

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

DEPARTMENT OF EDUCATION,	:	
Petitioner,	:	
	:	
v.	:	DOCKET NO. DI-24-097
	:	
SUSAN C. ERTELL,	:	
Respondent.	:	

ORDER GRANTING MOTION FOR JUDGMENT ON DEFAULT

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.

Background

The Department initiated disciplinary proceedings against Susan C. Ertell (“Respondent”) with the filing of a Notice of Charges on December 6, 2024. The Notice of Charges alleges that Respondent engaged in a pattern of inappropriate physical contact with students and using profane and/or inappropriate language in front of students. Additionally, Respondent failed to provide accurate information on applications for employment. The Department asserts that Respondent’s conduct constitutes immorality, intemperance, and negligence under the Educator Discipline Act (“Act”) and the Commissioner’s regulations and requests the imposition of a public reprimand.

Respondent’s response to the Notice of Charges was due on or before January 6, 2025.¹ When no response was filed, the Department filed a Motion for Judgment on Default on January 28, 2025, requesting that the Commission find Respondent in default and issue an order directing

¹ Pursuant to the Notice of Charges, Respondent’s response to the Notice of Charges was due within thirty (30) days of the date of service of the Notice of Charges, which was December 6, 2024. Because thirty (30) days from December 6, 2024 is Sunday, January 5, 2024, Respondent’s response was due the following business day. See 1 Pa. Code § 31.12. Therefore, Respondent’s response was due January 6, 2025.

the Department to issue a public reprimand to Respondent. Respondent did not respond to the Motion. The matter was originally scheduled to be considered at the Commission's regularly scheduled meeting on March 17, 2025. Respondent did not appear. The Commission voted to table the matter to a future meeting and issued an order directing Respondent to file an answer to the Department's Motion for Judgment on Default, to include addressing the appropriate level of discipline for the underlying allegations. Respondent did not respond to the Commission's Order.

The Commission considered the Motion at its regularly scheduled meeting on May 12, 2025. Respondent did not appear.

Findings of Fact

1. Respondent holds an Instruction II teaching certificate in the area of Art PK-12.
2. Respondent was employed by the School District of Philadelphia in 2014 through her termination effective January 14, 2015.
3. On February 28, 2014, Respondent smacked a student in the back of the head unprovoked. When asked by the student why she smacked him, Respondent replied, "cause your dumb ass keep playing in my classroom."
4. On March 20, 2014, Respondent told a misbehaving student to "sit the fuck down," cursed at another student and pushed his face away from her, "choked" another student, "mugged" another student, and hit another student.
5. Respondent was employed at the Chester Community Charter School in 2017 until her termination effective April 28, 2017.
6. In her application to gain employment at the Chester Community Charter School, Respondent provided false information. Specifically, she indicated that she left her employment at the

School District of Philadelphia due to “District Lay-off/Restructuring/budget cut” when she actually left the District due to her interactions with students as described *supra*.

7. On April 21, 2017, when students were talking loudly, Respondent grabbed one by the back of the neck and told him to get back in line. Additionally, Respondent choked and pulled the hair of a second student.
8. Respondent was employed at the Coatesville Area School District in 2022.
9. Respondent failed to reveal her employment at Chester Community Charter School on the Act 168² form and her resume.
10. On November 29, 2022, Respondent grabbed a student by the arm and pulled her across the hallway into a classroom, continued to hold the student, and yelled at the student, which caused the student to start crying.
11. Respondent received the Notice of Charges and all other notices in this matter.

Conclusions of Law

1. The Commission has jurisdiction in this matter.
2. Respondent is in default under 1 Pa. Code § 35.37.
3. 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. 1 Pa. Code § 35.37; Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230 (Pa. Cmwlth. 1995).
4. Immorality is conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals a professional educator or charter school staff member has a duty

² Act 168 requires an applicant at a school entity for a position involving direct contract with children to list, *inter alia*, all former employers that were school entities. 24 P.S. §1-111.1. An educator’s willful failure to provide the requisite information is subject to professional discipline. 24 P.S. § 1-111.1(c)

to foster and elevate. 22 Pa. Code § 237.3.

5. Respondent is guilty of immorality.
6. Intemperance is a loss of self-control or self-restraint, which may result from excessive conduct. 22 Pa. Code § 237.5.
7. Respondent is guilty of intemperance.
8. Negligence is a continuing or persistent action or omission in violation of a duty. 22 Pa. Code § 237.8(a).
9. A duty may be established by law, by promulgated school rules, policies or procedures, by express direction from superiors or by duties of professional responsibility, including duties prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators). 22 Pa. Code § 237.8(b).
10. Respondent is guilty of negligence.
11. Respondent is subject to discipline under the Act. 24 P.S. § 2070.9c(a)(1), (a)(3), and (a)(5).

Discussion

Pursuant 22 Pa. Code § 233.115(a), a Notice of Charges is to be treated as an order to show cause under 1 Pa. Code § 35.14. If the educator timely responds in writing to the Notice of Charges setting forth the facts upon which he or she is relying and stating concisely the matters of law relied upon, in compliance with 1 Pa. Code § 35.37, the Commission will appoint a hearing officer to conduct an evidentiary hearing on the matter. 22 Pa. Code § 233.115(d). If, however, 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); Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230 (Pa. Cmwlt. 1995).

Here, the Department mailed a copy of the Notice of Charges to Respondent by first class mail on December 6, 2024. The first-class mail was not 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. Cmwlt. 2008). After laying out the charges against Respondent and calling for the imposition of a public reprimand, the Notice of Charges stated:

If you contest any factual assertion made in this Notice, you have a right to request, in writing, a hearing. The proceedings shall be in the nature of a formal hearing conducted in accordance with the procedures described in 24 P.S. § 2070.13. Your response and request for a hearing must include specific admissions and denials of the factual assertions, as well as a concise reference to the facts and matters of law relied upon.

YOUR RESPONSE MUST BE RECEIVED BY THE COMMISSION WITHIN THIRTY (30) DAYS AFTER THE DATE OF SERVICE. IF YOU FAIL TO FILE A RESPONSE TO THIS NOTICE OR TO REQUEST A HEARING WITHIN THIRTY (30) DAYS AFTER SERVICE, ALL OF THE FACTUAL ASSERTIONS STATED IN THE ABOVE NOTICE MAY BE CONSIDERED ADMITTED AND DISCIPLINE MAY BE IMPOSED WITHOUT A HEARING. ADDITIONALLY, IF YOU FAIL TO RESPOND AND/OR MAINTAIN A CURRENT ADDRESS WITH THE DEPARTMENT AND COMMISSION, DISCIPLINE MAY BE IMPOSED BY THE PROFESSIONAL STANDARDS AND PRACTICES COMMISSION WITHOUT FURTHER NOTICE TO YOU AND WITHOUT THE NEED FOR YOUR PRESENCE.

(Notice of Charges, pages 4-5.)

Respondent's response to the Notice of Charges was due on or before January 6, 2025. Despite the clear directive in the Notice of Charges, Respondent did not file a response. Therefore, Respondent is in default 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 without scheduling an evidentiary hearing.

The Act empowers the Commission to “direct the Department to discipline any educator in accordance with section 9b, 9c, 9d or 9e.” 24 P.S. § 2070.5(a)(11.1). Section 9c provides, in pertinent part, that the Commission shall direct the Department to impose discipline against any educator for conduct found by the Commission to constitute immorality, intemperance, or negligence. 24 P.S. § 2070.9c(a)(1), (a)(3) and (a)(5). The Act does not define these terms, rather it directs the Commission to establish definitions. 24 P.S. § 2070.9c(b).

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 of engaging in physical contact with students on multiple occasions, using profanity in the presence of students, and lying on employment applications, clearly offends the Commonwealth’s morals and sets a bad example for the youth. Therefore, Respondent is guilty of immorality.

Intemperance is the loss of self-control or restraint, which may result from excessive conduct. 22 Pa. Code § 237.5. “Conduct that extended over a period of time, whether it is hour upon hour or day after day, may be considered excessive.” Gow v. Department of Education, 763 A.2d 528, 534 (Pa. Cmwlth. 2000). “Excessive is defined as ‘exceeding the usual, proper, or normal.’” Id. Respondent’s behavior was excessive and unquestionably evidences the loss of self-control or self-restraint when she repeatedly engaged in inappropriate physical contact with students and failed to truthfully report her prior employment on two (2) occasions. Therefore, Respondent is guilty of intemperance.

Negligence is a continuing or persistent action or omission in violation of a duty. 22 Pa. Code § 237.8(a). Even a single act continued for a period of time may support a finding of negligence. Harrison v. Capital Area Intermediate Unit, 479 A.2d 62, 64 (Pa. Cmwlth.)(citing

Strinich v. Clairton School Dist., 431 A.2d 267 (Pa. 1981)).³ A duty may be established by law, by promulgated school rules, policies or procedures, by express direction from superiors or by duties of professional responsibility, including duties prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators (“Code”)). 22 Pa. Code § 237.8(b). Educators shall exert reasonable effort to protect students from harm. 22 Pa. Code § 235.5a(b)(4). Educators shall not intentionally expose a student to disparagement. 22 Pa. Code § 235.5a(b)(5). The Code created the following duties: that educators protect students from harm and that educators not intentionally expose a student to disparagement. Respondent violated these duties when she engaged in a pattern of inappropriate physical contact and called a student a “dumb ass.” Act 168 creates a duty that educators provide accurate information and disclose all former employees that were school entities when applying for a position with a school entity involving direct contact with children. 24 P.S. § 1-111.1. Respondent violated this duty when she failed to disclose her prior employment with Chester Community Charter School when applying for a position with the Coatesville Area School District. Therefore, Respondent is guilty of negligence.

The Department has requested that the Commission issue an order directing it to issue a public reprimand to Respondent. By defaulting, Respondent has forfeited the opportunity to provide the Commission with evidence of mitigation of any sanction. After careful consideration, the Commission has determined that the suspension of Respondent’s certificate and employment eligibility is warranted. In determining the appropriate level of sanction, the Commission considered the educator discipline system’s purposes of ensuring the safety and security of students in schools, upholding proper standards of conduct and performance, and determining the continued

³ While not binding on the Commission, the courts’ decisions in Harrison and Strinich may be regarded as persuasive authority. See 22 Pa. Code § 237.1(c).

fitness of an educator to remain in the profession. 22 Pa Code § 233.113(c). Additionally, the Commission reviewed and considered the following factors regarding the allegations: (1) the seriousness and circumstances surrounding the misconduct; (2) the extent, severity and imminence of danger to students; (3) the harm or adverse impact to students; (4) if the misconduct or violation is an isolated occurrence, part of a continuing pattern or one of a series of incidents; (5) the likelihood of a recurrence of the misconduct or violation; and (6) the danger that students will imitate the educator's behavior or use it as a model. 22 Pa. Code § 233.113(c)(1), (c)(2), (c)(5), (c)(7), (c)(11), and (c)(13).

The Commission has repeatedly found that all educators owe a fiduciary duty to their students. At the heart of this fiduciary duty is the duty to protect students from harm. Respondent engaged in inappropriate physical contact with at least eight (8) students on four (4) separate occasions over the course of eight (8) years. She also used disparaging and inappropriate language in the presence of students. Respondent's misconduct was not an isolated incident, but rather part of a continuing pattern of inappropriate physical contact with students and inappropriate language in the presence of students. As a result, it is clear that Respondent is a danger to other students and has caused harm to those students she has had contact with. Respondent was not deterred by being terminated from her employment. Instead, Respondent lied about the reason for her separation from her employment at the School District of Philadelphia and failed to disclose her prior employment at Chester Community Charter School in order to hide her prior actions. Therefore, the risk of recurrence is high. All these factors warrant the imposition of an indefinite suspension of Respondent's certificate and employment eligibility.

Accordingly, we enter the following:

Order

AND NOW, this 6th day of June 2025, upon consideration of the Department's Motion for Judgment on Default, it is hereby Ordered:

1. The Motion for Judgment of Default is Granted.
2. The Department is directed to suspend Respondent's certificate and eligibility to be employed as a charter or cyber charter school staff member or contracted educational provider staff member.
3. This order 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.
4. Respondent is not eligible to be employed in a school entity position requiring certification or as a charter or cyber charter school staff member or contracted educational provider staff member, or eligible for any certificate until her certificate and employment eligibility are reinstated in accordance with the Act.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: 

Myron Yoder
Chairperson Pro Tempore

Attest: 
Amber Lee Czerniakowski
Executive Director

Date Mailed: June 6, 2025