

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**CHRISTOPHER CHIAPPETTA,
Respondent.**

:
:
:
:
:
:
:
:
:
:

DOCKET NO. DI-18-220

MEMORANDUM

This matter is before the Professional Standards and Practices Commission (“Commission”) upon the Department of Education’s (“Department”) Motion for Judgment on Default. For the reasons set forth below, the Motion is granted.

On December 10, 2018, the Department filed with the Commission a Notice of Charges alleging that Respondent engaged in conduct constituting immorality, intemperance, and negligence and requesting that the Commission enter an order directing the Department to indefinitely suspend Respondent’s educator certification and employment eligibility. The Department served the Notice of Charges on Respondent by certified and first-class mail at his last-known address. No mail was returned. Depositing in the post office of a properly addressed letter with prepaid postage raises a natural presumption that the letter reached its destination by due course of mail. In re Rural Route Neighbors, 960 A.2d 856, 861 (Pa. Cmwlth. 2008). Moreover, the Department avers in its Motion for Judgment on Default that Respondent contacted the Department via telephone and acknowledged receipt of the Notice of Charges and advised that he did not plan to contest the charges.

Under 22 Pa. Code § 233.115, a Notice of Charges is to be treated as an order to show cause under 1 Pa. Code § 35.14. If the educator fails to timely respond to the Notice of Charges, the educator is deemed to have defaulted under 1 Pa. Code § 35.37, and the Commission may deem admitted the relevant facts stated in the Notice of Charges and proceed to consideration of discipline based upon the admitted facts and exhibits to the Notice of Charges. 22 Pa. Code § 233.115(c)(1); ¹ Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230 (Pa. Cmwlth. 1995). Here, despite 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 a written answer. Thus, all relevant facts stated in the Notice of Charges will be deemed admitted.

Accordingly, the Commission makes the following findings of fact: Respondent holds an Instructional I Pennsylvania teaching certificate in the area of Health & Physical Education PK-12. On October 16, 2013, Respondent, while working as a

1. The Commission's bylaws provide the following with respect to an educator's failure to timely respond to a notice of charges:

(c) *Failure to respond.*

(1) If the educator fails to timely respond to the notice of charges, the educator is deemed in default under 1 Pa. Code § 35.37 (relating to answers to orders to show cause), and the Commission may, upon motion of any party, deem admitted the relevant facts stated in the notice of charges and proceed to consideration of discipline based upon the admitted facts and exhibits, if any, to the notice of charges.

(2) The Commission will not in these cases appoint a hearing officer or hold a hearing unless the Commission determines that the appointment of a hearing officer is necessary for the Commission to decide the matter. In these cases, the Commission will determine the scope of the hearing officer's authority.

22 Pa. Code § 233.115(c)(1).

substitute teacher at the Northgate High School, was found asleep at his desk by the school resource officer. Approximately eleven students were unsupervised in Respondent's classroom at the time. The officer woke Respondent and observed signs of intoxication and detected an odor of alcohol. Respondent had scabbed over needle marks on his arm and 3-4 stamp bags of suspected heroin in his pocket. Marijuana and blunt wrappers were found in his vehicle. As a result, Respondent was convicted of Possession of Drug Paraphernalia. This incident occurred just six months after Respondent was admitted into the ARD program on charges of Possession of Marijuana, Possession of Drug Paraphernalia, DUI: Controlled Substance-1st Offense, and Reckless Driving. The charges were the result of allegations that Respondent was involved in a single vehicle accident while driving under the influence of marijuana.

The Commission finds that Respondent's conduct constitutes immorality and intemperance and warrants discipline.² The Commission has defined immorality as "conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals a professional educator has a duty to foster and elevate." 22 Pa. Code § 237.3. Respondent's conduct clearly offends the Commonwealth's morals and accepted principles of right and wrong. Respondent's actions are also clearly inconsistent with his responsibilities as a role model. The dangers that drugs pose to our youth are well-known. Studies show that misperceptions of the extent and acceptability of drug-abusing behaviors in school, peer, and community environments may influence a young person in the decision to start abusing drugs. Where a teacher

2. Having found Respondent guilty of immorality and intemperance, we need not decide whether Respondent's conduct also constitutes negligence as alleged by the Department.

is involved in illegal drugs students may view such conduct as a desirable example to follow because of the significant influence teachers exert over the intellectual, moral and psychological development of children. See Westmoreland Intermediate Unit #7 v. Westmoreland Intermediate Unit #7 Classroom Assistants Educational Support Personnel Association, et al., 977 A.2d 1205 (Pa. Cmwlth. 2009). Respondent's conduct also evidences a disregard for the well-being of others on the roads. Loss of self-control or self-restraint is the main element of intemperance. 22 Pa. Code § 237.5. A single episode can be sufficient to establish intemperance. Gow v. Department of Education, 763 A.2d 528 (Pa. Cmwlth. 2000). Respondent's conduct unquestionably evinces a loss of self-control and self-restraint.

Respondent's actions cannot be countenanced by this Commission. By defaulting, Respondent has forfeited the opportunity to provide the Commission with evidence in mitigation of any sanction. Accordingly, the Commission finds that the indefinite suspension of Respondent's educator certification and employment eligibility is warranted and enters the following:

ORDER

AND NOW, this 30th day of April 2019, upon consideration of the Motion for Judgment on Default filed by the Department of Education, it is hereby ORDERED that the motion is GRANTED and the Department is directed to SUSPEND 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 CHRISTOPHER CHIAPPETTA in accordance with the foregoing Memorandum. To have the suspension of his educator certification and employment eligibility lifted, Respondent must apply to the Commission for an order lifting the suspension pursuant to 24 P.S. § 2070.16. This order of suspension shall be effective upon the conclusion of any appeal from this order or, if no appeal is timely taken, the expiration of the time prescribed for appeal.

PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

By:



Myron Yoder
Chairperson Pro Tempore



ATTEST:

Shane F. Crosby
Executive Director

Date Mailed: April 30, 2019