Book	Policy Manual
Section	400 PROFESSIONAL EMPLOYEES
Title	Educator Misconduct
Code	417.1 Vol IV 2020
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Purpose

The Joint Operating Committee adopts this policy to promote the integrity of the education profession and to create a climate within the center that fosters ethical conduct and practice.

Authority

The Joint Operating Committee requires certificated employees to comply with the Code of Professional Practice and Conduct and the requirements of the Educator Discipline Act.[1][2]

Definitions

Educator - shall mean a person who holds a certificate.[3]

Certificate - shall mean any Commonwealth of Pennsylvania certificate, commission, letter of eligibility or permit issued under the School Code.[3]

Sexual Abuse or Exploitation - shall mean any of the following:[4]

1. The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

    a. Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

    b. Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

    c. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

    d. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

2. Any of the following offenses committed against a child: rape; statutory sexual assault; involuntary deviate sexual intercourse; sexual assault; institutional sexual assault; aggravated indecent assault; indecent assault; indecent exposure; incest; prostitution; sexual abuse; unlawful contact with a minor; or sexual exploitation.

Sexual Misconduct - any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or student that is designed to establish a romantic or sexual relationship with the child or student, such acts include but are not limited to:[3]

1. Sexual or romantic invitation.
2. Dating or soliciting dates.
3. Engaging in sexualized or romantic dialog.
4. Making sexually suggestive comments.
5. Self-disclosure or physical disclosure of a sexual or erotic nature.
6. Any sexual, indecent, romantic or erotic contact with a child or student.

Delegation of Responsibility

Duty to Report

The Administrative Director or designee shall report to the Pennsylvania Department of Education on the required form, within fifteen (15) days of receipt of notice from an educator or discovery of the incident, any educator:[5]

1. Who has been provided with notice of intent to dismiss or remove for cause, notice of nonrenewal for cause, notice of removal from eligibility lists for cause, or notice of intent not to reemploy for cause.
2. Who has been arrested or indicted for, or convicted of any crime that is graded a misdemeanor or felony.
3. Against whom there are any allegations of sexual misconduct or sexual abuse or exploitation involving a child or student.
4. Where there is reasonable cause to suspect that s/he has caused physical injury to a child or student as the result of negligence or malice.
5. Who has resigned or retired or otherwise separated from employment after a school entity has received information of alleged misconduct under the Educator Discipline Act.
6. Who is the subject of a report filed by the school entity under 23 Pa. C.S. Ch. 63 (relating to child protective services).[6]
7. Who the school entity knows to have been named as a perpetrator of an indicated or founded report under 23 Pa. C.S. Ch. 63.

An educator who knows of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under the Educator Discipline Act shall report such misconduct to the Pennsylvania Department of Education on the required form, and shall report such misconduct to the Administrative Director within fifteen (15) days of discovery of such misconduct.[5]

All reports submitted to the Pennsylvania Department of Education shall include an inventory of all information, including: documentary and physical evidence in possession or control of the center relating to the misconduct resulting in the report.[5]

An educator who is arrested or convicted of a crime shall report the arrest or conviction to the Administrative Director within seventy-two (72) hours of the occurrence, in the manner prescribed in Joint Operating Committee policy.[5][7][8]

Failure to comply with the reporting requirements may result in professional disciplinary action.[9]

Guidelines

Investigation

School officials shall cooperate with the Pennsylvania Department of Education during its review, investigation, or prosecution, and shall promptly provide the Pennsylvania Department of Education with any relevant information and documentary and physical evidence upon request.[10]

Upon receipt of notification in writing from the Pennsylvania Department of Education, the Administrative Director or designee shall investigate the allegations of misconduct as directed by the Department and may pursue its own disciplinary procedure as established by law or by collective bargaining agreement.[10]

Within ninety (90) days of receipt of notification from the Pennsylvania Department of Education directing the center to conduct an investigation (extensions may be requested), the Administrative Director or designee shall report to the Department the outcome of its investigation and whether it will pursue local employment action. The Administrative Director or designee may make a recommendation to the Department concerning discipline. If the center makes a recommendation concerning discipline, it shall notify the educator of such recommendation.[10]

Title IX Sexual Harassment and Other Discrimination

Whenever the allegations underlying a report of educator misconduct include conduct that appears to constitute harassment or other discrimination, including Title IX sexual harassment, subject to policies and procedures specific to such conduct, the Title IX Coordinator shall be promptly notified and shall respond to such allegations as provided in the applicable Joint Operating Committee policies. Whenever an investigation by the center of educator misconduct reveals indications of conduct by any person that appears to constitute harassment or other discrimination, including Title IX sexual harassment, the Title IX Coordinator shall be promptly notified and shall respond to such allegations as provided in policies specific to such discrimination. To the extent feasible,

investigations pursuant to discrimination policies shall be conducted jointly with investigations by the center of educator misconduct.[11][12]

Confidentiality Agreements

The center shall not enter into confidentiality or other agreements that interfere with the mandatory reporting requirement.[10]

Confidentiality

Except as otherwise provided in the Educator Discipline Act, all information related to any complaint, any complainant, or any proceeding related to discipline under the Educator Discipline Act shall remain confidential unless or until public discipline is imposed.[13]

Immunity

Any person who, in good faith, files a complaint or report, or who provides information or cooperates with the Pennsylvania Department of Education or Professional Standards and Practices Commission in an investigation or proceeding shall be immune from civil liability. The center also is immune from civil liability for the disclosure of information about the professional conduct of a former or current employee to a prospective employer of that employee.[14]

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Legal

1. 22 PA Code 235.1 et seq
2. 24 P.S. 2070.1a
3. 24 P.S. 2070.1b
4. 23 Pa. C.S.A. 6303
5. 24 P.S. 2070.9a
6. Pol. 806
7. 24 P.S. 111
8. Pol. 317
9. 24 P.S. 2070.9c
10. 24 P.S. 2070.11
11. Pol. 103
12. Pol. 104
13. 24 P.S. 2070.17b
14. 24 P.S. 2070.17a

23 Pa. C.S.A. 6301 et seq

24 P.S. 2070.1a et seq