

1 licensure or right to apply for licensure. Gardner was sentenced to 24 months of
2 incarceration, 36 months of probation and must register as a sex offender.

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- 4 3. Gardner's conviction arose from allegations from the Klamath County School District,
5 reported to the Commission on March 23, 2012, indicating Gardner had committed acts of
6 unprofessional conduct. Investigations by the Commission, the school district, and local law
7 enforcement identified the following unprofessional conduct on the part of Gardner:
- 8 a. Gardner failed to maintain professional boundaries with student KM. Gardner
9 ingratiated himself to student KM and her family, providing special attention to
10 KM, providing rides to and from school, provided meals, met with KM alone to
11 work on ROTC projects, and became trusted by KM and her family as a father
12 figure.
- 13 b. After establishing the trust of KM and her family, Gardner's behavior changed.
14 On March 21, 2012, KM's mother discovered inappropriate text messages from
15 Gardner to KM on KM's cell phone. In one message Gardner wrote, "Holding u
16 want u 2feel loved Want to caress". When questioned about the text messages,
17 KM provided the following information:
- 18 • Gardner began hugging KM differently, giving full frontal hugs rather than
19 side hugs.
 - 20 • In February 2012, while attending a shooting match in Ohio, Gardner
21 touched KM in a sexual way, rubbing her leg and crotch area.
 - 22 • Soon after returning from Ohio, while Gardner and KM were alone in the
23 school gym, Gardner rubbed KM's shoulders, then placed his hands under
24 KM's clothing and touched her vagina. Gardner continued to rub KM's
25 vagina and inserted his finger into her vagina.
 - 26 • On or about March 13, 2012, Gardner again fondled KM in a manner
27 consistent with the description above. Gardner also took KM's hand and
28 placed it on his penis, outside of Gardner's clothing and told KM he wanted
29 her to "Jack him off". Gardner did not get an erection, and told KM that "he
30 liked it and were sorry." Gardner stopped removing his belt and told KM that
31 they should both get back to work.

- Gardner text messaged and conversed with KM inappropriately, discussing her relationship with her boyfriend. Gardner asked KM what sexual experiences she had with her boy friend. KM told Gardner she had given him a “blow job” and Gardner replied, “He liked that.”
- When interviewed by law enforcement, Gardner confessed that he had sexually abused KM.

CONCLUSIONS OF LAW

Gardner’s convictions for Luring a minor and Sexual Abuse in the second degree, as described in section two (2) above constitutes gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0040(1)(n) (*The Commission will deny, revoke or deny the right to apply for a license or charter school registration to any applicant or educator who, has been convicted of any of the crimes listed in ORS 342.143; specifically ORS 163.425 (Sexual Abuse in the Second Degree)*); and OAR 584-020-0040(1)(oo) (*The Commission will deny, revoke or deny the right to apply for a license or charter school registration to any applicant or educator who, has been convicted of any of the crimes listed in ORS 342.143; specifically ORS 167.057 (Luring a Minor)*). This conduct also constitutes gross unfitness in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(c) (*Conviction of violating any federal, state, or local law. A conviction includes any final judgment of conviction by a court whether as the result of guilty plea, no contest plea or any other means*), specifically ORS 163.425 (*Sexual Abuse in the Second Degree*) and ORS 167.057 (*Luring a Minor*). Your conduct that resulted in the criminal conviction also constitutes gross unfitness in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(e) (*Admission of or engaging in acts constituting criminal conduct, even in the absence of a conviction*), specifically ORS 163.425 (*Sexual Abuse in the Second Degree*) and ORS 167.057 (*Luring a Minor*).

Pursuant to ORS 342.175(3) and OAR 584-020-0040(1) the Teacher Standards and Practices Commission must revoke Gardner’s license and/or Gardner’s right to apply for a license based on Gardner’s conviction of any of the crimes listed in ORS 342.143(3)(a).

1 Gardner's conduct underlying his indictments and convictions as described in
2 section three (3) above, constitutes gross neglect of duty in violation of ORS
3 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(1)
4 (*Recognize the worth and dignity of all persons and respect for each individual*), OAR
5 584-020-0010(5) (*Use professional judgment*); OAR 584-020-0040(4)(o) as it
6 incorporates OAR 584-020-0035(1)(c)(D) (*Honoring appropriate adult boundaries*
7 *with students in conduct and conversations at all times*); and OAR 584-020-0040(4)(f)
8 (*Any sexual conduct with a student*) as that term is defined by ORS 339.370(9) and
9 OAR 584-020-0005(5).

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11 The Commission's authority to impose discipline in this matter is based upon ORS
12 342.175.

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14 **FINAL ORDER**

15 The Commission hereby revokes Kenneth Norman Gardner's right to apply for a
16 teaching license.

17 IT IS SO ORDERED THIS 20th day of March, 2014.

18 TEACHER STANDARDS AND PRACTICES COMMISSION

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20
21 By: 
22 Victoria Chamberlain, Executive Director

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24 **NOTICE OF APPEAL OR RIGHTS**

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26 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY
27 BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE
28 SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF
29 ORS 183.482 TO THE OREGON COURT OF APPEALS.