

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**JENNIFER SCHEETZ PIZZOLO,
Respondent.**

:
:
:
:
:
:
:
:
:
:
:

DOCKET NO. DI-12-22

MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission (“Commission”) upon the Department of Education’s (“Department”) Motion for Summary Judgment, which seeks the revocation of Respondent’s professional educator certification. Initially, the Department filed a Notice of Charges against Respondent on February 28, 2012, alleging that the Respondent had been convicted of the California crime of Unlawful Sexual Intercourse with a Minor: More than 3 Years Younger (California Penal Code §261.5(c)). In its Motion for Summary Judgment, filed simultaneously with the Notice of Charges, the Department requests that the Commission revoke Respondent’s Pennsylvania professional educator certification.

Section 9b(2) of the Professional Educator Discipline Act requires the Commission to direct the Department to revoke the certification of a professional educator convicted of a crime involving moral turpitude, a crime listed in section 111(e) (1) through (3) of the Public School Code of 1949 (24 P.S. §1-111(e)) or a crime from another jurisdiction that is equivalent to the crimes that fall under the two preceding categories whenever a certified copy of the verdict, judgment or sentence of court is

filed with the Commission. 24 P.S. §2070.9b(2).

In support of its Motion, the Department attached certified copies of the pertinent court documents reflecting Respondent's conviction. Respondent, having been served with the Notice of Charges and the Motion for Summary Judgment, failed to respond to either pleading. Accordingly, the facts alleged in the Notice of Charges are deemed admitted. 22 Pa. Code §233.115(c)(1); 1 Pa. Code §35.37.

In the instant case, there is no dispute that Respondent was convicted of the California crime of Unlawful Sexual Intercourse with a Minor: More than 3 Years Younger. Thus, the only question before the Commission is whether this crime involves moral turpitude, is listed in section 111(e) (1) through (3) of the Public School Code of 1949, or is equivalent thereto. The determination of whether a crime involves moral turpitude is based solely upon the elements of the crime or misdemeanor. The facts underlying the charges are not relevant to the issue of moral turpitude. 22 Pa. Code §237.9(b); Startzel v. Commonwealth, Department of Education, 128 Pa. Commonwealth Ct. 110, 114, 652 A.2d 1005, 1007 (1989).

The California crime of Unlawful Sexual Intercourse with a Minor: More than 3 Years Younger is defined, in pertinent part, as follows:

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

...

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

California P.C. 261.5(c). Juxtaposing the elements of the California crime of Unlawful Sexual Intercourse with a Minor with the Commission's definition of moral turpitude¹, the Commission concludes that the California crime involves moral turpitude. 22 Pa. Code §237.9(a)(2). Under the Professional Educator Discipline Act, the Commission must revoke the certification of an educator who is convicted of a crime determined to involve moral turpitude. 24 P.S. §2070.9b(2).

The Department also requests that the Commission enter a finding that the Respondent was guilty of sexual abuse or exploitation as defined by 24 P.S. §2070.1b. Sexual abuse or exploitation is defined in the Professional Educator Discipline Act 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. Predatory sexual conduct with a student falls squarely within the Commission's definition of sexual abuse or exploitation.

¹ The Commission defines moral turpitude as:

- (1) That element and personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.
- (2) Conduct done knowingly contrary to justice, honesty or good morals.
- (3) Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury.

22 Pa. Code §237.9(a).

Finally, the Department requests that the Commission enter a finding that immediate discipline is necessary to protect the health, safety or welfare of students or other persons in the schools of this Commonwealth. The import of this finding is that in the event an appeal is filed from the Commission's adjudication imposing discipline, the finding prevents the appeal from acting as a stay of the discipline. Thus, in those cases where the Commission finds that the danger presented by an educator's conduct outweighs the educator's interest in deferring discipline until an appellate court reviews the Commission's decision, it will enter the requested finding.

In this case, the allegations underlying the Respondent's criminal conviction surround her inappropriate communications and sexual contact with a student. The danger posed by such a predator is self-evident. Accordingly, the Commission finds that the Respondent's conduct poses the requisite threat to students to warrant immediate discipline.

ORDER

AND NOW, this 31st day of July, 2012, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional educator certification issued to Respondent JENNIFER SCHEETZ PIZZOLO and her eligibility to be employed in a charter or cyber charter school shall be REVOKED IMMEDIATELY by the Department. 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: July 31, 2012