

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**JOHN C. WESTFIELD,
Respondent.**

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DOCKET NO. DI-17-069

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. For the reasons set forth below, the Motion is granted.

The Department filed a Notice of Charges against Respondent on April 27, 2017 alleging that Respondent has been convicted of a crime set forth in sections 111(e)(1)-(3) of the Public School Code of 1949 and a crime involving moral turpitude, namely Corruption of Minors (18 Pa.C.S. § 6301(a)(1)(i)), in Philadelphia County, Pennsylvania. The Notice of Charges further alleges that Respondent is guilty of sexual abuse or exploitation. Simultaneous with the filing of the Notice of Charges, the Department filed a Motion for Summary Judgment requesting the Commission to immediately revoke Respondent’s Pennsylvania educator certification¹ and employment eligibility pursuant to section 9b(a)(2) of the Act. Section 9b(a)(2) of the Act requires the Commission to

1. On October 1, 2005, Respondent was issued an Emergency Permit: LT Sub with Educational Obligation Health & Physical Education PK-12, which expired on July 31, 2006. However, the definition of “certificate” set forth in section 1b of the Educator Discipline Act (“Act”) includes a certificate that is invalid or inactive as those terms are defined in 22 Pa. Code § 49.2. 24 P.S. § 2070.1b. An emergency, long-term or day-to-day substitute permit that has expired is invalid pursuant to section 49.2. See 22 Pa. Code § 49.2; 22 Pa. Code § 49.33. Accordingly, the Commission maintains its jurisdiction over this matter.

direct the Department to revoke the certification and employment eligibility of an educator convicted of a crime involving moral turpitude or a crime listed in sections 111(e)(1) through (3) of the Public School Code of 1949 upon the filing of a certified copy of the verdict, judgment or sentence of the court with the Commission. 24 P.S. § 2070.9b(a)(2); 24 P.S. § 1-111(e)(1)-(3). Attached to the Department's Notice of Charges are certified copies of the pertinent court documents reflecting Respondent's conviction.

The Department served the Notice of Charges and Motion for Summary Judgment on Respondent by first class and certified 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 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.

We can grant summary judgment where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Snyder v. Department of Environmental Resources, 588 A.2d 1001 (Pa. Cmwlth. 1991). In the instant case, there is no dispute that Respondent has been convicted of Corruption of Minors. Therefore, the only question before the Commission is whether this crime involves moral turpitude or is among the crimes enumerated in sections 111(e)(1) through (3) of the Public School Code of 1949. Corruption of Minors is a crime enumerated in section 111(e)(1) of the Public School Code and a crime involving moral turpitude *per se*. Thus, there is no genuine issue as to any material fact and the

Department is entitled to judgment in its favor as a matter of law as the Act mandates revocation. 24 P.S. § 2070.9b(a)(2); 24 P.S. § 1-111(e)(1); 22 Pa. Code § 237.9(c)(1).

The Department also requests that the Commission enter a finding that Respondent is guilty of sexual abuse or exploitation. The import of a finding of sexual abuse or exploitation is that the Commission is permanently barred from reinstating the educator's certification and employment eligibility. 24 P.S. § 2070.16. Pursuant to section 1b of the Act, sexual abuse or exploitation shall have the meaning given to the term by 23 Pa.C.S. Ch. 63 (relating to child protective services), which includes the following:

- (1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
 - (i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
 - (ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
 - (iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

24 P.S. § 2070.1b; 23 Pa.C.S. § 6303. The facts underlying Respondent's conviction are that he engaged in sexual contact with more than one minor female. Specifically, respondent sent nude photos of himself, including photos of his exposed genitals to minor females; encouraged and persuaded the minor females, who were 16 years of age or younger at the time of the incident, to send nude photographs of themselves;

and participated in sexually explicit conversations with minor females via smart phone for the purposes of sexual stimulation and gratification. Respondent's conduct falls squarely within the above definition. The Commission, therefore, finds that Respondent is guilty of sexual abuse or exploitation and permanently barred from serving as an educator in Pennsylvania.

Finally, pursuant to section 15 of the Act, an appeal shall not operate as a stay if the grounds for discipline include sexual misconduct or sexual abuse or exploitation or if the discipline is imposed under section 9b. 24 P.S. § 2070.15. Thus, our General Assembly has already determined that in cases such as this, the danger presented by the educator's conduct outweighs the educator's interest in deferring discipline until an appellate court reviews the Commission's decision. Therefore, the revocation of Respondent's certification and employment eligibility will be effective immediately.

Accordingly, we enter the following:

ORDER

AND NOW, this 10th day of August, 2017, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the educator certification and eligibility to be employed as a charter or cyber charter school staff member or a contracted educational provider staff member of Respondent JOHN C. WESTFIELD shall be REVOKED by the Department pursuant to 24 P.S. § 2070.9b(a)(2). The Commission finds that Respondent's conduct constitutes sexual abuse or exploitation under 24 P.S. § 2070.1b and 23 Pa. C.S. § 6303. Pursuant to 24 P.S. § 2070.16(b)(1) and (c) the Commission shall not reinstate Respondent's educator certification or employment eligibility. This Order is effective IMMEDIATELY.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: _____
Myron Yoder
Chairperson Pro Tempore

Attest: _____
Shane F. Crosby
Executive Director

Date Mailed: August 10, 2017