

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**PATRICK M. CLUGSTON,
Respondent.**

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DOCKET NO. DI-09-32

MEMORANDUM AND ORDER

On July 2, 2009, the Department of Education ("Department") filed a Notice of Charges against the Respondent, seeking an immediate suspension of his professional teaching certification pursuant to section 2070.9.2(1) of the Professional Educator Discipline Act. Under section 2070.9.2(1), the Commission may direct the Department to suspend immediately the certificate of a professional educator indicted for a crime set forth in section 111(e)(1) through (3) of the Public School Code of 1949 if the Commission determines that the professional educator poses a threat to the health, safety or welfare of a student or other individual in a school. Suspension may occur only after the Respondent has received notice of the charges and request for immediate discipline and has an opportunity to be heard at a hearing if so requested. 24 P.S. §2070.9.2(1); 24 P.S. §1-111(e)(1) – (3).

In the instant case, the Department served the Notice of Charges on Respondent by certified and first class mail. Notwithstanding the language in the Notice of Charges cautioning Respondent that failure to respond could result in the factual assertions

being deemed admitted and the imposition of discipline without a hearing, Respondent declined to file an answer, to request a hearing or otherwise respond to the Notice of Charges. In accordance with the Commission's bylaws, a professional educator who fails to respond to the Notice of Charges is in default as provided for in section 35.37 of the General Rules of Administrative Practice and Procedure. 22 Pa. Code §233.115(c)(1); 1 Pa. Code §35.37. Thus, all relevant facts stated in the Notice of Charges will be deemed admitted.

Accordingly, the Commission finds that Respondent holds an Instructional I teaching certificate in the area of English 7-12. On April 21, 2009, the Respondent was criminally charged with Corruption of Minors (18 Pa. C.S. §6301(a)(1)), Indecent Assault (18 Pa. C.S. §3126(a)(8)), and Endangering the Welfare of Children (18 Pa. C.S. §4304) in Montgomery County, Pennsylvania. At the time of his arrest, the Respondent was employed by the Gwynedd Mercy Academy High School.

These charges stemmed from allegations that during the 2002-03 school year¹, the Respondent engaged in inappropriate sexual contact with a ninth grade student, including kissing the student, touching her breasts, placing his hand between her legs, and having her sit on his lap when he had an erection. In addition, it is alleged that the Respondent had personal and inappropriate conversations with the student.

Based on the facts deemed admitted, the Commission finds that the Department has presented sufficient evidence to support its claim that the Respondent poses a threat to the health, safety or welfare of a student or other individual in a school. The Respondent is accused of romantically pursuing one of his 9th grade students and

engaging in sexual contact with her. Finding that such conduct contravenes an educator's explicit duty to protect students from conditions that are harmful, the burden then shifts to the Respondent to rebut the evidence presented by the Department that he was indicted for the particular crimes or that he poses the requisite threat. In this case, the Respondent forfeited the rebuttal opportunity by failing to respond to the charges or to appear at the meeting.

Accordingly, the Commission finds that Respondent's professional certification should be suspended immediately pursuant to 24 P.S. §2070.9.2(1) and we enter the following:

1 The victim in this matter reported the alleged abuse in March, 2009.

ORDER

AND NOW, this _____ day of August, 2009, upon consideration of the Notice of Charges requesting immediate suspension filed by the Department of Education and the failure of Respondent to respond thereto, it is hereby ORDERED that the professional certification issued to Respondent Patrick M. Clugston shall be SUSPENDED IMMEDIATELY pursuant to 24 P.S. §2070.9.2(1).

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY: _____
Gilbert R. Griffiths
Chairperson

ATTEST: _____
Carolyn Angelo
Executive Director

Date Mailed: