

In support of its Motion, the Department attached certified copies of the pertinent court documents reflecting Respondent's conviction. Respondent, having been served by certified mail with the Notice of Charges and the Motion for Summary Judgment, failed to respond to either pleading. Accordingly, the facts alleged in the Notice of Charges are deemed admitted. 22 Pa. Code §233.13(e)(1)(iii); 1 Pa. Code §35.28.

In the instant case, there is no dispute that Respondent was convicted of Unlawful Sexual Intercourse with a Minor and Oral Copulation. Thus, the only question before the Commission is whether these crimes, or any of these crimes, involve moral turpitude. The determination of whether a crime involves moral turpitude is based solely upon the elements of the crime or misdemeanor. The facts underlying the charges are not relevant to the issue of moral turpitude. 22 Pa. Code §237.9(b); Startzel v. Commonwealth, Department of Education, 128 Pa. Commonwealth Ct. 110, 114, 652 A.2d 1005, 1007 (1989).

By regulation, the Commission has determined that crimes related to sexual abuse or relations with minors involve moral turpitude. 24 P.S. §1-111(e)(1); 22 Pa. Code §237.9(c). Out-of-state offenses, as in the instant case, that are similar in nature to such crimes are also included under the definition of crimes involving moral turpitude. 22 Pa. Code §237.9(c)(4). The California Penal Code's definition of Unlawful Sexual Intercourse with a minor is similar to Pennsylvania's crime of Statutory Sexual Assault¹:

Any person who engages in an act of unlawful sexual intercourse with a minor ... is guilty of ... a felony.

Cal. Penal Code §261.5. Similarly, California's definition of the crime of Oral

¹ "Statutory Sexual Assault" is defined in Pennsylvania as: A person commits a felony of the second degree when that person engages in sexual intercourse with a complainant under the age of 16 years. 18 Pa.C.S. §3122.1.

Copulation is comparable to the crime of Involuntary Deviate Sexual Intercourse² in

Pennsylvania:

[a]ny person who participates in an act of oral copulation with another person who is under 18 years of age shall be ... [imprisoned] ...for a period of not more than one year.

Cal. Penal Code §288a(b)(1).

Accordingly, there is no genuine issue as to any material fact and immediate revocation of Respondent's teaching certificate will be ordered as a matter of law.

² A person commits "Involuntary Deviate Sexual Intercourse" in Pennsylvania "when he or she engages in deviate sexual intercourse with a complainant ... who is less than 16 years of age. 18 Pa.C.S. §3123(a). "Deviate sexual intercourse" is defined as "sexual intercourse per os or per anus between human beings." 18 Pa.C.S. §3101.

ORDER

AND NOW, this 13th day of September, 2000, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional teaching certificate issued to Respondent Florine M. Strimel shall be REVOKED by the Department pursuant to section 5(a)(11) of the Teacher Certification Law, *as amended*, 24 P.S. § 2070.5(a)(11). In addition, the Commission finds that Respondent is deemed to have admitted that she is a danger to the health, safety and welfare of the students of this Commonwealth. Thus, the revocation shall be effective IMMEDIATELY.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY:

Richard D. Hupper
Chairperson

ATTEST:

Carolyn Angelo
Executive Director

Date Mailed: