

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**HATTIE B. NICHOLS,
Respondent.**

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DOCKET NO. DI-09-51

MEMORANDUM AND ORDER

On October 19, 2009, the Department of Education (“Department”) filed a Notice of Charges against the Respondent, seeking an immediate suspension of her professional teaching certification¹ 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).

1 The Respondent holds an Instructional I certificate in the areas of Elementary K-6 and Special Education N-12.

In the instant case, the Department served the Notice of Charges on Respondent by certified and first-class mail. On November 4, 2009, the Respondent filed a letter with the Commission, stating that she was not guilty of the charges and is innocent until proven guilty². Respondent's letter did not specifically admit or deny the allegations in the Notice of Charges. As mere general denials of the allegations do not conform to the requirements of the General Rules of Administrative Practice and Procedure or the Commission's bylaws, the Commission deems the Respondent in default. 22 Pa. Code §35.37; 22 Pa. Code §233.115(c)(1). Thus, all relevant facts stated in the Notice of Charges will be deemed admitted.

Accordingly, the Commission finds that the Respondent was employed by Harborcreek Youth Services in Erie, Pennsylvania at all times relevant to this matter. On or about August 31, 2009, the Respondent was criminally charged with Institutional Sexual Assault (18 Pa.C.S. §3124.2); Contraband – Telecommunications Devices (18 Pa. C.S. §5123); and Corruption of Minors (18 Pa.C.S. §6301) in Erie County. Pennsylvania. These criminal charges stem from allegations that the Respondent engaged in sexual contact, including oral sex and sexual intercourse, with a sixteen year-old male student, who was a resident at the court committed juvenile facility at which the Respondent worked. In addition, it is alleged that the Respondent transported the student from the facility without authority and provided him with a cellular telephone in contravention to the facility's regulations.

² The Respondent also advised that further questions should be directed to her attorney. The Commission contacted counsel identified by the Respondent. Counsel advised that he was not

Given these allegations, the criminal charges and the supporting Affidavit of Probable Cause, 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 engaging in a sexual relationship with a sixteen year-old student to whom she owed a fiduciary duty of care. Respondent's alleged breach of her fiduciary responsibilities is particularly heinous considering that the student was *committed* to the facility by our judicial system. Her alleged predatory conduct certainly contravenes an educator's explicit duty to protect students from conditions that are harmful and poses a threat to the health, safety and welfare of students. The Respondent has presented no evidence to rebut this conclusion.

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:

representing the Respondent in this matter.

ORDER

AND NOW, this __21st__ day of December, 2009, upon consideration of the Notice of Charges requesting immediate suspension filed by the Department of Education, it is hereby ORDERED that the professional educator certification issued to Respondent HATTIE B. NICHOLS 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: