COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

DEPARTMENT OF EDUCATION,	:	
Petitioner,	:	
	:	
	:	
v.	:	**DOCKET NO. DI-03-18**
	:	
	:	
GREGORY J. YARBENET,	:	
Respondent.	:	
	:	

MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission ("Commission") upon the Department of Education's ("Department") Motion for Summary Judgment, which seeks the revocation of Respondent's teaching certificate. Initially, the Department filed a Notice of Charges against Respondent on April 29, 2003, alleging that the Respondent had been convicted of the crimes of Involuntary Deviate Sexual Intercourse, Indecent Assault, and Corruption of Minors.

In its Motion for Summary Judgment, filed simultaneously with the Notice of Charges, the Department requests the Commission to revoke Respondent's Instructional II teaching certificate endorsed in the areas of Earth and Space Science and General Science and any and all other certificates issued to him by the Commonwealth of Pennsylvania pursuant to sections 5(a)(11.1) and 9.2 of the Professional Educator Discipline Act, 24 P.S. §§2070.5(a)(11.1) and 2070.9b. Section 9.2(2) of the Professional Educator Discipline Act requires the Commission to direct the Department to revoke the certificate of a professional educator convicted of a crime involving moral turpitude, a crime listed in section 111(e) (1) through (3) Public School

Code of 1949 (24 P.S. §1-111(e)), or a crime from another jurisdiction that is equivalent to the crimes that fall under the two preceding categories whenever a certified copy of the verdict, judgment or sentence of court is filed with the Commission. 24 P.S. §2070.9b(2).

In support of its Motion, the Department attached certified copies of the pertinent court documents reflecting Respondent's convictions. Respondent, having been served by certified mail with the Notice of Charges and the Motion for Summary Judgment, failed to respond to either pleading. Accordingly, the facts alleged in the Notice of Charges are deemed admitted. 22 Pa. Code §233.115(c)(1); 1 Pa. Code §35.37.

In the instant case, there is no dispute that Respondent was convicted of the crimes of Involuntary Deviate Sexual Intercourse, Indecent Assault, and Corruption of Minors. Thus, the only question before the Commission is whether these crimes, or any of these crimes, involve moral turpitude, are listed in section 111(e) (1) through (3) of the Public School Code of 1949, or are equivalent thereto. The determination of whether a crime involves moral turpitude is based solely upon the elements of the crime or misdemeanor. The facts underlying the charges are not relevant to the issue of moral turpitude. 22 Pa. Code §237.9(b); Startzel v. Commonwealth, Department of Education, 128 Pa. Commonwealth Ct. 110, 114, 652 A.2d 1005, 1007 (1989).

Each of the crimes for which Respondent was convicted is specifically listed in section 111(e) of the Public School Code and thus revocation is mandated. Accordingly, there is no genuine issue as to any material fact and revocation of Respondent's teaching certificate will be ordered as a matter of law.

ORDER

AND NOW, this 23rd day of July, 2003, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional teaching certificate issued to Respondent Gregory J. Yarbenet shall be REVOKED by the Department pursuant to sections 5(a)(11.1) and 9.2 of the Professional Educator Discipline Act, *as amended*, 24 P.S. §§ 2070.5(a)(11.1)and 2070.9b.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY: _____
David J. Krauser
Chairperson

ATTEST: _____
Carolyn Angelo
Executive Director

Date Mailed: