1 2 3		BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION OF THE STATE OF OREGON
4 5 6 7		Matter of the Educator License of ) DEFAULT ORDER OF SUSPENSION AND PROBATION
8		On January 16, 2019, the Teacher Standards and Practices Commission (Commission) issued
9	a Notic	e of Opportunity for Hearing to Robert Alan James (James) in which the Commission
10	charge	d him with Gross Neglect of Duty. The Notice was sent via U.S. First Class Mail and U.S.
11	Certifie	ed Mail Receipt 7018 0680 0000 1028 3590 to the address on file with the Commission. The
12	Notice	designated the Commission file as the record for purposes of proving a prima facie case. The
13	Certifie	ed Mail receipt was returned to the Commission marked "Return to sender, Unclaimed". The
14	regular	, first class mail was not returned to the Commission, and assumed to have been delivered.
15	The No	tice of Opportunity of Hearing, dated January 16, 2019, and signed by Anthony Rosilez,
16	Executi	ive Director, stated:
17 18 19 20 21 22 23 24 25		"IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING, WITHDRAW YOUR REQUEST FOR A HEARING, FAIL TO APPEAR AT A HEARING, OR NOTIFY THE COMMISSION THAT YOU WILL NOT APPEAR AT A HEARING, THE COMMISSION WILL ADOPT AN ORDER OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF YOUR LICENSE OR OTHER DISCIPLINE."
26	James	did not request a hearing. The Commission, therefore, finds James to be in default and enters
27	the foll	owing findings of fact, conclusions of law, and final order, based on the files and records of
28	the Cor	mmission concerning this matter.
29		
30		FINDINGS OF FACT
31	1.	Robert James has been licensed by the Commission since September 3, 2009. James holds a
32		Professional Teaching License, with endorsements in Business: Generalist (PK-12) and
33		Special Education: Generalist (PK -12), valid from March 20, 2018, through March 19, 2023.
34		During all relevant times, James was employed by the Salem-Keizer School District (SKSD).
35	2.	On January 9, 2017, the Commission received a report from the SKSD stating that James had
36		been investigated for conduct that may be considered gross neglect of duty or gross unfitness.
37		On June 24, 2017, the Commission received an additional report from SKSD detailing
38		continued misconduct of a similar nature. These reports allege James engaged in conduct
39		that violated school district policy, including: failing to properly write, follow and maintain
40		IEPs; failure to create and maintain proper lesson plans; failure to draft adequate substitute

teacher plans; and allowing Instructional Assistants (IAs) to draft IEPs and teach classes.

District reports indicate James's conduct continued despite corrective actions and a plan of assistance.

- 3. Investigation determined that in October and part of November 2016, James took leave to attend to an ailing family member. During James's absence, school officials discovered that during the 2016-17 school year, James had engaged in conduct that violated district policies. James's alleged misconduct included: James failing to properly write, follow and maintain IEPs; failure to create and maintain proper lesson plans; failure to draft adequate substitute teacher plans; and allowing Instructional Assistants (IAs) to draft IEPs and teach classes for James. SKSD conducted related investigations that resulted in the following:
  - a) On January 3, 2017, SKSD issued James a Letter of Reprimand for failure to perform his duties. This "failure to perform your duties" included James allowing IAs to write IEPs, allowing IAs to teach classes and enter grades, and failure to create proper lesson plans. The letter specifically directed James to create lesson plans, cease allowing IAs to teach or grade, and not allow unauthorized individuals to complete IEPs.
  - b) On February 21, 2017, SKSD issued James a second Reprimand Letter and suspended him for one day without pay. This letter was a result of an audit of James's IEP process and paperwork. SKSD found many of James's IEPs to be out of date, to be copied from prior years, and did not include required information. SKSD further determined James was not conducting and / or documenting IEP meetings properly. Additionally, the investigation determined James's lack of proper IEP development resulted in continued poor lesson planning and inferior classroom instruction. The reprimand included directives to improve James's performance in developing and administrating proper IEPs, lesson plans and classroom instruction.
  - c) On April 28, 2017, SKSD issued James a Letter of Reprimand for failing to follow a student's IEP; communicate and follow up with the student's parents as requested; conduct IEP related meetings as required; and for failing to ensure proper substitute teacher plans. In addition, SKSD directed James to follow all previously issued directives from recent disciplinary actions.
  - d) On May 22, 2017, SKSD issued James another Reprimand with a day suspension citing continued failure to perform James's duties. The investigation determined that James had failed to demonstrate improvement as previously directed. The investigation also found that James continued to fail to ensure that that his IA staff

1 were not instructing classes; that his student's IEP's were being met; and that James 2 was properly holding IEP meetings. James also failed to produce proper lesson plans 3 and failed to follow directives provided in past disciplinary actions. For James's 4 conduct, SKSD placed him on a plan of assistance and suspended James for one day 5 without pay. 6 e) In December 2017, James resigned his employment effective at the end of the 2016-17 7 school year because James believed he would be unable to accomplish his plan of 8 assistance. 9 10 CONCLUSIONS OF LAW 11 James's conduct described above, constitutes gross neglect of duty in violation of ORS 12 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (Use professional 13 judgment), OAR 584-020-0015(2)(a)(Use of state and district adopted curriculum and goals), OAR 14 584-020-0015(2)(b)(Skill in setting instructional goals and objectives expressed as learning 15 outcomes), OAR 584-020-0015(2)(e)(Skill in the selection and use of teaching techniques conducive 16 to student learning), OAR 584-020-0020(2)(c)(Procedures for evaluating curriculum and 17 instructional goals and practices), OAR 548-020-0025(2)(c) (Using and maintaining student 18 records as required by federal and state law and district policies and procedures), OAR 548-020-19 0025(2)(e) (Using district lawful and reasonable rules and regulations); and OAR 584-020-20 0040(4)(0) as it incorporates OAR 584-020-0035(2)(c) (Strive for continued improvement and 21 professional growth). 22 23 The Commission's authority to impose discipline in this matter is based upon ORS 342.175. 24 25 FINAL ORDER 26 27 The Commission hereby suspends Robert Alan James' licensure for a period of sixty (60) 28 days, to begin upon the date this order is signed and in effect. 29 30 In addition, the Commission places James on probation for a period of two years to 31 commence upon James's reinstatement from suspension. This probation period is subject to the 32 following terms and conditions:

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1	<ol> <li>James shall comply with the Standards for Competent and Ethical Performance of</li> </ol>
2	Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020.
3	2. James shall successfully complete a Commission approved training or course work
4	related to SPED case management and / or legal responsibilities, within the first year
5	of his probation.
6	
7	Violation of any term or condition of probation shall constitute an independent basis for the
8	Commission to revoke James' teaching license or otherwise impose discipline, after first providing
9	James with notice and opportunity for hearing.
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12	IT IS SO ORDERED THIS 4 day of April, 2019.
13	TEACHER STANDARDS AND PRACTICES COMMISSION
	By:
14	Ву:
15 16	Dr. Anthony Rosilez, Executive Director
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20 21 22 23	NOTICE OF APPEAL OR RIGHTS
22	VOILABE EXPERIED TO HIDIOIAL DEVIEW OF THIS ORDER. MIDIOIAL DEVIEW AND DE
23 24	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
25	THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF ORS 183.482 TO
26	THE OREGON COURT OF APPEALS.