

Discipline, Suspension and Dismissal of Professional Staff (Mandatory Reporting Requirements)

The following procedures apply to the reporting of allegations against or offenses committed by licensed personnel who face a dismissal action or are dismissed by the district.

Mandatory reporting requirements – unlawful behavior involving a child

If an employee is dismissed as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, or an allegation of a sexual act involving a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act, which is supported by a preponderance of evidence, the superintendent shall notify the Colorado Department of Education (CDE) as soon as possible but no later than 10 business days after the employee's dismissal.

The superintendent shall provide any information requested by the department concerning the circumstances of the dismissal. The district also shall notify the employee that information concerning the dismissal is being forwarded to CDE.

If the district learns that a current or past employee has been convicted of, pled *nolo contendere* to, or received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the superintendent shall notify CDE.

Mandatory reporting requirements – other offenses

In addition and in accordance with applicable State Board of Education rules, the superintendent shall immediately notify CDE when a dismissal action concerning a licensed employee is based upon the employee's conviction, guilty plea, plea of *nolo contendere*, or deferred sentence for any of the following offenses:

- a. felony child abuse, as specified in C.R.S. 18-6-401;
- b. felony unlawful sexual behavior, as defined in C.R.S. 16-22-102 (9);
- c. a felony offense involving unlawful sexual behavior, as defined in C.R.S. 16-22-102 (9);
- d. a crime of violence, as defined in C.R.S. 18-1.3-406;
- e. indecent exposure, as described in C.R.S. 18-7-302;
- f. contributing to the delinquency of a minor, as described in C.R.S. 18-6-701;

- g. felony domestic violence, as defined in C.R.S. 18-6-800.3;
- h. misdemeanor domestic violence, as described in C.R.S. 18-6-800.3 (1) and such conviction is a second or subsequent conviction for the same offense;
- i. misdemeanor sexual assault, as described in C.R.S. 18-3-402;
- j. misdemeanor unlawful sexual conduct, as described in C.R.S. 18-3-404;
- k. misdemeanor sexual assault on a client by a psychotherapist, as described in C.R.S. 18-3-405.5;
- l. misdemeanor child abuse, as described in C.R.S. 18-6-401;
- m. misdemeanor involving the illegal sale of controlled substances;
- n. physical assault;
- o. battery;
- p. a drug-related offense;
- q. an offense committed outside of this state, the elements of which are substantially similar to any offense described in items a-m above; or
- r. a misdemeanor committed outside of this state, the elements of which are substantially similar to sexual exploitation of children as described in C.R.S. 18-6-403 (3)(b.5).

The superintendent shall also immediately notify CDE when the district learns:

- a. the employee has forfeited any bail, bond or other security deposited to secure the employee's appearance and the employee is charged with having committed a felony or misdemeanor for any offense described in items a-m above; or
- b. the employee has paid a fine or received a suspended sentence for any offense described in items a-m above.

The superintendent shall also notify CDE when:

- a. The county department of social services or the local law enforcement agency reasonably believes that an incident of child abuse or neglect has occurred and the school employee is the suspected perpetrator and was acting in an official capacity as an employee of the district.
- b. The Board reasonably believes that an employee is guilty of unethical behavior or professional incompetence.

The Every Student Succeeds Act (ESSA) requires school districts that receive ESEA funds to have policies in place that prohibit the district from assisting an employee in obtaining a new job if the district knows, or has probable cause to believe, that such

employee engaged in sexual misconduct regarding a student or minor in violation of the law. The district is not prohibited from following routine procedures regarding the transmission of administrative or personnel files, but is prohibited from doing more than that to help the employee obtain new employment. 20 U.S.C. 7926. This provision is intended to prevent teachers or other school staff who have engaged in sexual misconduct with a student or minor at one school from obtaining employment at another school, without that school's knowledge of the prior misconduct. In sum, districts must ensure that they comply with state law mandatory reporting requirements as well as not offer employment assistance as prohibited by the ESSA when contacted by another school for information regarding an applicant's fitness for employment.

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