

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**PAUL R. WILSON,
Respondent.**

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DOCKET NO. DI-19-075

MEMORANDUM AND ORDER

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 May 7, 2019, 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. The first-class mail was not returned, and the certified mail was returned to the Department marked “unclaimed.” 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).

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 an answer or otherwise respond to the Notice of Charges. 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 areas of Mathematics 7-12. On August 26, 1995, Respondent imbibed a sufficient amount of alcohol so as to render him incapable of operating a motor vehicle safely. On this occasion, Respondent was stopped at a sobriety checkpoint when police detected the odor of alcohol emanating from his person and observed that he had slurred speech and

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).

bloodshot eyes. A preliminary breath test revealed that Respondent had a blood alcohol content (“BAC”) of .108%. As a result, Respondent was convicted of Driving Under the Influence of Alcohol (“DUI”) in Delaware County, Pennsylvania on September 8, 1998.

On February 15, 1998, Respondent, for a second time, imbibed a sufficient amount of alcohol so as to render him incapable of operating a motor vehicle safely. On this occasion, Respondent was pulled over for a traffic stop. The police officer detected the odor of alcohol and marijuana emanating from Respondent and also observed that Respondent had slurred speech and bloodshot glassy eyes. A marijuana cigarette was found on the driver’s side floor of the vehicle. As a result, Respondent was convicted of DUI in Chester County, Pennsylvania on August 19, 1998.

On October 21, 2016, Respondent, for a third time, imbibed a sufficient amount of alcohol so as to render him incapable of operating a motor vehicle safely. In this instance, police were dispatched to a hit and run accident. Upon making contact with Respondent, officers detected the odor of alcohol emanating from Respondent and also observed that Respondent was unsteady on his feet and had bloodshot glassy eyes. A blood test revealed a BAC of .173%. As a result, Respondent was convicted of DUI: Highest Rate of Alcohol (BAC .16+) – 1st Offense in Delaware County, Pennsylvania on March 20, 2017.

Finally, on July 29, 2017, Respondent, who was highly intoxicated, began arguing with his son over an incident that occurred earlier in the day. The argument escalated and Respondent began to punch his son in the face with a closed fist. His son attempted to defend himself and Respondent placed him in a headlock and

continued to punch him in the face and body. When Respondent's wife tried to break up the fight, Respondent punched her twice in the face. As a result, on October 23, 2017, Respondent was convicted of two counts of Simple Assault in Delaware County, Pennsylvania.

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. Driving under the influence of alcohol is conduct that clearly offends the Commonwealth's morals and sets a bad example for students. See Zelno v. Lincoln Intermediate Unit No. 12 Bd. of Dirs., 786 A.2d 1022 (Pa. Cmwlt. 2001)(three drunken driving convictions and two more for driving without a license amounted to a *per se* justification for dismissal); See also Moffitt v. Tunkhannock Area Sch. Dist., 192 A.3d 1214 (Pa. Cmwlt. 2018)(teacher's two DUI convictions offended the morals of the community and served as a bad example to youth justifying his dismissal).² Respondent's violent assault of his wife and son is also conduct that falls squarely within the Commission's definition of immorality.

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. Cmwlt. 2000). Respondent unquestionably exhibited a loss of self-control and self-restraint when he elected to

2. Conduct constituting "immorality" is cause for termination of a tenured professional employee under the Public School Code of 1949. Immorality has been defined by courts as a course of conduct that offends the morals of the community and is a bad example to the youth whose ideals a teacher is supposed to foster and elevate. Zelno, 786 A.2d at 1024. While not binding on the Commission, the court's decisions in Zelno and Moffitt may be regarded as persuasive authority. See 22 Pa. Code § 237.1.

drive while under the influence of alcohol on three separate occasions and when he assaulted his son and wife. Therefore, we find that Respondent is guilty of intemperance.³

The Department requests that the Commission enter an order directing it to indefinitely suspend Respondent's educator certification and employment eligibility. We agree with the Department that an indefinite suspension is the appropriate sanction for Respondent's misconduct and accordingly enter the following:

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

ORDER

AND NOW, this 31st day of January 2020, 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 Respondent PAUL R. WILSON in accordance with the foregoing Memorandum. 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.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By:



Myron Yoder
Chairperson Pro Tempore

ATTEST:



Shane F. Crosby
Executive Director

Date Mailed: January 31, 2020