

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**MARK E. MACLELLAN,
Respondent.**

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DOCKET NO. DI-11-79

MEMORANDUM AND ORDER

On November 18, 2011, the Department of Education (“Department”) filed a Notice of Charges against the Respondent, seeking an immediate suspension of his professional educator certification¹ pursuant to section 2070.9b(1) of the Professional Educator Discipline Act. Under section 2070.9b(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. §2070.9b(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

¹ Respondent holds a Vocational II Pennsylvania teaching certification in the area of Vocational Instruction and an Occupational Competency Area Registration in the area of Military Science.

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 was criminally charged on September 22, 2011, with Endangering the Welfare of Children (18 Pa.C.S. §4304(a)(1)) and Corruption of Minors (18 Pa.C.S. §6301(a)(1)). These criminal charges stemmed from allegations that Respondent had engaged in sexual contact with a student including oral sex, fondling the student's vagina and kissing her breasts. The crimes of Endangering the Welfare of Children and Corruption of Minors are crimes set forth in section 111(e)(1) of the Public School Code of 1949. (24 P.S. §1-111(e)(1)). Thus the only question for the Commission is whether the Respondent poses a threat to the health, safety or welfare of a student or other individual in a school.

Based on the facts deemed admitted, the Commission finds that the Department has presented sufficient evidence to support its claim that the Respondent poses the requisite threat. Specifically, the Respondent stands accused of violating his duty of care to students by engaging in sexual contact with a student. Additionally, his alleged sexual relationship with a student evinces a predatory pattern of conduct that clearly endangers students. In addition, the Respondent has forfeited his opportunity to rebut

the Department's evidence 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. §2070.9b(1) and we enter the following:

ORDER

AND NOW, this _28th_ day of December, 2011, 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 educator certification issued to Respondent MARK E. MACLELLAN, JR. shall be SUSPENDED IMMEDIATELY pursuant to 24 P.S. §2070.9b(1).

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY:

Gilbert R. Griffiths
Chairperson

ATTEST:

Carolyn Angelo
Executive Director

Date Mailed: December 28, 2011