

Educator Misconduct - School Entity Mandatory Report Procedures and Form

24 P.S. § 2070.9a

DATE OF ISSUE: September 5, 2014

REPLACES: Educator Misconduct – School Mandatory Report Procedures and Form, BEC 24 P.S. §2070.9(a), issued April 9, 2010

PURPOSE

This circular sets forth the mandatory reporting requirements of educator misconduct for educators and chief school administrators.

BACKGROUND AND AUTHORITY

Section 2070.9a of the Educator Discipline Act (Act), 24 P.S. § 2070.9a, imposes mandatory reporting responsibilities on all educators as well as specific reporting responsibilities on chief school administrators of all school entities or their designees.

The Act defines relevant words and phrases as follows:

"School entity" shall mean a school district, intermediate unit, area vocational-technical school, charter or cyber charter school, private academic school or contracted educational provider.

"Chief school administrator" shall mean the superintendent or chief executive officer of a school district, the executive director of an intermediate unit, the director of an area vocational-technical school, the chief administrator of a charter or cyber charter school, the director of a private academic school or the chief administrator of a contracted educational provider.

"Educator" shall mean a person who holds a certificate, who is a charter or cyber charter school staff member or who is a contracted educational provider staff member.

"Charter or cyber charter school staff member" shall mean an individual employed by a charter or cyber charter school in a position for which certification would be required in a public school other than a charter or cyber charter school but who is not required to hold certification under section 1724-A of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949." The term includes an individual who is an administrator, including the chief administrator or the individual with primary responsibility for the administration of the charter or cyber charter school.

"Contracted educational provider" shall mean an individual or an entity with which a school entity has contracted to provide direct educational services to its students.

"Contracted educational provider staff member" shall mean a person who:

- (1) serves in a position for which certification would be required in a public school; and
- (2) is employed by a contracted educational provider or by or in a school entity as an individual contracted educational provider.

The term includes an individual who is an administrator, including the chief administrator or the individual with primary responsibility for the administration of a contracted educational provider.

"*Sexual misconduct*" shall mean any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student.

Such prohibited acts include, but are not limited to, the following:

- (1) sexual or romantic invitations;
- (2) dating or soliciting dates;
- (3) engaging in sexualized or romantic dialogue;
- (4) making sexually suggestive comments;
- (5) self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
- (6) any sexual, indecent, romantic or erotic contact with the child or student.

Educator Mandatory Reporting

Educators must report the following:

(1) An arrest, indictment for, or conviction of any crime enumerated under section 111(e) and (f.1) of the Public School Code. The educator must report the indictment, arrest or conviction to the school entity at which the educator is currently employed within 72 hours of the indictment, arrest or conviction.

(2) All educators must file a mandatory report with the Department of Education whenever they know of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under this Act. The educator must also report such misconduct to his or her chief school administrator and immediate supervisor. The report shall be filed with the Department of Education within 15 days of the discovery of the sexual abuse or exploitation or sexual misconduct.

Chief School Administrator Mandatory Reporting

The chief school administrator or his or her designee must report to the Department of Education the following:

(1) Any educator 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 a determination not to reemploy for cause. The report shall be filed within 15 days after notice is provided by a school entity.

(2) Any educator who has been arrested or indicted for or convicted of any crime that is graded a misdemeanor or felony. For purposes of this section, the term conviction shall include a plea of guilty or nolo contendere. The report shall be filed within 15 days of discovery of the indictment, arrest or conviction.

(3) Any educator against whom allegations have been made that the educator has:

- (i) committed sexual abuse or exploitation involving a child or student; or
- (ii) engaged in sexual misconduct with a child or student.

The report shall be filed within 15 days of the discovery of the allegations of misconduct.

(4) Information which constitutes reasonable cause to suspect that an educator has caused physical injury to a child or student as a result of negligence or malice. The report shall be filed within 15 days of the discovery of the information.

(5) Any educator who has resigned, retired or otherwise separated from employment after a school entity has received information of alleged misconduct under this act. The report shall be filed within 15 days of the separation from employment, notwithstanding any termination agreement to the contrary that the school entity may enter into with the educator.

(6) Any educator who is the subject of a report filed by the school entity under the reporting requirements of 23 Pa.C.S. Ch. 63 (relating to child protective services). The report shall be filed within 15 days of the filing of the child protective services report.

(7) Any educator who the school entity knows to have been named as the perpetrator of an indicated or founded report of child abuse or named as an individual responsible for injury or abuse in an indicated or founded report for a school employe under 23 Pa.C.S. Ch. 63. The report shall be filed within 15 days of discovery of the child protective services report.

PROCEDURES

Such reports shall be filed with the Pennsylvania Department of Education, Office of Chief Counsel, 333 Market Street, 9th Floor, Harrisburg, PA 17126-0333.

Failure to comply with the reporting requirements may result in professional disciplinary action against the educator and/or chief school administrator.

All reports submitted to the department shall include an inventory of all information and documentary and physical evidence in possession or control of the school entity relating to the misconduct resulting in the report and the name and contact information for the current custodian of the items listed in the inventory. The school entity shall provide promptly to the department any documents or items requested after the department reviews the inventory.

REFERENCES:

Purdon's Statutes

- 24 P.S. § 1-111(e)(1)-(3)
- 24 P.S. § 2070.9a

ATTACHMENT:

[Commonwealth of Pennsylvania Mandatory Report Form](#) (Word) (to be filed by Chief School Administrator)

[Mandatory Report Form for Educators](#) (Word) (to be filed by educator)

CONTACT BUREAU/OFFICE:

Pennsylvania Department of Education
Office of Chief Counsel
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333
Phone: (717) 787-5500
Fax: (717) 783-0347