COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

DEPARTMENT OF EDUCATION,	:	
Petitioner,	:	
	:	
v.	:	**DOCKET NO. IS-23-005**
	:	
EMALEE M. KEDZIERSKI,	:	
Respondent.	:	

ORDER GRANTING REQUEST FOR IMMEDIATE SUSPENSION

This matter is before the Professional Standards and Practices Commission ("Commission") on a Notice of Charges filed by the Department of Education ("Department") against Emalee M. Kedzierski ("Respondent").

Background

Respondent currently holds an Instructional I certificate in the area of Social Studies 7-12. The Department initiated disciplinary proceedings against Respondent with the filing of a Notice of Charges on February 15, 2023. The Notice of Charges alleges that Respondent was criminally charged with Institutional Sexual Assault and Corruption of Minors. Copies of the pertinent court documents are attached to the Notice of Charges. The Notice of Charges also alleges that Respondent poses a threat to the health, safety or welfare of students or other persons in a school and requests that the Commission issue an Order directing the Department to immediately suspend Respondent's certificate and employment eligibility based upon the criminal charges.

As required, the Department mailed a copy of the Notice of Charges to Respondent at her last-known address.[1] Respondent did not file an answer or request a

1. 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).

hearing.

In accordance with section 9b(a)(1)(i) of the Educator Discipline Act ("Act"), if the educator fails to request a hearing within 15 days of service of the Notice of Charges, the Commission or a panel of members of the Commission must promptly convene a meeting to consider the request for immediate suspension. 24 P.S. § 2070.9b(a)(1)(i). Accordingly, the Commission considered the Department's request for immediate suspension at its regularly scheduled meeting on March 13, 2023. Respondent did not appear.

Facts

The relevant facts are not in dispute.[2] On September 2, 2022, Respondent was charged in Erie County, Pennsylvania with Institutional Sexual Assault, 18 Pa.C.S. § 3124.2(a.1), and Corruption of Minors, 18 Pa.C.S. § 6301(a)(1)(i). The criminal charges stem from allegations that Respondent engaged in a sexual relationship with a minor male student she met while employed as a substitute teacher at his high school. It is also alleged that Respondent supplied the student with alcohol. The charges were waived for court on October 27, 2022.

Discussion

Section 9b(a)(1) of the Act requires the Commission to order the immediate suspension of an educator who is indicted[3] for a crime set forth in section 111(e)(1)

2. Since Respondent did not file a responsive pleading, the only facts considered by the Commission are those alleged in the Department's Notice of Charges, which are deemed admitted and incorporated herein by reference. *See* 22 Pa. Code § 233.115(c)(1); 1 Pa. Code § 35.37; *See also* Kinniry v. Professional Standards and Practices Commission, 678 A.2d 1230 (Pa. Cmwlth. 1996).

3. The term indictment includes a bill of indictment, police criminal complaint, criminal information or other similar document.

through (3) of the Public School Code of 1949, or the attempt, solicitation or conspiracy to commit same, if the Commission determines that the educator "poses a threat to the health, safety or welfare of students or other persons in the schools of this Commonwealth." 24 P.S. § 2070.9b(a)(1). The purpose of the law is to protect children and others in a school from the alleged perpetrator during the pendency of the litigation so as not to allow them to be subject to the crimes involved. Petron v. Department of Education, 726 A.2d 1091, 1095 (Pa. Cmwlth. 1999). The Department bears the burden of showing both that the educator has been indicted for an enumerated crime and that the educator poses a threat of harm to the health, safety or welfare of students or other persons in the schools. As we detailed in Department of Education v. Sean D. Minnich, PSPC Docket No. DI-16-031, the determination whether the immediate suspension of an educator's certificate and employment eligibility is warranted involves a three-step process. First, the Department can meet the first prong, *i.e.*, can show that an educator has been charged with an enumerated crime, by presenting court documents, *e.g.*, an indictment. Second, the allegations underlying the criminal charges may serve as a basis to show that an educator poses the requisite threat of harm. Finally, the educator is afforded the opportunity to present evidence as to why the charges and underlying allegations do not establish reasonable cause to believe that he or she poses a threat of harm to students or others.

Here, the Department has presented the Commission with court documents showing that Respondent has been charged in Erie County, Pennsylvania with Institutional Sexual Assault and Corruption of Minors, which are crimes set forth in section 111(e)(1) of the Public School Code of 1949. 24 P.S. § 1-111(e)(1). Therefore,

the Department has satisfied the first prong of its two-prong burden. The court records show that Respondent is accused of engaging in a sexual relationship with a minor student and supplying the student with alcohol. Therefore, we find that the Department has also met its burden of proving that Respondent poses a threat to the health, safety or welfare of students or other persons in a school. Since Respondent has failed to present any evidence as to why immediate suspension is unwarranted, the Commission will direct the Department to immediately suspend Respondent's certificate and employment eligibility.

Order

AND NOW, this 20th day of March 2023, upon consideration of the Department of Education's Notice of Charges requesting immediate suspension and the lack of response thereto, it is hereby ORDERED:

1. The Department is directed to immediately suspend Respondent's certificate and eligibility to be employed as a charter or cyber charter school staff member or contracted educational provider staff member pursuant to 24 P.S. § 2070.9b(a)(1).
2. Respondent is not eligible to be employed in a school entity in a position requiring certification or as a charter or cyber charter school staff member or contracted educational provider staff member, or eligible for any certificate.
3. If the criminal charges are dismissed or if Respondent is acquitted, the Commission will direct the Department to immediately lift the suspension of Respondent's certificate and employment eligibility upon receipt of the appropriate documentation. 24 P.S. § 2070.9b(a)(1)(iii).

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: 

_____
Myron Yoder
Chairperson Pro Tempore



ATTEST: _____
Shane F. Crosby
Executive Director

Date Mailed: March 20, 2023