Transcript of 3/30/17 AEDY Webinar:

AEDY and the Educator Discipline Act

Intro: The broadcast is now starting. All attendees are in listen only mode.

John: Good afternoon everybody and welcome to the webinar for this month, AEDY and Educator Discipline Act. This is John Esposito, and with us today, with have Michelle Nutter.

Michelle: Hi, everybody!

John: And, conducting the webinar today in the PowerPoint will be Shane Crosby, and he is from the Professional Standards and Practices Commission here at PDE, and before we get started with Shane, one thing we ask is that if you have any questions, just kind of hold onto those until the end, and we'll take all the questions at the very end. Thank you. Shane?

Shane: Thank you, and good afternoon. I'm going to be covering a lot of material today, much of which may be new to many of you, but again, if you have questions, write them down and we'll take as much time as we need at the end to answer those questions. But, today, I want to focus on the Educator Discipline Act and specifically the amendments that went into effect in February of 2014, when the act was significantly expanded. And really, there are two significant changes that impact many of you. First, under the act, we expanded the mandatory reporting requirements for chief school administrators and for educations, and the amendment also expanded the commissions jurisdiction to include certain individuals and entities who contract with ... school entities to provide services to students, so we're going to be talking about all of those things, and the various implications of coming under the commission's jurisdiction.

John: Okay, sorry, hang on. Give me one second. I thought I had this all ready, and I didn't, so let's see if that works.

Michelle: Yep.

John: Okay. So ...

Michelle: If you can hear us, can you go ahead and click on the raise hand button, so that we know that we are coming through?

John: Sorry, I left that part out. I meant to do that.

Michelle: Thank you so much.

John: So, you can hear us, everybody can see the screen? Alright, I'm going to turn it back over to Shane. Sorry about that, Shane.

Shane: No problem. Alright, so we're just going to start with just a brief introduction to the ... I'm not sure which way the PowerPoint slide's advancing ... I'm just going to give you a brief introduction to the Professional Standards and Practices Commission, and give you an overview of the educator discipline system in Pennsylvania. We'll talk about some of the types of conduct that can trigger discipline under the act, and then we're going to move into the mandatory reporting requirements.

But as you can see, the commission is primarily a teacher body, and we are made up of educators really from across the Commonwealth. Our commissioners are appointed by the governor and confirmed by the senate. Under the act, we have a number of roles, and really, our primary role, which is the role I'll be focusing on today, is as the adjudicator and the educator discipline system, so to help sort of explain what that means, you can think as the commissions sort of as the court system in the educator discipline process, so we're actually separate from the Department of Education. We're an independent commission, and the department is charged under the act with receiving complaints against educators and with doing those investigations and bringing charges before the commission, so they're sort of like the prosecutors in the system, and then the commission is charged with deciding those cases that are brought before us and imposing discipline accordingly.

We meet about six times a year, and we discipline a little over 200 educators every year. And we really see a wide variety of cases. Basically, if you can imagine something, we've probably seen it. You know, we see educators who are charged with all sorts of different criminal offenses, cases involving cheating on the PSSA, cases involving inappropriate discipline, drug and alcohol related misconduct, and really about anywhere from 40 to 50% of our cases every year in which we impose discipline involve some type of sexual misconduct with students, and we'll be talking quite a bit today about sexual misconduct. Currently, the Department of Education has about 1,800 open complaints of educator misconduct that they're investigating.

In terms of our jurisdiction, we have jurisdiction over anyone who holds a certificate that's issued by the Department of Education. Now, that includes since 2014, anybody who holds a private academic school certificate. We have about 800,000 folks in Pennsylvania who hold a certificate, and because our certificates never expire, we maintain jurisdiction over that certificate really for the life of the person, so we always like to tell people the only way to escape our jurisdiction is to die. And that jurisdiction follows that certificate regardless of where the individual is employed, so they might be working outside of education, they might be retired, they might be in a position that doesn't require certification, but we maintain jurisdiction over that certificate.

We also have jurisdiction over charter school staff members, and those are the 25% of folks or so under the charter school law who are serving either in positions as teachers or administrators who would be required to hold a certificate in a traditional public school, but who are exempted under the charter school law from the certification requirements, so we have jurisdiction over those folks, and we've had jurisdiction over charter school staff members since about 2001.

One thing that we did when the act was amended in 2014 that's relevant for you folks is that we added, as I said, certain contractors under out jurisdiction. Now, really, who we're talking about is a pretty small universe of people, and these really are people who are providing direct educational services to students under a contract with a school entity who would be required to hold a certificate if they worked in a school district, so teachers and administrators for example, in private, AEDY programs would be treated for the purposes of our law just as if they held a certificate.

Now, one thing that I do want to mention is that for the folks who are working for the private providers, for the people who fall under this requirement. Again, the non-certificated teachers and administrators, there is now a non-certificated educator designation in the teacher information management system that everyone who falls within that category is required to register for, and the directions for registering are on the commission's website, which is listed at the end of the PowerPoint, and it's pretty easy. There's no charge for registering, but it's very important, particularly if you are an administrator responsible for one of these programs. It's very important that you ensure that both you, if you don't have a certificate already. For the people who are working for a private provider who are already certificated, those folks do not need to register. They're already in the system, but for the non-certificated folks who are in teaching or administrative capacities, they need to register for this, and so as an administrator responsible for the program, it's your responsibility to make sure that everybody is properly registered.

Now, one thing before I move on, I just want to be clear is that these new provisions do not include anyone who would not be required to hold a certificate if they worked in a school district, so non-professional staff are not covered by this. Interpreters, physical therapists, behavioral therapists, coaches, folks like that who are not required to be certificated in a public school don't come under this contracted educational provider staff member umbrella.

I did briefly mention the code of conduct, and I'm not going to spend a lot of time on it, but one of the implications of falling under the commissions jurisdiction is that everyone who falls under the jurisdiction is subject to the code of professional practice and conduct. And there are a number of provisions in the code. Actually, the code was first adopted in 1992. We're in the process right now of modernizing the code. But, certain provisions of the code are an independent basis for discipline, but really, the code can be sort of boiled down to two really important principles that would apply to all educators in Pennsylvania, and again, when I use the term educators, when that term is used in the law, it includes all of those certificated and non-certificated folks who we talked about.

But, the first important principle that every educator needs to be aware of is that educators in this Commonwealth owe a fiduciary obligation to their students, and what that means is that because of that inherent imbalance of power that exists in the student, teacher relationship, educators have an obligation to always act in the best interest of their students, and that may include putting their students before their own needs, and that's an important obligation that really very few professions share. Doctors, lawyers, therapists all have a fiduciary duty to their clients, just as educators have a fiduciary duty to their clients, basically the students who they serve.

The second important principle that educators need to be aware of is the obligation that society has placed on educators to be role models for students, and this is a principle that goes back a very long time. Even our Supreme Court has held that educators have an obligation to conduct themselves in a way that brings the respect of the community essentially of who they serve, and that's a duty really that doesn't end when the educator leaves at the end of the school day. So, that's sort of the code of conduct in a nutshell.

I'm going to move on, now, to the types of professional discipline that can be imposed under the educator discipline act, and when we're talking about professional discipline, that's separate from any type of discipline that an employer might take, so an employer might terminate an employee, might take no disciplinary action at all. That really is separate and distinct from certification action. So, there may be situations where, for example, and employee is terminated and the commission determines not to take any action, because one thing that the department can do under the law is to determine that local discipline was sufficient punishment for whatever the violation was. And likewise, there might be cases where the employer takes no action, and the commission may still even revoke the certification of the educator.

Now, when it comes to those non-certificated folks, the people that don't have a certificate we can take away, what we do is expand or revoke the employment eligibility of that person, so if the employment eligibility is suspended or revoked, the individual is ineligible to apply for any certificate and also ineligible to work in any position in a school entity for which certification would be required in a traditional public school.

So, in terms of the actual types of discipline we can impose, we can impose public or private reprimand, which is basically a reprimand is a written admonishment. We can suspend or revoke the certificate or employment eligibility, but often times when there is an allegation of misconduct, the educator may voluntarily surrender the certificate or employment eligibility as basically a voluntary revocation. We can impose fees and fines. We can attach certain conditions to discipline, like the condition that the educator engage in rehabilitation, for example, if it's a drug and alcohol related misconduct, and we can take discipline based on actions taken in other jurisdictions. That's what we refer to as reciprocal discipline, so for an educator who's working in Maryland who also holds a Pennsylvania certificate, for example. If Maryland suspends or revokes the Maryland certificate, then we can suspend or revoke the Pennsylvania certificate.

With the exception of private reprimand, all of these disciplinary actions are public, so they are posted on the commission's website. A notice that is issued to every school entity in the state, and we also report to a national database that all other licensing jurisdictions have access to. And I would encourage you when, as you're making hiring decisions, even if you're hiring someone for a non-certificated position, I would encourage you to go ahead and check the TIM's certification database.

It's very easy to do, and you will be able to see if the commission has imposed any discipline against that person in the past, and the reason I say that is because we had a case a few years ago where a school district hired a coach, and they didn't realize that he had held a teaching certificate in the past, and we had actually revoked, many years before, the coach's teaching certificate for having sex with a female student, and so he was hired as a coach. The school wasn't aware of his history until there were some concerns. The parents had some concerns about the way he was interacting with some of the female students he was coaching, and one of the moms happened to Google him and found out that his certificate was revoked, so just a word of caution, there.

In terms of the grounds for discipline under the act, we basically have two different buckets that a case can fall into. And depending on which one of those buckets the case fits into, it's going to determine both the discretion that the commission has in imposing discipline as well as the consequences for the educator. So, broadly speaking, those buckets we sort of call our criminal and non-criminal buckets.

So, when it comes to criminal conduct, we're talking about a conviction for a specific type of crime. Not any crime, so we're not talking about the simple assaults and DUIs and things like that. But we're really talking about two categories of crime, which are crimes involving moral turpitude and crimes listed in section 111 of the school code. With respect to crimes involving moral turpitude, these generally are crimes involving some type of fraud or dishonesty, so there are some examples on this screen. You can see, you know, bank robbery, burglary, insurance fraud, mail fraud, wire fraud. You can see the pattern there, right? These are all crimes that involve some type of fraud or dishonesty.

Now, when an educator is convicted of any one of these offenses, including all the different theft offenses, we are required to revoke the certificate or the employment eligibility. And all we can look at is the conviction. We can't look at the underlying facts or circumstances, any mitigating factors, anything like that. We have to revoke. All the department does is provide us with court documents evidencing the conviction, and we must revoke. And that's really regardless of the seriousness of the crime itself, so many of these crimes are actually misdemeanor offenses, where the educator might receive probation, so not necessarily serious crimes from a criminal justice standpoint, but obviously, serious for the purposes of certification action.

That next category of crimes are crimes listed in section 111 of the school code. These are all pretty serious offenses for the most part. Homicide, all the sex related offenses, and just like crimes involving moral turpitude, we don't look at the underlying facts. We look only at the conviction itself. Unlike the crimes involving moral turpitude, whenever an educator is convicted of one of these offenses, it is a permanent revocation, so that educator is permanently ineligible for certification as well employment in a school district involving direct contact with children.

In terms of our non-criminal cases, you can see on the screen, it lists all the different grounds of discipline under the act, and I'm not going to get into the definitions of these different categories. What you need to understand is basically this casts a very wide net. This covers a lot of different types of conduct, including conduct that occurs outside of school and might not be specifically related to teaching, so for example, we recently suspended an educator who was involved in a bar fight, because we determined that that was conduct that was immoral as well as intemperate. And when we talk about immorality, we're talking about really any conduct that violates the morals of the Commonwealth determined by the commission and sets a bad example for students, so you can see that a lot of different things can come under that umbrella.

Now, when an educator is charged with any of these type of offenses, the department actually has the obligation and burden of proving that the educator actually engaged in misconduct. The educator has a right to a hearing that looks very much like a trial in a criminal case, and the commission has discretion to impose whatever level of discipline the commission determines is appropriate.

So, this is just an overview of the educator discipline process. The process is always initiated by the filing of a complaint with the department. Anybody can file a complaint, and there is no time limitation or statute of limitations on the filing of complaints. Under the act, complaints can't be anonymous, however, so they have to be signed under oath, and there are actually criminal penalties for knowingly filing a false complaint. But basically, when a complaint is filed, it's reviewed by a department attorney. There are a number of different levels of review that the complaint goes through.

If they department determines that some misconduct might have occurred, they'll assign an investigator to do an investigation, and they can initiate charges with the commission and initiate that hearing process that I talked about, if they determine discipline is warranted. Most cases don't go through this entire process. Most result in some type of a settlement agreement, just like most criminal cases result in some type of a plea agreement, but as an employer, one thing that you should be aware of if an educator who works for your entity, if a complaint is filed against that educator, the employer is notified by the department of education and is asked to provide any information that the employer has related to the allegation. And under the law, the school entity, the employer is required to provide that information.

That whole process from the time the complaint is filed up until the time that public discipline is imposed is confidential and there are criminal penalties associated with violating that confidentiality.

I did mention, under the law, a school entity has certain obligations, and when we talk about school entities, again, we're including those entities that contract with a school entity. Those private entities that contract with a school entity to provide services to students, so school entities under the law are required as I said to cooperate throughout all stages of the process with the department and with the commission, and the department has the option also to refer a case to a school entity for investigation. That's something that doesn't happen very often, but they do have that option under the law.

So now, that's sort of just a very kind of quick introduction, overview of the discipline process in Pennsylvania, and so now we're going to kind of shift gears and talk about the mandatory reporting under the educator discipline act, and one thing that's really important to understand is that when we talk about mandatory reporting, most people understand sort of mandated reporting when it comes to reporting child abuse, so pretty much anybody who works in school, works with children, is obligated to report any suspicions of child abuse under the child protective services law. The mandated reporting that we're talking about here is separate and apart from that reporting obligation or any other reporting obligation that you might have. So, making a report to child line or law enforcement, for example, does not satisfy your reporting obligations under the educator discipline act.

The other thing to sort of understand at the outset is that these reporting obligations apply to all educators, so any time you have information, we'll talk about specifically what you have to report, but any time you have information that is reportable under the act, when it comes to any educator, you're required to report that, so it's not tied to employment, so you might have to employment relationship with that educator. Maybe it's an educator working in another entity, but if you have information that's required to be reported, you're obligated to do that.

These reporting obligations are non-negotiable in that so you can't enter into a separation agreement, for example, with an educator, and agree not to report certain information in exchange for the educator's resignation, for example. And in terms of the significance of reporting, so essentially, what does that mean if I file a mandatory report with the department? It's not the same as a complaint, so it's doesn't initiate the disciplinary process that we looked at. The report really is just a way to let the department know about a matter, and then the department can do an investigation, and they can determine whether or not they are going to file a complaint, because under the law, the department can file a complaint essentially with itself.

And I would say, the last time I checked, typically, about 50 to 60% of the time, when the department receives a mandatory report, it will file a complaint, so that means that many of the times when a matter is reported, it doesn't actually turn into a case.

So, in terms of who, under our law, is considered a mandatory reporting or report. We're talking about all chief school administrators, so superintendents, executive directors, directors of a vo-tech school, the chief administrators of a charter school, directors of private academic schools, as well as the chief administrator of a contracted educational provider, so again, if you are a private provider, and you're approved to provide alternative ed services under a contract with a school entity, and you are the administrator responsible for that entity, or you're an individual contract, then you fall under this definition of chief school administrator for the purposes of these reporting requirements that we're going to look at.

Mandatory reports are filed with the department of education's office of chief counsel. The commission does not receive those mandatory reports, and you have 15 calendar days from the time that you learn about a matter to make the report, so it's really important that you act within that time period.

All reports are required to be filed in writing, so you can see this is sort of a snap shot of the mandatory report form. This form's available on the website, again which will be available at the end of the PowerPoint, so you go on the website and download the form, and basically, you just want to provide whatever information, as much information as you have about the matter that you're reporting. You're also required to include an inventory of any evidence you have, or the names of any witnesses who might have information about the matter, and then you're required to turn over all of that documentation, evidence that you might have to the department, if they ask for it.

So, in terms of what's required to be reported, and again, these reporting requirements apply to the chief school administrators only. Educators do have certain requirements under the act, individual educators, and we'll talk about what those are in a couple of minutes, but unless I indicate otherwise, these apply only to the chief administrators.

So, the first is notice of intent to dismiss or separate for cause, so any time that you're entity provides and educator with notice of intent to terminate them for cause, that you're required within 15 days to provide a report to the department. Now, when you're talking about tenured teacher in a school district for example, there are certain notice requirements, and there are only certain grounds for which they can be terminated.

Now, my understanding is, with respect to the charter school staff members, for example, those folks don't have any tenure, employment protection, and I assume that that's probably the case for non-certificated teachers in these private providers, so in that case, if you're terminating someone for grounds that would constitute grounds for dismissal under the school code, which are essentially the same as those different grounds for discipline under the act, so immorality, negligence, intemperance, cruelty, those are all the grounds under the school code for which the school district can terminate a tenured teacher, so if you're terminating someone, if they were a tenured teacher, you would have grounds to terminate them, that would be a required report.

Now, what you're not required to report, say somebody's just not a good fit, or they're just not performing to your particular standards for example. That would not be a required report to the department. Only if you would have grounds to dismiss a tenured teacher.

And one thing I would just say, with respect to all of these, I know it can be confusing, particularly if you're hearing this for the first time, and even if you have some experience with this, maybe you've made a report in the past, it can get a little confusing sometimes, determining whether or not you're required to report something, so in those cases, you should always feel free to pick up the phone and call the office of chief counsel, or call the commission, and we will walk you through that situation and let you know if a report is required, and again, those phone numbers are provided at the end of the presentation.

So anyway, moving on to the next category of reports. That includes resignations after allegations, so say you have an educator who is accused of some type of misconduct, maybe an inappropriate relationship with a student, or maybe there's an allegation an educator is looking at porn on the computer, or something like that. Any type of allegation of misconduct, and the educator resigns after those allegations are made, you're required to report that to the department. Even if you haven't conducted an investigation, you haven't even determined whether or not the allegations can be substantiated, you're required to make that report within 15 days of the resignation following those allegations.

And this is really the big one, and this is allegations of sexual misconduct or sexual abuse, so for chief school administrators, they're required to report all allegations of sexual misconduct or sexual abuse. We'll talk about what those two terms mean, and so that means even if you don't believe the allegations or the allegations are recanted or you do an investigation or maybe there's an investigation by another entity that determines that those allegations are unsubstantiated, you're still responsible for making that report to the department, and the reason for that is until a couple years ago, when we amended the statute, the standard was reasonable cause to believe, and the problem with that was that nobody really knew what it meant, and it led to some real inconsistency, and matters that probably should have been reported that weren't.

So, for example, you know, an administrator might receive a report that a student's having sex with a teacher. They confront the teacher, the teacher denies it. Maybe the student also denies it, or maybe recants the allegation, and then the administrator's sort of left with this he said, she said situation, and often times, the determination would be made that well, I don't have reasonable cause to believe, because I don't really know what happened, and so now, for that reason, we require all of those allegations to be reported so that the department can conduct an appropriate allegation.

And this is where, when I mentioned in terms of the obligations of individual educators. All educators under the educator discipline act, and again, that terms includes those non-certificated folks, all educators are required to report sexual misconduct or sexual abuse or exploitation to the department of education. They're also required to report to their immediate supervisor and the chief school administrator, and again, this is separate from any other reporting obligation, and as we'll see, there may be times when certain conduct might be required to be report under the educator discipline act, but that might not be required to be reported to child line, for example. So, it's really important that all educators understand this responsibility, so it's important for you, if you're an administrator, it's really important that you make sure that your staff has the training that they need one, so that they're aware of the obligation and they know how to report, and what's required to be reported.

Now, the commission offer training, so we'll come out to your school entity, and we'll train you staff. We also are in the process of finalizing an online course that will be available on the [inaudible 00:36:22] portal. It's a three hour course, and it covers all sorts of different topic in addition to mandatory reporting, like appropriate student-teacher boundaries, sexual misconduct, sort of that whole review of the educator discipline process, so it's a pretty comprehensive course. It's free. It will also quality for Act 48 credit.

Part of those Act 126 mandatory training obligations, now, that educators and school employees who work with children have, so in case you're not familiar with that, everybody who had direct contact with children in school is required to receive three hours of training every five years on child abuse recognition and reporting as well as the educator discipline process and mandatory reporting under the educator discipline act. So, our course will satisfy that second prong, and we're just working with the developer to finalize that. We expect that that will be available in the next couple of months.

So, in terms of what we mean when we're talking about sexual abuse or exploitation, you know we're talking about actual sexual contact with an educator and student or a child, so that might be physical, verbal, sexually explicit conversations, or visual. You know, sexually explicit text messages, things of that nature. Now, sexual abuse or exploitation is generally a crime. It's also a category of child abuse, so if you have information that would fall into this definition, you would be calling child line and making a child abuse report, and then you're also going to make your report to the department of education.

When we're talking about sexual misconduct, this is a much broader term. In here, we're really trying to capture all of those behaviors that precede the sexual relationship, so you know, a student and the teacher don't enter into a sexual relationship overnight. It's usually you know, sort of the culmination of a pattern of boundary violations, which we often refer to as grooming. So, here, with this definition, we've attempted to capture all of those behaviors, and so the definition of sexual misconduct includes any act on the part of an educator that's directed toward a child or a student that's designed to establish that inappropriate romantic or sexual relationship, and so the definition includes some examples, like sexual or romantic invitations, dating or soliciting dates, the sexualized or romantic dialogue, sexually suggestive comments, self-disclosure or physical exposure of a sexual or romantic or erotic nature, and of course, any sexual contact.

That's not an all-inclusive list, and as I said, this is a very broad term. One thing you have to understand is that consent is never a defense under our law, so a student can never consent to romantic or sexual contact with an educator, and age is also not a defense under out law.

So, in terms of recognizing these behaviors that should be maybe sort of putting up a red flag in your mind, maybe triggering a report. These are all behaviors that we see over and over again in cases. Now, it doesn't always mean that when these behaviors are present, that sexual misconduct is occurring, but in pretty much every case that we have that's involving sexual misconduct, there's some element of this, so you have to use common sense, you have to take into consideration the context.

But things like singling students out for special attention, compliments on appearance, gift giving, non-sexual touching, so sort of wrestling, poking, hugging, that type of thing. Time along with students in private space. Sharing personal information with students, so if you have an educator who's talking to kids about things that typically would only be discussed with other adults, flirtatious behavior, and personal electronic communications. That's a big red flag. So now, almost pretty much every case that we have involving sexual misconduct, there's some element of communication through electronic means, so that's a big red flag.

Other red flags. Changes in student behavior, so you have a student who's typically very outgoing, becomes withdrawn, arriving to class late, maybe having behavioral problems. And again, the increased time with one adult, that's a big thing. And rumors. Rumors are a very important source of information when it comes to sexual misconduct. Typically, that's how we find out about a case. Often times, kids who are having sex with a teacher, they're not going to tell other adults, but they're going to talk to other kids, and of course, kids talk, so that's often how we find out about cases, and that's why it's really important to take every rumor seriously and make sure that you're reporting and investigating those rumors. Sometimes they're not true. Sometimes kids lie, but often times, where there's smoke, there's fire.

So, in terms of the type of educators who are engaged in this kind of conduct, it really runs the gamut. There's no single profile. Oftentimes, it's the last person you would suspect. It's the person who's well-liked by the students and the parents and the staff. Some people who often times are very good and very successful educators, so many people often think, you know, they'll know an offender when they see one, and that's just, in my experience, simply not the case. One thing that we do see is an educator to have access to students, you know, before or after school. Sort of special one on one type of contact, there. They're more likely to engage in sexual misconduct.

In terms of students who are targeted. Any student is vulnerable, again because of that imbalance of power that exists, but oftentimes, kids that are estranged from their parents, or unsure of themselves, engaged in risky behavior, have parents who are engaged in risky behavior, kids who are socially marginalized or who have special needs, kids who have been abused in the past. Those kids tend to be more vulnerable, and so when we're talking particularly about the types of programs that you folks are involved in, you have a very highly vulnerable population there.

I'm just going to give you two quick examples of cases that we've had involving sexual misconduct to give you an idea of what we're talking about. So, this was a case involving a social studies teacher who developed an affection for a particular female student. He would meet with her privately under the guise of sort of tutoring her. He would tell her she's the prettiest girl in school, things like that, and on one occasion, he hugged her and told her that he had a way he could improve her grades, so even though there was no sexual contact, he wasn't charged with a crime, he was guilty of sexual misconduct, and we revoked his certificate.

Last example, this was a teacher who was texting this student all hours of the day and night, asking her to send him pictures of her beautiful smile, sent her a Google Earth image of his house, asked her when she was coming over for a play date, told her that he wished he were a much younger man, things like that. Fortunately, the girl did not reciprocate, and she reported him, and we suspended indefinitely his certificate, so that's just to give you again, kind of a quick overview of sexual misconduct and sexual abuse. It's a topic that I could spend an entire hour or two talking about. But, again, that's something that all educators and chief school administrators are required to report.

With respect to the remaining obligations of chief school administrators, physical injury is a mandatory report, so any time you have reasonable cause to believe that an educator has cause injury to a child as a result of negligence or malice, you're required to report that to the department of education. This does not include just those intentional injuries. If you're wondering about the graphic, the reason I chose that is we actually had a case where a rookie teacher in Philadelphia was trying to get her classroom's attention, so she lit the garbage on fire, and the fire actually spread to some nearby boxes and some kids were injured, so even though that wasn't intentional, she was clearly negligent in causing those injuries, so that would be a mandatory report.

Any time you have any information that an educator's been charged with a misdemeanor or a felony, that's pretty much going to be any crime other than minor traffic offenses, so DUIs for example. If you have information that an educator has been charged with a DUI, you are obligated to report that to the department of education. Now, the department does receive arrest notification through the Pennsylvania Justice Network for anybody who's in the TIMS certification database, but even though the department might already be aware of it or you know someone else has reported it, and that's true of all of these things, you're still required to report that.

Any time you make a report to child line, you are required to make a report to the department of education. And that report is triggered whenever you pick up the phone and call child line. It's not based on the outcome of that investigation or anything else. It maybe that the children youth does an investigation, determines that the allegations are unfounded, you're still obligated to report that to the department once you make that call.

Any time you have information that an educator is the subject of an indicated or founded report of child abuse, even if you don't know, even you didn't file the report, even if nobody in your school entity filed the report, you're required to make a report, so say you hear from maybe an estranged spouse that a teacher is the subject of an indicated report, you might question the voracity of that allegation, you might not know anything about it, but you're required to report that to the department.

And so, finally, what I would say when it comes to mandatory reporting is again, going back to that fiduciary obligation that educators have to protect students. We always tell people that your ethical obligation to report misconduct exceeds these mandatory reporting requirements, so any time that you have information that an educator might not be fit to be working a school, you should report that information to the department so that they can do an investigation.

There are some significant penalties associated with failing to report, including loss of employment, certification action, or the loss of your employment eligibility, as well as civil and criminal penalties, so it's very important that you always err on the side of reporting.

And just a quick cautionary tale. This was a case that we had recently involving a teacher. Two students reported to this teacher that a friend of theirs of dating a teacher in another district. Just so happened that this teacher knew this other educator, was a friend of this educator, and so what this educator did was instead of making a report, she sat the male teacher and the female student down and basically told them to knock it off, and then went back to the students who had approached her and told them that is was taken care of, that they should worry about it or talk about it anymore. Then, what happened, a few months later, the male teacher actually raped the female student. He was convicted of a crime, he's still in jail, but this teacher now has lost her certificate and her career because she failed to report, so she chose to protect her friend instead of protecting the student, so this is something that you should take very, very seriously.

Under the act, there is immunity if you make a report, and it turns out that your concerns are not substantiated. You can't be civilly liable, as long as you were acting in good faith, and so again, it's important to trust your instincts and report whenever you have a concern. We always tell people, instead of asking yourself, you know, what if I'm wrong? And we certainly understand that concern. Nobody wants to report something, especially something involving sexual misconduct and have it turn out not to be true, and we certainly understand that, but really, we would say you should be asking yourself, what if I'm right? Because if you are right, certainly the implications for students is very serious.

So, you know, again if there are any questions, I'm happy to answer those questions now. If there are questions in the future regarding whether or not something should be reported, you know, you should certainly feel free to call and ask those questions, so we'll just open it up for questions at this time.

And one thing that I would say, too, again, if you visit the department's or the commission's website, we have a lot of resources on there for school entities, a lot of different brochures that cover reporting and sexual misconduct, things like that, so I would recommend that you all take a look at the website as well.

So, it looks like we might be having some technical difficulties, here, but it look likes at least a few of you were asking about the PowerPoint, if we can make that available, and the answer is yes. We can make a copy of this PowerPoint available to you, and as I said, there are also a lot of other very helpful resources that you can find on our website, which is pspc.education.pa.gov, an that's listed at the end of the PowerPoint, which again, we'll make sure to make available to all of you who participated.

John: I've got a question. Does the student teacher misconduct include college professors?

Shane: So, as far as the college professors are concerned, generally speaking those folks would not fall under our jurisdiction, but the exception again, would be if the person happens to hold a teaching certificate, so I can think of at least one case where we had a complaint involving a former high school teacher, actually many years before, who was alleged to have engaged in a sexual relationship while she was working at the high school. She then went on a became a college professor, and so that case did come under our jurisdiction, again, because she happened to hold a certificate, but generally speaking, we don't have jurisdiction over conduct that occurs in colleges.

Michelle: Are there any other questions? If so, please type them into the chat box that you see on the right hand, about the middle area of your screen.

John: Are we sending this out [inaudible 00:54:03]?

Michelle: We will send out a copy of this PowerPoint to everyone who's on our listserv, so if you are not on our listserv, please send an email or type in the chat box here, that we need to grab your email address and add you to our list.

Shane: And I'm always happy to ... I do a lot of presentations at school entities for teachers, for administrators, and there's no charge for that, you know, and so that's one service that the commission offers, so if any of you are interested in that ... Maybe you've had enough, and you never want to hear from me again after this, but in the even that you would like me to come out and do a presentation for your staff, that's something that is available to you as well.

Michelle: Excellent. Thank you Shane so much.

Shane: There is a question about if after hearing the teacher is found not guilty, is the information no longer available to investigators? And I'm sure if you mean not guilty of a crime or not guilty of misconduct, so I'll just answer both questions. So, there are occasions when an educator is accused of a crime, and found not guilty, or maybe the charges are dismissed for some other reason. The department can still pursue discipline and the commission can still impose discipline based upon the underlying conduct, but essentially, the department would have to approve whatever the underlying conduct is in that case.

In terms of the internal investigation, so the department receives a complaint, and they do an investigation, and they determine that there was no misconduct that occurred, that matter remains confidential under the law, so no one outside of the department is allowed to know about that, and there are actually criminal penalties for violating that confidentiality.

And there's a question about contacting me about presentations in the future. My phone number and email address is available on the last slide of the PowerPoint, which I guess ...

John: We'll put it back up.

Shane: We'll put it back up, but we'll also be sending that out, so my information is there, but my email is shcrosby@pa.gov, so you can see that on the slide there, and our phone number is 717-787-6576.

John: We'll just leave that up for a minute, so everybody can copy that information. And just a quick reminder. I believe our next webinar is scheduled for Thursday, April 20.

Michelle: Yep, 2 p.m., and Bob Moore, our special ed advisor, is going to have control of the microphone and the PowerPoint on that next session, so any special ed/AEDY questions that you have, especially where the two meet, Bob will be available to help us get through those questions next month, Thursday, April 20th at 2 p.m. We will be sending out an announcement through email and also a Penn\*link so you can get registered for the next webinar.

John: Everybody get that contact information for Shane? I can put it back up if you didn't. Oh, it's already up there. I didn't stop the slide.

Michelle: Okay, well if there's no more questions, Shane, thank you so much. This was very, very informative.

Shane: Thank you.

Michelle: And helpful for our folks. We look forward to connecting with all of you in the near future. As always, if you have questions, concerns, please don't hesitate to reach out to John, Dana, or I. We are here to help. Have a great rest of your day, and we'll talk to you next month. Thanks a lot.

John: Thanks everybody.

Michelle: Bye-bye.