18. Based on the information she had received to that point, Principal Brown was very  
7 concerned that Respondent had not completed the student work sample requirements and had  
8 lied to her about entering the fifth grade work sample scores into the MIM database. She set up  
9 an investigatory meeting with Respondent for June 30, 2009. (Test. of Brown.)  
10

11 19. On June 30, 2009, Respondent, along with her union representative, Dot Russell, met  
12 with Principal Brown and District Superintendent Doug Dougherty. During the meeting,  
13 Principal Brown expressed concern that Respondent had falsified records and lied about  
14 completing the work sample requirements. Principal Brown also advised Respondent that when  
15 she looked up the MIM reports and checked the student portfolios, she found the students' math  
16 work, but no writing or science samples. Respondent denied falsifying any records. She  
17 explained that she had completed all the required work sample subjects. She also explained that  
18 she did not place copies of the students' science work samples in the student portfolios because,  
19 like the prior school year, the students had done the work in oversized workbooks that were  
20 difficult to photocopy. Respondent reminded Principal Brown that the prior school year, when  
21 she had not retained the students' science work samples in the portfolios, Principal Brown had  
22 not been overly concerned as long as the scores had been entered in MIM. (Test. of Hamilton;  
23 Ex. R12.)  
24

25 20. During the June 30, 2009, meeting, Respondent also stated that she had entered the  
26 students' science scores into MIM, and did not know why the scores were not there. She offered  
27 to turn over her grade book containing the students' work sample scores, including the students'  
28 science scores. Respondent also suggested that the school district contact the parents, and ask  
29 that they return the writing samples that had inadvertently been sent home earlier in the month.  
30 Neither Principal Brown nor Superintendent Dougherty asked Respondent for her grade book.  
31 The administrators also declined to follow up with the parents to collect the students' work  
32 samples. (Test. of Hamilton; Ex. R12; test. of Brown.)  
33

34 21. Despite Respondent's denial that she had falsified any work sample data,  
35 Superintendent Dougherty and Principal Brown still had concerns that, during her check out  
36 meeting with Principal Brown on June 10, 2009, Respondent had not been completely candid  
37 about completing all the student work sample assessments and entering the data into MIM.  
38 Principal Brown was also concerned about the missing data, in part because the district is  
39 accountable to the Oregon Department of Education for student scores and information, and  
40 because the school did not have samples of the students' best work to send on to the middle  
41 school. (Test. of Brown.)  
42

43 22. On July 25, 2009, facing possible discipline or dismissal from employment for  
44 falsely claiming that she completed and scored the required work samples, Respondent resigned  
45 from the Seaside School District. (Ex. R16; test. of Russell.)  
46

1 23. The school district and Principal Brown had no concerns with Respondent's teaching  
2 abilities. While employed at Gearhart Elementary School, Respondent was well liked by her  
3 students and by the parents. (Stipulation; test. of Schacher.)  
4

5 24. After resigning from the Seaside School District, Respondent moved out of state for  
6 another teaching job. Respondent is currently living in North Carolina, and is teaching in the  
7 City of Jacksonville. She is licensed to teach in North Carolina through the Department of  
8 Defense. (Test. of Hamilton.)  
9

## 10 CONCLUSIONS OF LAW

11  
12 1. Although Respondent had her students complete required work samples, she neglected  
13 to maintain student information with Mastery In Motion. Respondent's conduct in this regard,  
14 while negligent, did not rise to the level of gross neglect of duty in violation of ORS  
15 342.175(1)(b) and OAR 584-020-0040(4)(n).  
16

17 2. Respondent falsely reported to her Principal that she had appropriately documented and  
18 filed student work samples. Respondent's misrepresentation constituted gross neglect of duty in  
19 violation of ORS 342.175(1)(b) and OAR 584-020-0040(4)(n).  
20

21 3. The appropriate sanction for the above violation is a Public Reprimand.  
22

## 23 OPINION

24  
25 TSPC alleges that Respondent engaged in conduct that constitutes gross neglect of duty,  
26 in violation of ORS 342.175(1)(b) and OAR 584-020-0040(4)(n). TSPC bears the burden of  
27 proving the allegations by a preponderance of the evidence. ORS 183.450(2) and (5); *Reguero v.*  
28 *Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on  
29 Commission in disciplinary action); *Cook v. Employment Div.*, 47 Or App 437 (1980) (in the  
30 absence of legislation adopting a different standard, the standard in administrative hearings is  
31 preponderance of the evidence). Proof by a preponderance of evidence means that the fact finder  
32 is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor*  
33 *v. Tandy Corp.*, 303 Or 390 (1987).  
34

35 ORS 342.175 authorizes TSPC to discipline educators licensed in the State of Oregon. It  
36 provides in pertinent part, as follows:  
37

- 38 (1) The Teacher Standards and Practices Commission may suspend or  
39 revoke the license of a teacher or administrator, discipline a teacher  
40 or administrator or suspend or revoke the right of any person to  
41 apply for a license if the person has held a license at any time  
42 within five years prior to issuance of the notice of charges under  
43 ORS 342.176<sup>3</sup> based on the following:

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<sup>3</sup> ORS 342.176(1) provides: "Upon receipt of a complaint or information that a person has violated ORS 342.143 or 342.175, the Teacher Standards and Practices Commission shall promptly undertake an investigation."

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(b) Gross neglect of duty[.]

OAR 584-020-0040(4) describes “gross neglect of duty” as “any serious and material inattention to or breach of professional responsibilities.” Under subparagraph (n), a “substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030” may be admissible as evidence of gross neglect of duty.

TSPC has also adopted Standards for Competent and Ethical Performance of Oregon Educators. OAR chapter 584, division 20. TSPC will determine whether an educator’s performance is ethical or competent in light of all the facts and circumstances surrounding the educator’s performance as a whole. OAR 584-020-0000(3). For example, OAR 584-020-0010(5) requires that a teacher or administrator demonstrate a commitment to “use professional judgment.” OAR 584-020-0010(1) requires that an educator demonstrate a commitment to “recognize the worth and dignity of all persons and respect for each individual.” OAR 584-020-0025(2)(c) addresses competency in terms of management skills and requires that the educator demonstrate skills in “using and maintaining student records as required by federal and state law and district policies and procedures.”

As noted above, the “gross neglect of duty” standard requires a “serious and material” breach of professional responsibilities. A “substantial deviation” from professional standards of competency or ethics may constitute gross neglect of duty. OAR 584-020-0040(4)(n) and (o). Based on the plain language of the rule, therefore, not all breaches or deviations from professional standards constitute “gross neglect of duty.” Only serious and material breaches give rise to TSPC discipline. *See Britton v. Board of Podiatry Examiners*, 53 Or App 544 (1981) (recognizing that gross negligence connotes an act beyond mere inadvertence or error in judgment).

1. *Completing Required Work Samples and Maintaining Information in Mastery In Motion Database.*<sup>4</sup>

In the Notice, TSPC first alleges that during the 2008-2009 school year, Respondent “neglected to have students complete required work samples” and also “neglected to maintain student information with Mastery in Motion, a data warehouse.” (Pleading 1.) TSPC contends that Respondent’s conduct in this regard constitutes gross neglect of duty, through a failure to use professional judgment, OAR 584-020-0010(5); a failure to recognize the worth and dignity of all persons and respect for the individual, OAR 584-020-0010(1); and/or the failure to maintain student records as required by law and district policies and procedures, OAR 584-020-0025(2)(c).

Notwithstanding TSPC’s first allegation, the record persuasively establishes that Respondent had her students complete the required work samples in math, writing, speaking and science. The math work was documented in MIM and the student portfolios. The speaking data was documented in MIM. Respondent’s students were scored in writing on the “Three Branches of Government” assignment, and were scored in science on the “Hairy Head” project.

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<sup>4</sup> The Commission modified this section by deleting discussion of an issue that was not alleged in the Notice and by clarifying the reasoning in the case.



1  
2 As for the allegation that Respondent neglected to maintain student information with the  
3 MIM, a preponderance of the evidence demonstrates that Respondent inputted into MIM student  
4 work sample scores for math, writing, speaking and science although the science data was not  
5 saved in the database. Thus, the question becomes whether Respondent's error in inputting the  
6 science data constitutes a "serious and material" breach of her professional responsibilities.  
7 Based on the facts in the record the Commission finds that Respondent did not engage in Gross  
8 Neglect of Duty.

9  
10 The prior school year, when Respondent had difficulty photocopying the students'  
11 science work samples, she was led to believe that filing a hard copy of the students' science work  
12 was not essential, as long as the student scores were accurately recorded. On the one hand,  
13 Respondent should have known from the 2009 guidelines that she was to retain the student's best  
14 work sample from each subject. On the other hand, in the prior school year, Respondent's  
15 failure to copy and retain the students' science work did not result in discipline or corrective  
16 action. Consequently, Respondent had reason to believe that accurately recording the science  
17 data was more important than retaining the work samples for the student portfolios. And,  
18 although Respondent knew that she was expected to file the writing samples in the student  
19 portfolios, her failure to do so in this instance does not constitute gross neglect of duty.

20  
21 In short, Respondent did neglect to maintain her students' science scores in MIM, but her  
22 error in using the data warehouse software does not amount to a substantial deviation from  
23 professional standards of competency. Consequently, on this charge, TSPC has not proven  
24 Respondent's conduct constituted gross neglect of duty in violation of ORS 342.175(1)(b).

25  
26 *2. Reporting to Principal Brown that Student Scores Been Recorded in Mastery in*  
27 *Motion and Work Samples Filed in Portfolios.*

28  
29 TSPC next alleges that Respondent told her Principal that she "had appropriately  
30 documented and filed this information" but "when student files were examined this information  
31 was missing." (Pleading 1.) TSPC asserts that this conduct constitutes gross neglect of duty  
32 under ORS 342.175(1)(b) and OAR 584-020-0040(4)(n) because Respondent knowingly  
33 misrepresented she had completed the student work sample records and filed portfolios when in  
34 fact the students' writing samples and science work had gone home with the students. In this  
35 regard, TSPC relies on, among other standards, OAR 584-020-0040(4)(c), which states that  
36 "[k]nowing falsification of any document or knowing misrepresentation directly related to  
37 licensure, employment, or professional duties" is evidence of gross neglect of duty.<sup>5</sup>

38  
39 The evidence establishes that when Respondent met with Principal Brown on June 10,  
40 2009, she indicated that she had completed the student work sample records and filed the work  
41 samples in the student portfolios. There is nothing to suggest that Respondent knew, at that  
42 point, that the science data had not been properly saved in MIM. But, Respondent did know that

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<sup>5</sup> In the Notice, TSPC also cited to OAR 584-020-0010(5) (use of professional judgment); OAR 584-020-0025(2)(e) (using district lawful and reasonable rules and regulations); OAR 584-020-0025(2)(c) (using and maintaining student records as required by federal and state law and district policies and procedures). (Pleading 1.)

1 she had inadvertently sent home the writing samples with her students and also that she had not  
2 retained a photocopy of the students' science work. Notwithstanding this knowledge,  
3 Respondent assured Principal Brown that she had added the fifth grade work samples to the  
4 student portfolios. Under these circumstances, TSPC has shown that, during the June 10, 2009,  
5 meeting, Respondent knowingly misled Principal Brown about filing the work samples in the  
6 student portfolios.

7  
8 Respondent's misrepresentations to Principal Brown about filing the student work  
9 samples were directly related to her employment and professional duties. Also, Respondent  
10 failed to demonstrate a commitment to professional judgment when she misstated what she had  
11 done with the work samples. Respondent's knowing misrepresentations to Principal Brown  
12 constitute a serious and material breach of her professional responsibilities. Rather than assure  
13 Principal Brown that the student portfolios were complete, Respondent should have notified  
14 Principal Brown that she had not filed the students' writing and science work samples, and her  
15 reasons for not doing so. It is Respondent's lack of candor in this situation that gives rise to a  
16 finding of gross neglect of duty in violation of ORS under ORS 342.175(1)(b) and OAR 584-  
17 020-0040(4).

### 18 19 3. *Sanction*

20  
21 As discussed above, pursuant to ORS 342.175(1), TSPC is authorized to suspend, revoke  
22 or otherwise discipline an educator for conduct constituting gross neglect of duty. In considering  
23 disciplinary action against a teacher, the TSPC may consider any of the following factors set out  
24 in OAR 584-020-0045 in its determination:

- 25 (1) If the misconduct or violation is an isolated occurrence, part of a continuing  
26 pattern, or one of a series of incidents;
- 27 (2) The likelihood of a recurrence of the misconduct or violation;
- 28 (3) The educator's past performance;
- 29 (4) The extent, severity, and imminence of any danger to students, other  
30 educators, or the public;
- 31 (5) If the misconduct was open and notorious or had negative effects on the public  
32 image of the school;
- 33 (6) The educator's state of mind at the time of the misconduct and afterwards;
- 34 (7) The danger that students will imitate the educator's behavior or use it as a  
35 model;
- 36 (8) The age and level of maturity of the students served by the educator;
- 37 (9) Any extenuating circumstances or other factors bearing on the appropriate  
38 nature of a disciplinary sanction; or
- 39 (10) To deter similar misconduct by the educator or other educators.

40  
41 At hearing, based on the two charges of gross neglect of duty, TSPC sought to suspend  
42 Respondent's teaching license for one month. However, because the evidence establishes only  
43 one of the two alleged violations, and considering the above factors above, the Commission finds  
44 that a Public Reprimand is an appropriate sanction for Respondent's misconduct. The  
45 determination that a public reprimand is appropriate is based on the specific facts in this case.  
46

1 Respondent's misrepresentation to Principal Brown about filing the student work samples  
2 was an isolated incident. The likelihood of a recurrence of the misconduct or violation is small.  
3 Prior to this incident, Respondent had been a licensed educator in Oregon for 10 years with no  
4 record of misconduct. There are no concerns about Respondent's teaching abilities. Indeed,  
5 while employed at Gearhart Elementary School, Respondent was well liked by her students and  
6 by the parents. There is no evidence that Respondent's conduct was open and notorious, and no  
7 evidence it adversely impacted the school's public image. Respondent's failure to appropriately  
8 document the student scores and work samples had potential consequences to the school, but as  
9 found above, that conduct did not amount to a violation.

10  
11 Respondent's state of mind at the time of her misrepresentations to Principal Brown is  
12 not evident, though in the investigatory meeting with Principal Brown and Superintendent  
13 Dougherty on June 30, 2009, Respondent explained why she thought entering the data into MIM  
14 was more important than retaining hard copies of the work samples for the student portfolios.  
15 The record also demonstrates that the work sample requirements and expectations were in flux  
16 for much of the 2008-2009 school year, and by year's end Respondent was somewhat confused  
17 about those requirements and expectations. Though this does not excuse Respondent's lack of  
18 candor with Principal Brown, it is a circumstance to consider. The remaining factors listed in  
19 OAR 584-020-0045 are not directly relevant to the misconduct at issue, but a Public Reprimand  
20 to Respondent would operate to deter similar misconduct by Respondent and other educators.


21  
22 Consequently, for Respondent's knowing misrepresentation to Principal Brown about  
23 filing work samples in the student portfolios, Respondent should be publicly reprimanded.

24  
25 **ORDER**

26  
27  
28 For the foregoing reasons, Respondent Julie A. Hamilton is hereby Publicly  
29 Reprimanded.

30  
31  
32 Dated this 29<sup>th</sup> day of April 2013.

33  
34  
35 TEACHER STANDARDS AND PRACTICES COMMISSION

36  
37  
38 By:   
39 Victoria Chamberlain, Executive Director  
40 Teacher Standards and Practices Commission  
41  
42

43 **NOTICE:** You are entitled to judicial review of this order. Judicial review may be obtained by  
44 filing a petition for review within 60 days of the service of this order. Judicial review is pursuant  
45 to the provision of ORS 183.482 to the Oregon Court of Appeal.

# CERTIFICATE OF MAILING

On April 29, 2013, I mailed the foregoing Corrected Final Order in OAH Case No. 1202758 to:

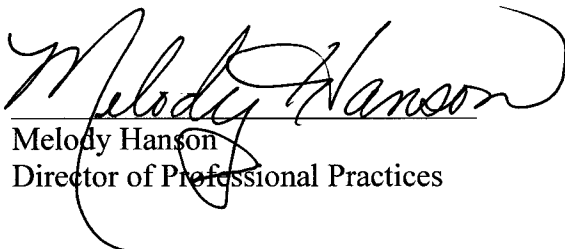
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