

1 STATE OF OREGON
2 TEACHER STANDARDS AND PRACTICES COMMISSION

3 In the Matter of the)
4 Administrative License of:) FINDINGS OF FACT, ULTIMATE
5 DAVID C. DERRICK) FINDINGS OF FACT, CONCLUSIONS OF
6) LAW, OPINION AND PROPOSED ORDER
7)

8 On September 27, 1996, the Teacher Standards and Practices
9 Commission (Commission) issued a Notice of Opportunity for
10 Hearing, proposing to suspend or revoke the teaching license of
11 David C. Derrick (Derrick) or otherwise impose discipline under
12 ORS 342.177. On October 7, 1996, Derrick requested a hearing,
13 and the Commission scheduled a hearing for December 16, 1996.
14 The hearing took place as scheduled with a hearing panel
15 consisting of Patricia Walker, Teresa Ferrer Carter, and Martin
16 Morris as chair. Kelly M. Gabliks, Assistant Attorney General,
17 represented the Commission. Derrick appeared personally and
18 represented himself. The hearing was conducted as a contested
19 case matter and was mechanically tape recorded.

20 The panel heard testimony from Mr. Derrick.

21 The following exhibits were received into evidence without
22 objection:

23 TSPC Exhibits:

- 24 1. Notice of Opportunity for Hearing dated September 27,
25 1996.
26 2. Letter from Mr. Derrick to Dr. Myton dated 10/7/96
requesting a hearing.
3. Mr. Derrick's Application for License Authorizing
Public School Service Form C-1 signed 4/23/96.

- 1 4. Letter from Ms. DeVoursney to Mr. Derrick dated
2 6/25/96.
- 3 5. Letter from Mr. Derrick to Ms. DeVoursney dated
4 7/18/96.
- 5 6. Ontario Police Department Arrest Report for Driving
6 under the Influence of Intoxicants and violation of the
7 Basic Rule dated 3/15/96 and attached Special Report.
- 8 7. Judgment dated 9/12/96 for Mr. Derrick's Driving Under
9 the Influence of Intoxicants and violation of the Basic
10 Rule.
- 11 8. Certified copy of Mr. Derrick's Case Register for
12 driving offenses committed in Malheur County..
- 13 9. Certified copy of Mr. Derrick's Judgment and Sentencing
14 Order for Theft in the Second Degree conviction.
- 15 10. Allstate Investigative Report regarding suspected
16 embezzlement by Mr. Derrick of \$5,832.78.
- 17 11. Transcript of interview of Mr. Derrick conducted by Mr.
18 Nutting on 4/25/90 during Allstate investigation.
- 19 12. Letter from Mr. Derrick to Mr. McGillivray.

20 FINDINGS OF FACT

21 1. David Derrick held an Oregon Basic Teaching License
22 endorsed for integrated science and social studies from September
23 19, 1984 to October 31, 1987 and January 8, 1992 to October 31,
24 1995. He also held a Secondary Substitute Teaching License from
25 October 26, 1990 to October 31, 1993.

26 2. On or about April 29, 1996, Derrick submitted an
application for reinstatement of his Oregon Substitute Teaching
License. The application was signed and dated on April 23, 1996.
Derrick answered "no" to question 9, "Have you ever been arrested
or cited for any offense (other than a minor traffic violation)
which is still pending in the courts?" Derrick also answered

1 "no" to question 10, "have you ever entered a plea of guilty or
2 Nolo Contendere relative to any charge of misdemeanor, felony or
3 major traffic violation?"

4 3. A fingerprint check revealed that Derrick had arrests
5 and/or criminal convictions in Oregon as stated below.

6 a) On July 16, 1993, Derrick was arrested on charges
7 of Theft I and Theft II. He plead "no contest" to a lesser
8 offense of Theft II and was fined \$5,045, sentenced to 14 days in
9 jail, and placed on probation for three years.

10 b) On March 26, 1996, Derrick was arrested for DUII
11 and Violation of the Basic Rule and was scheduled for trial on
12 August 13, 1996. Derrick initially denied having consumed any
13 alcohol and made other inappropriate comments to the arresting
14 officer. On September 12, 1996, Derrick was convicted for DUII
15 and Violation of the Basic Rule and was fined \$862, required to
16 complete 14 days on the County Work Crew, make written apology to
17 the arresting officer, had his driver's license suspended for one
18 year and was placed on probation for 18 months with various
19 conditions, including abstinence from the use or possession of
20 intoxicants.

21 **ULTIMATE FINDINGS OF FACT**

22 1. Derrick's application contained two serious
23 misrepresentations regarding his criminal record, including his
24 misdemeanor conviction and pending Driving Under the Influence of
25 Intoxicants arrest.

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2. When asked to explain his record, Derrick did not take responsibility for his misrepresentations, attempting to blame others, or excuse his actions because of the haste in which he filled out the form.

CONCLUSIONS OF LAW

David Derrick's convictions bear a demonstrable relationship to fitness to serve as an educator:

1) The conviction for Theft II resulted from knowing and substantial unauthorized use of his employer's resources for private purposes. If Mr. Derrick had been employed by a school district, his actions would have constituted gross neglect of duty under OAR 584-20-040(4)(a).

2) Derrick's conviction for DUII sets a poor example for impressionable students. Schools and police agencies are expending substantial energy and resources to educate children and youth on the dangers of abuse of alcohol and controlled substances. The public expects educators to exhibit responsible use of alcohol. Conviction for DUII is evidence of gross unfitness under OAR 584-20-040(5).

3) Derrick's actions and comments to the police officer who arrested him for DUII demonstrate a lack of respect for the dignity and worth of all persons and are a violation of OAR 584-20-010(1).

4) Mr. Derrick's failure to report these arrests/convictions on the Application Form C-1 constitutes a
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1 false statement related to licensure, and is a basis for a
2 finding of gross neglect of duty under OAR 584-20-040(4)(c).

3 **OPINION**

4 Mr. Derrick will be eligible to reapply for an Oregon
5 Substitute Teaching License after a period of one year from the
6 date of this Order. If Mr. Derrick reapplies, he shall:

7 1) Read the application carefully, answer all questions
8 truthfully, and provide all necessary documents to support and
9 clarify answers on the application. However, he will not be
10 required to provide court records on the convictions cited
11 herein;

12 2) Document that he has complied with the terms of his
13 probation for the DUII conviction; and

14 3) Document that he has made restitution payments to
15 Allstate Insurance Company as scheduled.

16 At the time of reapplication, Mr. Derrick shall have the
17 burden of proof to present evidence of fitness to serve as an
18 educator specific to the following Rules: 584-20-020(1), 584-20-
19 040(4)(c), and 584-20-040(5)(c).

20 **ORDER**

21 The Commission upholds the denial of reinstatement of Mr.
22 Derrick's Oregon Substitute Teaching License for falsification of

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1 statements on the Application Form and for convictions of
2 Theft II and DUII.

3 DATED this 29th day of January, 1997.
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5 TEACHER STANDARDS AND PRACTICES COMMISSION

6
7 By: David M. Myton
8 David M. Myton, Executive Secretary

9 NOTICE: YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL
10 REVIEW MAY BE OBTAINED BY FILING FOR JUDICIAL REVIEW WITHIN
11 60 DAYS OF THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS
12 PURSUANT TO THE PROVISIONS OF ORS 183.482 THROUGH THE OREGON
13 COURT OF APPEALS.

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