

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**CODY FLOYD,
Respondent.**

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DOCKET NO. DI-18-232

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.

On December 27, 2018, the Department filed a Notice of Charges alleging that Respondent has been convicted of a crime set forth in section 111(e)(1) through (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)).¹ 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 certification² and employment eligibility pursuant to section 9b(a)(2) of the Educator Discipline Act (“Act”). Section 9b(a)(2) of the Act requires the Commission to direct the Department to revoke the certification and employment eligibility of an educator convicted of a crime

1. Respondent’s conviction arose out of allegations he engaged in an inappropriate relationship with a minor female student and that he exchanged thousands of text messages with the student, many of which were romantic and sexual in nature.

2. Respondent holds an Instructional I Pennsylvania teaching certificate in the area of Music PK-12. At all relevant times, Respondent was employed as a teacher by the Elizabethtown Area School District.

set forth in section 111(e)(1) through (3) of the Public School Code of 1949 or a crime involving moral turpitude 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). 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 only when, after examining the whole record in the light most favorable to the non-moving party, there is no genuine issue of 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 section 111(e)(1)-(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 of 1949 and a crime involving moral turpitude *per se*. 24 P.S. § 1-111(e)(1); 22 Pa. Code § 237.9(c)(1). 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); *See also* Bowalick v. Dep't of Educ., 840 A.2d 519 (Pa. Cmwlth. 2004)(revocation of a teaching certificate on summary judgment is appropriate upon proof of a conviction of a crime of moral turpitude).

Finally, our General Assembly has determined that in those cases where an educator is convicted of an offense compelling revocation under section 9b of the Act, an appeal from the Commission's adjudication will not delay the imposition of discipline. 24 P.S. § 2070.15. Therefore, the revocation of Respondent's certification and employment eligibility will be effective immediately.

Accordingly, we enter the following:

ORDER

AND NOW, this 24th day of May 2019, upon consideration of the Motion for Summary Judgment filed by the Department of Education and the lack of response thereto, 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 CODY FLOYD shall be REVOKED by the Department pursuant to 24 P.S. § 2070.9b(a)(2). Pursuant to 24 P.S. § 2070.16(c), the Commission shall not reinstate Respondent's educator certification or employment eligibility for the time period set forth in 24 P.S. § 1-111(e). This Order is effective IMMEDIATELY.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By:



Myron Yoder
Chairperson Pro Tempore

Attest:



Shane F. Crosby
Executive Director

Date Mailed: May 24, 2019