



Book	Policy Manual
Section	300 Employees
Title	Educator Misconduct
Code	317.1
Status	Active
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. Pol. 806 6. 24 P.S. 2070.9a 7. 24 P.S. 111 8. Pol. 317 9. 24 P.S. 2070.9c 10. 24 P.S. 2070.11 11. 24 P.S. 2070.17b 12. 24 P.S. 2070.17a 13. Pol. 104 14. Pol. 103 24 P.S. 2070.1a et seq 23 Pa. C.S.A. 6301 et seq 15. Pol. 248 16. Pol. 348
Adopted	March 23, 2015
Last Revised	January 26, 2021

Purpose

The Board adopts this policy to promote the integrity of the education profession and to create a climate within district schools that fosters ethical conduct and practice.

Authority

The Board requires certificated district 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 those acts constituting sexual exploitation or sexual abuse and any verbal, nonverbal, written or electronic communication or physical activity directed toward or with a child or student that is intended or construed by the student as an invitation to establish a romantic or sexual relationship with a child or student, such acts include but are not limited to:[3]

1. Sexual or romantic invitation or innuendo suggesting an invitation.
2. Dating or soliciting dates, including but not limited to private meetings with a student with the intent to initiate or continue a romantic/sexual relationship.
3. Engaging in sexualized or romantic dialog including but not limited to sexual or romantic innuendo, whether an in-person contact or through correspondence including email, Facebook or other social media communication or postings or telephone contact including texting or emailing via telephone or cellular phone.
4. Making sexually suggestive comments or providing or showing sexually explicit photographs or pornographic materials to a student.
5. Self-disclosure or physical disclosure of a sexual or erotic nature including but not limited to exposing any genitalia of either the educator or any student or any other person present during the exposure.
6. Any sexual, indecent, romantic or erotic contact with a child or student including physical contact, telephone or computer based contact or Internet contact.

Without limiting the foregoing, **sexual abuse, exploitation or misconduct** includes any of the following:[4]

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

1. 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;

2. 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;
3. Actual or simulated sexual activity or nudity for the purposes of sexual stimulation or gratification of any individual;
4. Actual or simulated sexual activity for the purposes of producing visual depiction, including photographing, videotaping, computer or cell phone depicting or filming.
5. The definition of **sexual abuse, exploitation** or **misconduct** does not include consensual activities between a child who is fourteen (14) years of age or older and another person who is fourteen (14) years of age or older and whose age is within four (4) years of the child's age.
6. Any of the following offenses committed against a child: [\[4\]](#)
 - a. Rape as defined in 18 Pa.C.S. Section 3121.
 - b. Statutory sexual assault as defined in 18 Pa.C.S. Section 3122.1.
 - c. Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. Section 3123.
 - d. Sexual assault as defined in 18 Pa.C.S. Section 3124.1.
 - e. Institutional sexual assault as defined in 18 Pa.C.S. Section 3124.2.
 - f. Aggravated indecent assault as defined in 18 Pa.C.S. Section 3125.
 - g. Indecent assault as defined in 18 Pa.C.S. Section 3126.
 - h. Indecent exposure as defined in 18 Pa.C.S. Section 3127.
 - i. Incest as defined in 18 Pa.C.S. Section 4302.
 - j. Prostitution as defined in 18 Pa.C.S. Section 5902.
 - k. Sexual abuse as defined in 18 Pa.C.S. Section 6312.
 - l. Unlawful contact with a minor as defined in 18 Pa.C.S. Section 6318.
 - m. Sexual exploitation as defined in 18 Pa.C.S. Section 6318.

Delegation of Responsibility

Duty to Report

A school employee governed by Section 6352(a)(2) of the Child Protective Services Act, 23 Pa. C.S. Section 6301 et seq., shall report immediately to the appropriate school administrator, law enforcement officials and the appropriate District Attorney, any incident or report of bodily injury or sexual abuse or exploitation or misconduct. [\[5\]](#)

The Superintendent 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: [\[6\]](#)

1. Who has been provided with notice of intent to dismiss or remove for cause, notice of removal from eligibility lists for cause, or notice of intent not to reemploy for cause; or
2. Who has been arrested or convicted of any crime that is graded a misdemeanor or felony;
or

3. Against whom there are any allegations of sexual misconduct or sexual abuse or exploitation involving a child or student; or
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; or
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; or
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); or[5]
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 Superintendent and his/her immediate supervisor, within fifteen (15) days of discovery of such misconduct.[6]

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 school relating to the misconduct resulting in the report.[6]

An educator who is arrested or convicted of a crime shall report the arrest or conviction to the Superintendent or designee, within seventy-two (72) hours of the occurrence, in the manner prescribed in Board policy.[6][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 Superintendent 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 school district to conduct an investigation (extensions may be requested), the Superintendent or designee shall report to Department the outcome of its investigation and whether it will pursue local employment action. The Superintendent or designee may make a recommendation to the Department concerning discipline. If the district makes a recommendation concerning discipline, it shall notify the educator of such recommendation.[10]

Confidentiality Agreements

The district 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 shall remain confidential unless or until public discipline is imposed. [\[11\]](#)

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 district 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. [\[12\]](#)

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 Board policies. Whenever an investigation by the district 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 district of educator misconduct. [\[13\]](#)[\[14\]](#)[\[15\]](#)[\[16\]](#)