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Teacher Standards &
Practices Commission

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

3 In the Matter of the) STIPULATION OF FACTS
4 Teaching License of) FINAL ORDER OF
5 GERALD C. BURNETT) PUBLIC REPRIMAND AND PROBATION
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8 On or about June 8, 2008, the Teacher Standards and Practices Commission
9 (Commission) received a report from the Rainier School District indicating that Gerald Burnett
10 may have engaged in gross neglect of duty by assaulting a student. On March 6, 2009, the
11 Commission issued a Notice of Opportunity for Hearing charging Mr. Burnett with Gross Neglect
12 of Duty.

13 After review of the matters alleged, Mr. Burnett and the Commission agree that their
14 respective interests, together with the public interest, are best served by a stipulation to certain
15 facts and the imposition of a public reprimand and a two-year probation period.

16 By signing below, Mr. Burnett acknowledges, understands, stipulates, and agrees to the
17 following: (i) he has been fully advised of his rights to notice and a hearing to contest the
18 findings of fact, conclusions of law, and order set forth below, and fully and finally waives all
19 such rights and any rights to appeal or otherwise challenge this Stipulation of Facts, Final Order
20 of Public Reprimand (Stipulation and Final Order); (ii) this Stipulation and Final Order is a public
21 document and disclosed to the public upon request by the Commission; (iii) this Stipulation and
22 Final Order is contingent upon and subject to approval and adoption by the Commission. If the
23 Commission does not approve and adopt this Stipulation and Final Order, then neither Mr.
24 Burnett nor the Commission are bound by the terms herein; (iv) he has fully read this Stipulation
25 and Final Order, and understands it completely; (v) he voluntarily, without any force or duress,
26 enters into this Stipulation and Final Order and consents to issuance and entry of the Stipulated
27 Final Order below; (vi) he states that no promises or representation has been made to induce
28 his 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 his rights thereto, or

1 waives any and all rights to consult with an attorney prior to entering into this Stipulation and
2 Final Order and issuance and entry of the Stipulated Final Order below.


3 **STIPULATION OF FACTS**

- 4 1. The Commission has licensed Mr. Burnett since July 1, 1964. Mr. Burnett holds a Five-
5 Year Teaching License with endorsements in Secondary Education.
- 6 2. On June 4, 2008, Mr. Burnett believed that student SMJ was spraying a noxious and
7 potentially dangerous substance through a hole in the wall into a neighboring classroom.
8 Mr. Burnett grabbed the student and pulled him away from, and out of the, hole. Mr.,
9 Burnett then held the student against the wall. Mr. Burnett tapped the student on the
10 neck with his thumb when the student laughed about the incident. The student reported
11 red marks on his cheek, neck and throat.
- 12 3. On November 4, 2008, Mr, Burnett plead no contest to the offense of Assault IV in
13 connection with the conduct identified in paragraph 2 and entered into a deferred
14 sentencing agreement.
- 15 4. The deferred sentencing agreement provides that Mr. Burnett will not hold any teaching
16 or instructor position during the 18-month duration of the agreement. Should Mr. Burnett
17 successfully complete the terms of the deferred sentencing agreement, the criminal case
18 will be dismissed without a conviction.

19
20 IT IS SO STIPULATED:

21
22 MR. Gerald C. Burnett Jr.
23 Gerald Burnett

July 29, 2009
Date

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26 Victoria Chamberlain, Executive Director
27 Teacher Standards and Practices Commission

8-3-09
Date

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CONCLUSION OF LAW

- 1. Mr. Burnett's conduct described in above constitutes gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(d) (Unreasonable physical force against students, fellow employees, or visitors to the school, except as permitted under ORS 339.250); and OAR 584-020-0040(4)(n) as it incorporates 584-020-0010(5) (using professional judgment)

ORDER

Based on the foregoing, and in consideration of the deferred sentencing agreement providing that Mr. Burnett is prohibited from teaching for 18 months, the Commission hereby orders as follows:

- 1. Gerald C. Burnett is hereby reprimanded.
- 2. Gerald C. Burnett is hereby placed on probation for a period of two years. During probationary term, Mr. Burnett shall comply with all of the Commission's statutes and rules regarding competent and ethical performance. Violation of a term or condition of probation may constitute an independent basis for the Commission to impose permitted disciplinary sanctions, subject to Mr. Sears' contested case hearing rights

Issued and dated this 10th day of August.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: *Victoria Chamberlain*
Victoria Chamberlain, Executive Director

APPROVED AS TO FORM

Adam Arms, OSB# 010186
Attorney for Gerald Burnett