

**COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**

DEPARTMENT OF EDUCATION,	:	
Petitioner,	:	
	:	
	:	
v.	:	PSPC DOCKET NO. DI-08-25
	:	
	:	
RICHARD J. BOUCH, JR.,	:	
Respondent.	:	

MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission (“Commission”) upon the Respondent’s Exceptions to the Hearing Officer’s Proposed Report and Order. The Hearing Officer issued his Proposed Report on July 21, 2009, finding that the Respondent, while serving as a teacher in the Kane Area School District (“District”), had engaged in a pattern of inappropriate interactions with several female students. The Hearing Officer specifically found that the Respondent made inappropriate comments, often with sexual overtones, to the students, that he exchanged sexually explicit notes with a student, and that he inappropriately touched one student on two separate occasions. Finding that such conduct constituted immorality, negligence and intemperance, the Hearing Officer recommended that the Commission revoke the professional educator certification¹ of the Respondent.

1 The Respondent holds an Instructional II teaching certificate in the area of Social Studies.

After a careful review of the record, the Hearing Officer's Proposed Report and the Respondent's Exceptions thereto, the Commission hereby enters an order accepting the Hearing Officer's Proposed Report and Order of Revocation and denying the Respondent's Exceptions in accordance with the discussion below.

RESPONDENT'S EXCEPTIONS

Appearing *pro se*, the Respondent asserts that the Hearing Officer's Findings of Fact are not true and implies that some of the testimony proffered against him was tainted by certain witnesses' animus towards him.

In response, the Department initially asserts that the Respondent's Exceptions are untimely and thus the Commission lacks the authority to consider his objections under the Professional Educator Discipline Act. In the instant case, the Hearing Officer issued his Proposed Decision on July 21, 2009, and the Respondent filed a letter stating his exceptions with the Commission on August 24, 2009. In consideration of the lack of clarity² in the Hearing Officer's instructions for appealing, the Commission declines to find the Respondent's Exceptions untimely.

With respect to specific proposed findings of fact, the Respondent contests findings nos. 13, 15, 17, 18, 21, 23-25, 30, 31, 34 and 46 as "not true". There is substantial evidence in the record, however, to support each of the contested findings. Students K.B. and M.S. were very credible and their testimony was supported by the convincing testimony of another teacher, the principal and the special counsel who

² Section 14 of the Act provides that the Hearing Officer's Proposed Report will become final unless the professional educator or the Department files exceptions within 30 days from the date of the recommended order. 24 P.S. §2070.14(a). While the Hearing Officer advised that the parties had 30 days to file exceptions with the Commission in his Proposed Report, his cover letter was unclear whether the 30 day time period ran from the date of the decision or from the date of the Respondent's receipt of the Report.

investigated the matter on behalf of the District. Notwithstanding the Respondent's suggestions of witness bias, there does not appear to be any plausible reason for any of the Department's witnesses to fabricate their testimony. In fact, the main prosecution witness was, and has been throughout the investigation, conflicted about participating in the disciplinary proceeding against the Respondent. She has expressed on more than one occasion that she did not want to get the Respondent in trouble.

The record, including the Respondent's own testimony, clearly established that he relished his position as a popular teacher who was perceived as attractive by many female students. Notwithstanding his training on maintaining an appropriate teacher-student boundary, the Respondent chose to develop flirtatious and casual relationships with certain female students. He encouraged these relationships by providing passes for the students to come to his class during homeroom and after school for which there was no academic or extracurricular justification. He breached his fiduciary duties to these students, particularly K.B., by fostering inappropriate interactions when he was well aware that the student had a "crush" on him. Finally, he abandoned all semblance of propriety when he exchanged notes with K.B. in which he queried her on sexual matters such as preferred sexual positions and masturbation and wrote "let's fuck now" in one note.

Indeed, the Respondent's admission of writing the note about masturbation is very telling. While admitting writing the note, he attempts to mitigate its inappropriateness by claiming it was in the context of a joke. The Commission can not conceive of any circumstances where it would be appropriate to discuss, let alone

joke, with a student about masturbation. It is clear from the Respondent's testimony and his questioning of Department witnesses that he lacks any understanding of his professional responsibilities to his students or has any remorse for his conduct.

The Commission rejects the Respondent's Exceptions and adopts the Hearing Officer's analysis that his misconduct constitutes immorality, intemperance and violates the Code of Professional Practice and Conduct for Educators. Moreover, the Commission agrees with the Hearing Officer's analysis and conclusion that the Respondent's conduct falls within the definition of sexual abuse or exploitation. 24 P.S. §2070.1b.

Accordingly, we enter the following³:

³ Commissioner Yoder concurs in the decision of the Commission but wishes to express his recommendation that the issue of whether a Respondent's non-criminal conduct constitutes sexual abuse or exploitation be determined in a bifurcated proceeding, separate from the hearing on whether the Department has met its burden of establishing that the Respondent is guilty of one of the grounds for discipline as established by the Professional Educator Discipline Act.

ORDER

AND NOW, this ____21st__ day of December, 2009, upon consideration of the Exceptions filed by the Respondent RICHARD J. BOUCH, JR., it is hereby ORDERED that the Respondent's Exceptions are DENIED in accordance with the foregoing Memorandum. The Commission ACCEPTS the Hearing Officer's Proposed Decision and Order and ORDERS that the professional educator certification of the Respondent RICHARD J. BOUCH, JR. be REVOKED. The Commission further finds that the Respondent's conduct constitutes sexual abuse or exploitation under 24 P.S. §2070.1b.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By:

Gilbert R. Griffiths
Chairperson

Attest:

Carolyn Angelo
Executive Director

Date Mailed: