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

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| **DEPARTMENT OF EDUCATION,** | : | |
| **Petitioner,** | : | |
| | : | |
| | : | |
| **v.** | : | **PSPC DOCKET NO. DI-08-30** |
| | : | |
| | : | |
| **WILLIAM G. DREISBACH,** | : | |
| **Respondent.** | : | |

## MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission ("Commission") upon the Department of Education's ("Department") and the Respondent's Exceptions to the Hearing Officer's Proposed Report. The Hearing Officer issued his Proposed Report on July 21, 2009, finding that the Respondent, while serving as a teacher in the Catasauqua Area School District, had engaged in an inappropriate relationship with a sixteen year-old female student. The Hearing Officer found, *inter alia*, that the Respondent developed a close personal relationship with the student in which they communicated outside of school via email, telephone, written correspondence and instant messaging on a regular basis. In these communications, the Respondent expressed his love for the student. On approximately eight to ten

occasions, the Respondent surreptitiously picked the student up late at night after her parents fell asleep, and without their permission, and brought her to his home. At his home, he would lie next to the student, sometimes rubbing her back, stomach, legs, thighs and buttocks. He would bring the student home in the early morning before her parents discovered that she was missing. After the student's parents discovered the relationship between the Respondent and their daughter, they instructed the Respondent to cease all contact with their daughter. Notwithstanding this directive or his suspension by the District, the Respondent had contact with the student on two subsequent occasions. In addition, the Respondent communicated over a period of time with the student's boyfriend. In these communications, the Respondent offered purported relationship advice and defended his own interactions with the female student.

Finding that such conduct constituted immorality, negligence, intemperance and violative of the Code of Professional Practice and Conduct, the Hearing Officer recommended that the Commission revoke the professional educator certification of the Respondent. Further, the Hearing Officer found that the Respondent was guilty of sexual abuse or exploitation under the Professional Educator Discipline Act.

Both the Respondent and the Department have filed Exceptions to the Hearing Officer's Proposed Report. After a careful review of the record, the Hearing Officer's Proposed Report and the Exceptions thereto, the Commission hereby enters an order

accepting the Hearing Officer's Proposed Report, including his Findings of Fact with one modification, Conclusions of Law and Order of Revocation and denying the Respondent's Exceptions in accordance with the discussion below.

*DEPARTMENT'S EXCEPTION*

The Department excepts to the Hearing Officer's Findings of Fact to the extent that he failed to specifically find that the Respondent on two occasions fondled the student's breasts while she was asleep and laying next to him at his home. Reviewing the record, we agree with the Department and the Hearing Officer[1] that the student, E.F., testified credibly that on two occasions she woke up and discovered that the Respondent had raised her shirt and bra and was fondling her breasts. N.T. at pp. 45, 59-61. Accordingly, we grant the Department's Exception and make the following finding of fact:

> 15A. On two separate occasions while laying on the futon at Respondent's home, E.F. woke up and discovered the Respondent lifting up her shirt and bra and touching her breasts. N.T. at pp. 45, 59-61.

*RESPONDENT'S EXCEPTIONS*

In essence, the Respondent raises two objections to the Hearing Officer's Proposed Report. First, he contends that the Hearing Officer erred in finding that the Respondent had any inappropriate physical contact with the student. The Respondent

[1] While the Hearing Officer did not make a specific finding with respect to the Respondent's fondling of the student's breasts, it is apparent from his other findings and from his discussion of the evidence that he did credit this testimony as well.

argues that in making such findings the Hearing Officer erroneously credited the student's testimony over his and erroneously relied on language in a letter that he wrote the student as support for his finding that there was *inappropriate* physical contact with the student.

By his own admission, the Respondent rubbed the student's back and shoulders, held her when she was upset, and kissed her on the cheek. For the most part, this contact took place in a spare bedroom at the Respondent's home late at night/early in the morning while the student was laying on a futon that the Respondent had placed on the floor. The Respondent facilitated these assignations by picking up the student from her home, after her parents had fallen asleep and without their permission. By any measure, the physical contact to which the Respondent admits meets the definition of inappropriate.

Moreover, the Commission agrees with the Hearing Officer that the record supports a finding that the Respondent also touched the student's stomach, legs, inner thigh and buttocks when he was "comforting her." In so holding, the Commission finds the student's testimony to be credible[2]. In contrast, the Commission finds the testimony of Respondent to be self-serving and unbelievable as well as undermined by the

[2] The Commission also rejects the Respondent's incredible argument that the student should not be believed as she has proven to be devious. The proof of her deviousness, according to the Respondent, is established by the fact that she snuck out of the house to meet him on numerous occasions without telling her parents. Conveniently, the Respondent forgets that he --- the adult who owed a fiduciary duty to the student --- contrived and facilitated these meetings by fostering her reliance on him, arranging the meeting times, and picking her up in a location that was not visible from her home.

documentary evidence introduced by the Department. These written exchanges establish that he developed a close personal relationship with the student, that he derived pleasure from their relationship, that he understood that the relationship was inappropriate and that he desired that the relationship move to a different level. In addition, the Commission agrees with the inference drawn by the Hearing Officer to which the Respondent now objects. Specifically, the Respondent wrote the student that he didn't want to jeopardize the student's feelings for him by a "misunderstanding" engendered by his "position" and the use of his "hands." PDE Exh. 1. Reading these statements within the context of the assignations between the Respondent and the student, it was reasonable to infer that the Respondent was apologizing to student for breaching appropriate physical boundaries. Accordingly, the Commission rejects the Respondent's Exceptions to the Hearing Officer's Proposed Findings of Fact.

The Respondent's second set of Exceptions address the Hearing Officer's conclusion that the Respondent's conduct constitutes sexual abuse or exploitation. Initially, the Respondent asserts that as he did not inappropriately touch the student, he could not have engaged in sexual abuse or exploitation. As discussed above, however, the Commission has found that the Respondent did in fact inappropriately touch the student on numerous occasions. The Commission also agrees with the Hearing Officer that the Respondent's conduct, culminating in touching the student, meets the definition of sexual abuse or exploitation.

Over a period of four months, the Respondent deliberately took steps to develop a close and trusting relationship with a student. At a time when she was emotionally vulnerable and was exhibiting signs of distress, he manipulated her into believing that he was the most caring, understanding and loving adult in her life. He gradually isolated the student from her parents, subtly crossing the professional teacher-student boundary and setting the student up for victimization. He discussed topics unrelated to the school or academics, including her relationship with her boyfriend, her uncle's suicide, and the sexual activity of her friend. Ultimately, he contrived to meet with her alone in his home under the pretext of offering her comfort and advice. He arranged these meetings by encouraging her to sneak out of her parents' home after they were asleep, picking her up in his car in a discrete location out of site of the home, and then depositing her back at home before her parents awoke the next morning. During these secret meetings at his home, he would rub her back, arms, stomach, legs and buttocks purportedly in an attempt to offer her comfort. On two occasions he fondled her breasts when he thought that she was asleep. Throughout this period of time (the fall and winter of 2006), the Respondent in written communications expressed his love for her, how she made him happy, and how important she was to him. The relationship with the student only ended because it was discovered by her mother.

The Commission holds that the Respondent's conduct, including his inappropriate physical contact with the student, was seductive and exploitive and

undertaken to satisfy his own emotional and psychological needs. Such conduct falls within the category of sexual abuse or exploitation[3] as defined by the General Assembly in the Professional Educator Discipline Act ("Act").

In his remaining Exception, Respondent asserts that the definition of "sexual abuse or exploitation" found in the Act is unconstitutionally vague. While the Commission believes that the definition of the term "sexual abuse or exploitation" is not void for vagueness, it is well-established that consideration of a facial challenge to the constitutionality of our enabling statute is beyond our jurisdiction. Lehman v. Pennsylvania State Police, 839 A.2d 265, 276 (Pa. 2003). Accordingly, we deny the Respondent's Exception challenging the constitutionality of section 1(b) of the Act (24 P.S. §2070.1b) and enter the following[4]:

[3] Sexual abuse or exploitation is defined as:

> the employment, use, persuasion, inducement, enticement or coercion of a child or student to engage in, or assist any other person to engage in, any sexually explicit conduct or a simulation of any sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of any sexually explicit conduct or conduct that constitutes an offense under 18 Pa.C.S. Ch 31 (relating to sexual offenses) or section 6312 (relating to sexual abuse of children) or other forms of sexual exploitation of children or students.

24 P.S. §2070.1b.

[4] 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 WILLIAM G. DREISBACH and the Exception filed by the DEPARTMENT OF EDUCATION, it is hereby ORDERED that the Respondent's Exceptions are DENIED and that the Department's Exception is GRANTED. The Commission ACCEPTS the Hearing Officer's Proposed Report with the single modification outlined in the foregoing Memorandum and ORDERS that the professional educator certification of the Respondent WILLIAM G. DREISBACH 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: