

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**JASON T. SKAVERY,
Respondent.**

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DOCKET NO. DI-23-099

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 Jason T. Skavery (Respondent) with the filing of a Notice of Charges on November 17, 2023. The Notice of Charges alleges that, over a twelve-year period, Respondent was convicted of numerous criminal offenses, including several drug-related offenses, retail theft, simple assault, and resisting arrest. The Department asserts that Respondent’s conduct constitutes immorality, intemperance, and negligence under the Educator Discipline Act (Act) and the Commission’s regulations and requests the suspension of Respondent’s certificate and employment eligibility.

Respondent’s response to the Notice of Charges was due on or before December 18, 2023. When no response was filed, on January 5, 2024, the Department filed a Motion for Judgment on Default, requesting that the Commission find Respondent in default and issue an order directing the Department to suspend his

certificate and employment eligibility. The Commission considered the Motion at its January 22, 2024, meeting. Respondent did not appear.

Findings of Fact

1. Respondent holds an Instructional I certificate in the area of English 7-12.
2. On or about November 18, 2005, Respondent purchased two (2) placebo Oxycontin tablets from a confidential informant in a Drug Task Force controlled reverse buy-bust.
3. As a result, on January 8, 2007, Respondent was convicted in Northumberland County, Pennsylvania of Criminal Use of Communication Facility, 18 Pa.C.S. § 7512(a), Criminal Conspiracy, 18 Pa.C.S. § 903(a)(1), Intentional Possession of Controlled Substance by a Person Not Registered, 35 P.S. § 780-113(a)(16), and Purchase or Receipt of Controlled Substance by Unauthorized Person, 35 P.S. § 780-113(a)(19).
4. On or about September 29, 2012, employees at Boyer's Food Market observed Respondent taking shrimp from a container and then placing the container back into the freezer. Respondent was also seen concealing crab legs and a package of steamed crabs in his coat. When confronted, Respondent attempted to flee and a struggle ensued, during which a store employee sustained an injury to his finger. Police were dispatched to the scene, where they found Respondent in the

back of the store being detained by three male employees. Officers searched Respondent and found a large piece of shrimp in his pants pocket and a cylinder containing medications, which were identified as Acetaminophen, a codeine phosphate, Restoril and Suboxone. Respondent did not possess any currency to make a purchase. The amount Respondent attempted to steal totaled \$41.73.

5. As a result, on September 11, 2014, Respondent was convicted in Northumberland County, Pennsylvania of Retail Theft, 18 Pa.C.S. § 3929, Disorderly Conduct, 18 Pa.C.S. § 5503(a)(4), and Simple Assault, 18 Pa.C.S. § 2701.
6. On or about June 17, 2016, Respondent engaged in a narcotics transaction with his eight-year-old daughter, A.S., present. More specifically, a video of the transaction showed Respondent meeting another individual in an alley. Respondent gave the other individual money in exchange for four Xanax pills, all while A.S. stood just a few feet away.
7. As a result, on February 11, 2019, Respondent was convicted in Northumberland County, Pennsylvania of Intentional Possession of Controlled Substance by a Person Not Registered, 35 P.S. § 780-113(a)(16).
8. On or about November 6, 2017, Respondent was taken into custody on an outstanding felony arrest warrant. A search of his person revealed that

Respondent was in possession of a glass pipe commonly used to smoke/ingest illegal narcotics and Suboxone strips.

9. As a result, on February 11, 2019, Respondent was convicted in Northumberland County, Pennsylvania of Intentional Possession of Controlled Substance by a Person Not Registered, 35 P.S. § 780-113(a)(16).
10. On or about April 12, 2018, police received a report of two suspicious males, one of whom was reportedly carrying a pistol. Upon arriving at the scene, officers encountered Respondent and another man, who ignored their commands to stop and continued walking. When officers made contact, Respondent's co-defendant admitted to having a pellet gun on his person and was taken to a patrol vehicle for a pat down. Meanwhile, Respondent was observed holding in his right hand a small glass pipe containing burnt residue, which he transferred to his left hand and placed in his pocket. When ordered to remove his hand from his pocket, Respondent did not comply. The officer then observed Respondent take something from his pocket and put it in his mouth. To keep him from swallowing, the officer grabbed Respondent by the throat and ordered him to spit the item out. Respondent refused and kept attempting to swallow it. Eventually, he was taken to the ground and placed in handcuffs. Respondent later admitted the item he swallowed was Suboxone. A search of his person revealed that Respondent

was also in possession of Alprazolam.

11. As a result, on February 11, 2019, Respondent was convicted in Northumberland County, Pennsylvania of Resisting Arrest or Other Law Enforcement, 18 Pa.C.S. § 5104, and Intentional Possession of Controlled Substance by a Person Not Registered, 35 P.S. § 780-113(a)(16).
12. 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. 22 Pa. Code § 233.115(c)(1).
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. 22 Pa. Code § 233.115(c)(1); 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 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), (3), and (5).

Discussion

Under 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. Cmwlth. 1995).

Here, the Department mailed a copy of the Notice of Charges to Respondent by first class mail on November 17, 2023. 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. Cmwlth. 2008). After laying out the charges against Respondent and calling for the suspension of his certificate and employment eligibility, 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, page 5.

Respondent's response to the Notice of Charges was due on or before December 18, 2023. 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), (3), and (5). The Act does not define these terms, but rather 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 clearly offends the Commonwealth's morals and sets a bad example for

students. Therefore, the Commission finds that Respondent is guilty of immorality. The Commonwealth Court has also found that theft may constitute immorality and cause for termination under the Public School Code of 1949. See Lesley v. Oxford Area School Dist., 420 A.2d 764 (Pa. Cmwlt. 1980) (school board's dismissal of teacher on grounds of immorality was justified after teacher admitted to shoplifting at a local grocery store).¹

Intemperance is a loss of self-control or self-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. Cmwlt. 2000). "Excessive is defined as 'exceeding the usual, proper, or normal.'" Id. Respondent's behavior was excessive and unquestionably evidences a loss of self-control or self-restraint.

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). A duty may be established by law, by promulgated school rules, policies or procedures, by express direction from superiors or by duties of

1. 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 as offends the morals of the community and is a bad example to the youth whose ideals a teacher is supposed to foster and to elevate." Lesley, 420 A.2d at 766 (Pa. Cmwlt. 1980); *quoting* Horosko v. Mount Pleasant Township School District, 6 A.2d 866, 868 (Pa. 1939). While not binding on the Commission, judicial decisions under Article XI, Part C of the Public School Code of 1949 (24 P. S. §§ 11-1121—11-1133) known as the Teachers' Tenure Act may be regarded as persuasive authority. See 22 Pa. Code § 237.1.

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). By engaging in illegal conduct, Respondent violated duties established by the General Assembly's enactment of the criminal laws. Additionally, among the duties prescribed for educators by the Code is the requirement that educators impart to students principles of good citizenship and societal responsibility.² 22 Pa. Code § 235.4(b)(6). Respondent's actions are inconsistent with these principles. Therefore, Respondent is guilty of negligence.

The Department has requested that the Commission issue an order directing it to indefinitely suspend Respondent's certificate and employment eligibility. By defaulting, Respondent has forfeited the opportunity to provide the Commission with evidence in mitigation of any sanction. Accordingly, the Commission agrees that the suspension of Respondent's certificate and employment eligibility is warranted, and enters the following:

Order

AND NOW, this 14th day of February 2024, upon consideration of the Department's Motion for Judgment on Default, it is hereby Ordered:

2. The Code was amended effective August 21, 2021. For purposes of this Order, the Commission will apply only those provisions of the Code that were in existence at the time Respondent's misconduct occurred.

1. The Motion 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. The suspension of Respondent's certificate and employment eligibility 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.
3. To have the suspension lifted, Respondent must apply to the Commission for an order lifting the suspension pursuant to 24 P.S. § 2070.16.
4. 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 until his certificate and employment eligibility are reinstated in accordance with the Act.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: 

Myron Yoder
Chairperson Pro Tempore



Attest: _____
Shane F. Crosby
Executive Director

Date Mailed: February 14, 2024