

CHAPTER 235. CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR EDUCATORS

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Authority

The provisions of this Chapter 235 issued under section (5)(a)(10) of the act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. § 12-1255(a)(10)), unless otherwise noted.

Source

The provisions of this Chapter 235 adopted June 26, 1992, effective November 1, 1992, 22 Pa. B. 3176, unless otherwise noted.

§ 235.1. Mission.

The Professional Standards and Practices Commission is committed to providing leadership for improving the quality of education in this Commonwealth by establishing high standards for preparation, certification, practice and ethical conduct in the teaching profession.

§ 235.2. Introduction

(a) Professional conduct defines interactions between the individual educator and students, the employing agencies and other professionals. Generally, the responsibility for professional conduct rests with the individual professional educator. However, in this Commonwealth, a Code of Professional Practice and Conduct (Code) for certificated

educators is required by statute and violation of specified sections of the Code may constitute a basis for public or private reprimand. Violations of the Code may also be used as supporting evidence, though may not constitute an independent basis, for the suspension or revocation of a certificate. The Professional Standards and Practices Commission (PSPC) was charged by the act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. § § 12-1251—12-1268), known as the Teacher Certification Law, with adopting a Code by July 1, 1991. See 24 P. S. § 12-1255(a)(10).

(b) This chapter makes explicit the values of the education profession. When individuals become educators in this Commonwealth, they make a moral commitment to uphold these values.

§ 235.3. Purpose.

(a) Professional educators in this Commonwealth believe that the quality of their services directly influences the Nation and its citizens. Professional educators recognize their obligation to provide services and to conduct themselves in a manner which places the highest esteem on human rights and dignity. Professional educators seek to ensure that every student receives the highest quality of service and that every professional maintains a high level of competence from entry through ongoing professional development. Professional educators are responsible for the development of sound educational policy and obligated to implement that policy and its programs to the public.

(b) Professional educators recognize their primary responsibility to the student and the development of the student's potential. Central to that development is the professional educator's valuing the worth and dignity of every person, student and colleague alike; the pursuit of truth; devotion to excellence; acquisition of knowledge; and democratic principles. To those ends, the educator engages in continuing professional development and keeps current with research and technology. Educators encourage and support the use of resources that best serve the interests and needs of students. Within the context of professional excellence, the educator and student together explore the challenge and the dignity of the human experience.

§ 235.4. Practices.

(a) Professional practices are behaviors and attitudes that are based on a set of values that the professional education community believes and accepts. These values are evidenced by the professional educator's conduct toward students and colleagues, and the educator's employer and community. When teacher candidates become professional educators in this Commonwealth, they are expected to abide by this section.

(b) Professional educators are expected to abide by the following:

(1) Professional educators shall abide by the Public School Code of 1949 (24 P. S. § § 1-101—27-2702), other school laws of the Commonwealth, sections 1201(a)(1), (2) and (4) and (b)(1), (2) and (4) of the Public Employee Relations Act (43 P. S. § § 1101.1201(a)(1), (2) and (4) and (b)(1), (2) and (4)) and this chapter.

(2) Professional educators shall be prepared, and legally certified, in their areas of assignment. Educators may not be assigned or willingly accept assignments they are not

certified to fulfill. Educators may be assigned to or accept assignments outside their certification area on a temporary, short-term, emergency basis. Examples: a teacher certified in English filling in a class period for a physical education teacher who has that day become ill; a substitute teacher certified in elementary education employed as a librarian for several days until the district can locate and employ a permanent substitute teacher certified in library science.

(3) Professional educators shall maintain high levels of competence throughout their careers.

(4) Professional educators shall exhibit consistent and equitable treatment of students, fellow educators and parents. They shall respect the civil rights of all and not discriminate on the basis of race, national or ethnic origin, culture, religion, sex or sexual orientation, marital status, age, political beliefs, socioeconomic status, disabling condition or vocational interest. This list of bases or discrimination is not all-inclusive.

(5) Professional educators shall accept the value of diversity in educational practice. Diversity requires educators to have a range of methodologies and to request the necessary tools for effective teaching and learning.

(6) Professional educators shall impart to their students principles of good citizenship and societal responsibility.

(7) Professional educators shall exhibit acceptable and professional language and communication skills. Their verbal and written communications with parents, students and staff shall reflect sensitivity to the fundamental human rights of dignity, privacy and respect.

(8) Professional educators shall be open-minded, knowledgeable and use appropriate judgment and communication skills when responding to an issue within the educational environment.

(9) Professional educators shall keep in confidence information obtained in confidence in the course of professional service unless required to be disclosed by law or by clear and compelling professional necessity as determined by the professional educator.

(10) Professional educators shall exert reasonable effort to protect the student from conditions which interfere with learning or are harmful to the student's health and safety.

§ 235.5. Conduct.

Individual professional conduct reflects upon the practices, values, integrity and reputation of the profession. Violation of § § 235.6—235.11 may constitute an independent basis for private or public reprimand, and may be used as supporting evidence in cases of certification suspension and revocation.

§ 235.6. Legal obligations.

(a) The professional educator may not engage in conduct prohibited by the act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. § § 12-1251—12-1268), known as the

Teacher Certification Law.

(b) The professional educator may not engage in conduct prohibited by:

(1) The Public School Code of 1949 (24 P. S. § § 1-101—27-2702) and other laws relating to the schools or the education of children.

(2) The applicable laws of the Commonwealth establishing ethics of public officials and public employes, including the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. § § 401—413), known as the Public Official and Employee Ethics Law.

(c) Violation of subsection (b) shall have been found to exist by an agency of proper jurisdiction to be considered an independent basis for discipline.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

§ 235.7. Certification.

The professional educator may not:

(1) Accept employment, when not properly certificated, in a position for which certification is required.

(2) Assist entry into or continuance in the education profession of an unqualified person.

(3) Employ, or recommend for employment, a person who is not certificated appropriately for the position.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

§ 235.8. Civil rights.

The professional educator may not:

(1) Discriminate on the basis of race, National or ethnic origin, culture, religion, sex or sexual orientation, marital status, age, political beliefs, socioeconomic status; disabling condition or vocational interest against a student or fellow professional. This list of bases of discrimination is not all-inclusive. This discrimination shall be found to exist by an agency of proper jurisdiction to be considered an independent basis for discipline.

(2) Interfere with a student's or colleague's exercise of political and civil rights and responsibilities.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

§ 235.9. Improper personal or financial gain.

The professional educator may not:

- (1) Accept gratuities, gifts or favors that might impair or appear to impair professional judgment.
- (2) Exploit a professional relationship for personal gain or advantage.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

§ 235.10. Relationships with students.

The professional educator may not:

- (1) Knowingly and intentionally distort or misrepresent evaluations of students.
- (2) Knowingly and intentionally misrepresent subject matter or curriculum.
- (3) Sexually harass or engage in sexual relationships with students.
- (4) Knowingly and intentionally withhold evidence from the proper authorities about violations of the legal obligations as defined within this section.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

§ 235.11. Professional relationships.

The professional educator may not:

- (1) Knowingly and intentionally deny or impede a colleague in the exercise or enjoyment of a professional right or privilege in being an educator.
- (2) Knowingly and intentionally distort evaluations of colleagues.
- (3) Sexually harass a fellow employe.
- (4) Use coercive means or promise special treatment to influence professional decisions of colleagues.
- (5) Threaten, coerce or discriminate against a colleague who in good faith reports or discloses to a governing agency actual or suspected violations of law, agency regulations or standards.

Cross References

This section cited in 22 Pa. Code § 235.5 (relating to conduct).

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PROFESSIONAL EDUCATOR DISCIPLINE ACT¹
24 P.S. §§2070.1 et seq.
Effective February 20, 2001

§ 2070.1a. Short Title.

This act shall be known and may be cited as the Professional Educator Discipline Act.

§ 2070.1b. Definitions.

When used in this act, the following words and phrases shall have the following meanings:

"Administrator" shall mean a person who is a commissioned officer or holds a valid administrative certificate.

"Charter school" shall mean a school established pursuant to Article XVII-A of the act of March 10, 1949 (P.L. 30, No. 14), known as the "Public School Code of 1949."

"Charter school staff member" shall mean an individual employed by a charter school in a position for which State certification would be required in a public school other than a charter school, but who is not required to hold State 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 the chief administrator or individual with primary responsibility for the administration of the charter school.

"Commission" shall mean the Professional Standards and Practices Commission.

"Department" shall mean the Department of Education.

"Discipline" shall mean any one of the following actions:

- (1) Issue a private reprimand.
- (2) Issue a public reprimand.
- (3) Direct the department to suspend the certificate of a professional educator.
- (4) Direct the department to revoke the certificate of a professional educator.
- (5) For a charter school staff member, the term shall include an order suspending the person's eligibility to be employed by a charter school or prohibiting the person from being employed by a charter school.
- (6) Accept a professional certificate surrendered in lieu of discipline.

The commission may require a professional educator to meet certain conditions or take corrective action in conjunction with any discipline.

"Educational specialist" shall mean a person who holds an educational specialist certificate issued by the Commonwealth, including a certificate endorsed in the area of elementary school

¹ This compilation of the Professional Educator Discipline Act is not intended to be an official document. The document was created for the convenience of interested parties. When citing the Act, please refer to the official version contained in Purdon's Consolidated Statutes.

counselor, secondary school counselor, social restoration, school nurse, home and school visitor, school psychologist, dental hygienist, instructional technology specialist or nutrition service specialist.

"Professional educator" shall mean a person who is certificated as a teacher, educational specialist or an administrator in the Commonwealth.

"School entity" shall mean a school district, intermediate unit or area vocational-technical school, charter school, Scotland School for Veterans' Children, Scranton State School for the Deaf and Thaddeus Stevens College of Technology.

"Secretary" shall mean the Secretary of Education.

"Sexual abuse or exploitation" shall mean the employment, use, persuasion, inducement, enticement or coercion of a child or student to engage in, or assist any other person to engage in, any sexually explicit conduct or a simulation of any sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of any sexually explicit conduct or conduct that constitutes an offense under 18 Pa.C.S. Ch 31 (relating to sexual offenses) or section 6312 (relating to sexual abuse of children) or other forms of sexual exploitation of children or students.

"State Board" shall mean the State Board of Education.

"Teach" shall mean to engage in the practice of teaching in the public schools of the Commonwealth or to provide related educational specialist, administrative or supervisory services in such schools.

"Teacher" shall mean any person who holds a valid Pennsylvania teaching certificate.

§ 2070.2 Certification requirements.

No person shall teach in a public school in the Commonwealth unless he has met the certification requirements as established by the State Board of Education which are applicable to the institution where he is employed.

§ 2070.3. Professional Standards and Practices Commission.

(a) There is hereby created a Professional Standards and Practices Commission consisting of thirteen members appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.

(b) The term of office of members of the commission shall be three years except that:

- (1) the terms of office of four members appointed in the calendar year 2000 shall expire on the third Tuesday of January 2001;
- (2) the terms of office of four members appointed in the calendar year 2000 shall expire on the third Tuesday of January 2002; and
- (3) the terms of office of five members appointed in the calendar year 2000 shall expire on the third Tuesday of January 2003.

Vacancies shall be filled for an unexpired term in the same manner as original appointments. No person shall serve for more than two consecutive terms as a member of the commission. The Governor may remove any member from the commission for misconduct or malfeasance in office, incapacity, or neglect of duty. All members of the commission shall be residents of the Commonwealth of Pennsylvania.

§ 2070.4. Membership and qualifications.

(a) The membership of the Professional Standards and Practices Commission shall consist of:

- (1) Seven classroom teachers, including one educational specialist, broadly representative of the teaching profession from public schools.
- (2) Three administrators from public schools, at least one of whom shall be a commissioned officer and one a principal.
- (3) One administrator from an approved institution of higher learning in the Commonwealth offering approved teacher education programs.
- (4) Two members from the general public, at least one of whom shall be an elected public school director.

(b) Except for the representatives of the general public, the Governor in making appointments shall consider recommendations from panels of nominees submitted by Statewide organizations of professional educators which certify that the panels include only representatives of the category of professional personnel for which the panel or panels of nominees are submitted. However, the Governor shall not be limited to nominating members of Statewide organizations for appointments to the commission.

(c) All members of the commission except the persons representing the general public shall have been actively engaged in teaching or providing related educational, administrative or supervisory services in a public school or approved institution of higher education with approved teacher education programs for at least five of the eight years immediately preceding their appointment. A person appointed to the commission who leaves the Commonwealth to become domiciled in another state shall have his position on the commission deemed vacated. A person whose status changes to a category different from that for which he was appointed may continue to serve on the commission for the remainder of that person's appointment.

(d) The chairman of the State Board of Education, or a member of the board designated by the chairman, shall be an ex officio member of the commission without voting privileges.

(e) The members of the commission, employees of the commission and agents of the commission shall in all of their deliberations consider the public interest.

§ 2070.5.

Powers and duties.

(a) The Professional Standards and Practices Commission shall have the power and its duty shall be:

(1) To recommend to the State Board of Education rules and regulations defining positions for which certification should be required and criteria to determine qualifications, consistent with this act, necessary to hold such a certificate.

(2) To recommend to the State Board of Education rules and regulations providing for making a certificate permanent upon evidence of such teaching experience and additional preparation as may by rule be required.

(3) To recommend to the State Board of Education rules and regulations providing for the Department of Education investigation and determination of the acceptability of programs of professional education in colleges and universities of this Commonwealth issuing degrees to persons who may desire to teach in the schools of this Commonwealth. The commission may recommend as its own, with or without modification, standards used by other organizations engaged in the evaluation of teacher preparation programs. In establishing standards pursuant to this clause, the commission shall consider, among other factors, the following:

- (i) Ongoing research and developing theories in education.
- (ii) The knowledge and skills necessary to effectively perform professional education functions.
- (iii) The liberal arts and general education requirements that are the foundation of a teacher preparation program.
- (iv) The value of student teacher, laboratory work and other professional experience as preparation for certification.
- (v) The cultural and demographic diversity of relevant student populations.
- (vi) Other interests of the public.

The commission shall assess the effectiveness of educator preparation programs and recommend changes to the State Board of Education as indicated by such evaluations.

(4) To recommend to the State Board of Education changes in teacher education programs based on commission conducted assessments of these programs.

(5) To recommend to the State Board of Education rules and regulations providing for acceptance or approval of certificates to teach issued by other states, countries and bodies.

(6) To recommend to the State Board of Education rules and regulations providing for the department to enter into agreements with agencies of other states for reciprocal approval of teacher preparation programs.

- (7) To recommend to the State Board of Education rules and regulations governing examinations for the initial certification of teachers.
- (8) To cooperate with a national board for professional education certification recognized by the commission to such degree as, in the commission's judgment, shall bring advantage to the Commonwealth.
- (9) To establish procedures for conducting hearings pursuant to section 13 and for hearings regarding reinstatement of certificates.
 - (9.1) To adopt requirements regarding the submission of reports by the department on the processing of complaints in order to insure the timely and effective resolution of complaints.
- (10) To adopt and maintain a code for professional practice and conduct, pursuant to the act of July 31, 1968 (P.L. 769, No. 240); referred to as the Commonwealth Documents Law. Nothing in the code for professional practice and conduct shall be an independent basis for the suspension or revocation of a certificate, nor shall it pertain to questions of membership or affiliation or nonaffiliation in an employe organization, or participation in the actions of an employe organization, or participation or nonparticipation in the actions of an employe organization related to the negotiation of a collective bargaining agreement, a strike or other work stoppage as defined under the act of July 23, 1970 (P.L. 563, No. 195), known as the "Public Employe Relations Act," provided that the code may specify those sections the violation of which may constitute a basis for reprimand.
- (11) To discipline any professional educator or charter school staff member found guilty upon hearings before the commission of immorality, incompetency, intemperance, cruelty or negligence or for violation of any provision of the act of May 29, 1931 (P.L. 210, No. 126), entitled, as amended, "An act to regulate the certification and the registration of persons qualified to teach in accredited elementary and secondary schools in this State; imposing certain duties upon the Department of Public Instruction and the State Board of Education; defining violations; providing penalties, and for appeal to the court of common pleas of Dauphin County." The commission shall establish definitions consistent with this clause.
 - (11.1) To direct the department to suspend or revoke the certificate of a professional educator or charter school staff member in accordance with section 9.2.
- (12) To establish procedures which assure that actions concerning discipline of professional educators shall comply with due process.
- (13) To keep minutes of its meetings and report annually to the Governor, the General Assembly, the State Board of Education, the education profession and the public and to publish, from time to time, such other reports as it deems appropriate.

(14) To adopt, pursuant to the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, operating and procedural rules and regulations necessary to carry out the purposes of this act. The commission shall hold public hearings and take testimony concerning proposed recommendations which shall be presented to the State Board of Education.

Nothing in this act shall be construed to prevent organizations of the education profession from adopting measures designed to improve the standards and practices of ethics and academic freedom among their members and in their relationships with other persons and groups.

(b) All teachers' certificates in force in this Commonwealth on the effective date of this amendatory act shall continue in full force and effect, subject to all the terms and conditions under which they were issued, until they expire by virtue of their own limitations, unless they are sooner annulled for the reasons and in the manner provided by law.

(c) Recommendations as outlined in subsection (a) shall be presented publicly at a scheduled State Board of Education meeting. This presentation shall be prior to any board action on regulations, standards or guidelines affecting teacher certification, professional practices, accreditation of teacher education programs and long range plans.

§ 2070.6. Organization and meetings of the commission.

(a) The Governor shall annually select a chairman from among the membership of the commission. The chairman, or a commission member designated by the chairman, shall be an ex officio member of the State Board of Education without voting privileges or assignment to either council.

(b) Meetings shall be held at least five times per year at the call of the chairman or upon request in writing of a majority of the commission. A majority shall constitute a quorum and a majority of such quorum shall have authority to act upon any matter properly before the commission unless otherwise specified in this act. In the case of discipline of an administrator, the commission shall act by a majority vote of a special panel of at least nine members selected by the chairperson to include no more than three teachers. The first meeting of the commission shall be held within six months of the effective date of this act. Meetings of the commission shall be open to the public and the executive director of the commission shall be responsible for seeing that notices of meetings of the commission are properly circulated.

§ 2070.7. Expenses.

Members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of official commission business. A member of the commission who is an employe of an agency of the Commonwealth, or any of its political subdivisions including school districts, shall be permitted to attend commission meetings and perform other commission duties without loss of income or other benefits. A state agency or any political

subdivision of this Commonwealth, including a school entity, required to employ a substitute for a member of the commission who is absent from his employment while performing commission business shall be reimbursed by the Department of Education from funds appropriated for the general government operations of the Department of Education for the actual amount of any costs incurred upon presentation of a request for reimbursement and documentation of such cost. A member of the commission who is employed by a private employer shall be reimbursed by the Department of Education, from funds appropriated for the general government operations of the Department of Education, for any income lost, pursuant to guidelines established by the commission, as a result of attendance at commission meetings or performance of other official commission duties upon presentation of a request for reimbursement and documentation of such loss.

§ 2070.8. Commission staff.

(a) There shall be an executive director of the commission who shall serve as the executive officer and secretary of the commission. The commission and the secretary shall jointly employ and fix the compensation of the executive director. The executive director, with approval of the commission and the secretary, may employ additional professional and clerical personnel as may be necessary to carry out the duties and responsibilities of the commission. The Department of Education shall provide adequate space and equipment to facilitate the activities of the commission.

(b) The Governor, through his General Counsel, shall provide such legal advice and assistance as the commission may require.

§ 2070.9. Complaints.

(a) A proceeding to discipline a professional educator shall be initiated by the filing of a complaint with the department by any interested party within one year from the date of the occurrence of any alleged action specified under section 5(a)(11), or from the date of its discovery. Complaints involving sexual abuse or exploitation of a child or a student may be filed beyond the date of the alleged occurrence or date of its discovery up until five years after the child or student reaches 18 years of age. If the alleged action is of a continuing nature, the date of its occurrence is the last date on which the conduct occurred.

(c) The department may by regulation prescribe standards for the filing of complaints. The complaints shall, at a minimum:

- (1) be in a form prescribed by the department;
- (2) specify the nature and character of the charges; and
- (3) be verified under oath by the complaining party or a duly authorized agent of the complaining party.

(d) The commission, and its individual members, may not file a complaint or initiate a disciplinary proceeding on their own motion, except that if, in the performance of commission business,

the commission, or any of its individual members, uncovers evidence that would appear to require discipline, the commission may transmit such evidence to the department where such evidence will be treated as a complaint in accordance with the provisions of this act.

(f) Upon receipt of a complaint, the department shall promptly review it and all other complaints and information relating to the professional educator.

(1) If the facts alleged are not sufficient to warrant discipline, the department shall dismiss the complaint and provide written notice of such dismissal to the complaining party and to the affected professional educator.

(2) If the facts alleged are deemed sufficient to warrant discipline, the department shall notify the affected professional educator and the complaining party in writing of the sufficiency of the complaint and conduct a preliminary investigation to determine whether there is probable cause to believe that grounds for discipline exist. The department shall be provided, upon request, any documents it may reasonably require in pursuit of its preliminary investigation. Such request shall be made in writing to the professional educator or the current or prior employer.

(3) If the department determines that probable cause does not exist, it shall issue a written notice to the affected professional educator, the complaining party and the current or prior employer if the employer was notified of the complaint. If a finding of probable cause is made, the department shall so notify the affected professional educator and the complaining party and may immediately conduct an investigation pursuant to section 12 or transmit its preliminary findings to the local school governing board of the school entity in which the affected professional educator is or was last serving, to allow the local school board to investigate and comment upon the appropriateness of professional discipline.

§ 2070.9a. Reporting to the Department.

(a) The superintendent, assistant superintendent, executive director of an intermediate unit, chief administrator of an area vocational-technical school, administrator of a charter school or their designees shall report any of the following to the department:

(1) The dismissal of a certificated employe for cause. The report shall be filed within 30 days after an administrative decision by an arbitrator or the local board of school directors.

(2) Conduct that has resulted in a criminal indictment or conviction for a crime set forth in section 111(e)(1) through (3) of the act of March 10, 1949 (P.L. 30, No. 14), known as the "Public School Code of 1949," or other crime involving moral turpitude. The report shall be filed within 30 days of the receipt of information and shall include all available information relating to the conduct resulting in the charge or conviction.

(3) Information which constitutes reasonable cause to believe that a certificated employe has caused physical injury to a student or child as a result of negligence or malice or has committed sexual abuse or exploitation involving a student or child. The report shall be filed within 60 days of the receipt of the information.

(b) The superintendent, assistant superintendent, executive director of an intermediate unit, chief administrator of an area vocational-technical school, administrator of a charter school or their designees shall comply with the provisions of subsection (a). Failure to comply shall be deemed a violation of subsection (a) by the chief school administrator of that school entity and may result in disciplinary action against the chief school administrator.

§ 2070.9b. Imposition of Discipline.

The commission shall do all of the following regarding suspension or revocation of a professional certificate:

(1) Direct the department to immediately suspend the certificate of a professional educator indicted for a crime set forth in section 111(e)(1) through (3) of the act of March 10, 1949 (P.L. 30, No. 14) known as the "Public School Code of 1949" if the commission, after notice and hearing, if requested, determines that the professional educator poses a threat to the health, safety or welfare of a student or other individual in a school in accordance with the following:

(i) Within 15 days of the receipt of notice of charges issued by the department, the professional educator may request a hearing before the commission. The commission, or a committee of members of the commission, shall hold a hearing within 15 days of the receipt of the request. The commission or the committee shall issue a decision within 20 days after the conclusion of the hearing, including receipt of the transcript or filing of any briefs. The professional educator may appeal the decision of the commission pursuant to section 15.

(ii) The commission may elect not to suspend the certificate of any professional educator indicted for a crime under this subsection if the professional educator files an affidavit attesting that, during the pendency of the criminal charge, the professional educator will not be employed in a position that requires professional certification or involves direct contact with children.

(iii) The commission shall direct the department to immediately lift a suspension upon receipt of certified court documents establishing that charges have been dismissed or otherwise removed.

(iv) The commission may reinstate the certificate of a professional educator suspended under this subsection or release the professional educator from an affidavit under subparagraph (ii), if the professional educator participates in accelerated rehabilitative disposition as a result of the indictment and the commission determines that

the professional educator does not pose a threat to the health, safety or welfare of students or other individuals in a school. The commission shall conduct an expedited hearing for an applicant for reinstatement or release under this subparagraph.

Notwithstanding the provisions of this subparagraph, an applicant shall not be reinstated if the indictment was for an offense under 18 Pa.C.S. Ch. 31 (relating to sexual offenses) where the victim is a minor.

(2) Direct the department to revoke the certificate of a professional educator who has been convicted of a crime set forth in section 111(e)(1) through (3) of the "Public School Code of 1949", or a crime involving moral turpitude, or an equivalent crime in Federal court or a court of another State, territory or nation upon the filing of a certified copy of the verdict or judgment or sentence of the court with the commission. The commission shall direct the department to immediately reinstate a certificate upon receipt of certified court documents establishing that the conviction was reversed on appeal. For purposes of this subsection, the term conviction shall include a plea of guilty or nolo contendere.

(3) Direct the department to discipline a professional educator upon receipt of a certified copy of an adjudication from the appropriate licensing authority in another state, territory or nation imposing discipline for grounds, other than a conviction under paragraph (2), that are comparable to the grounds for discipline under this act. Upon receipt of the adjudication, the commission shall issue an order directing that the professional educator show cause why the imposition of identical or comparable discipline in this Commonwealth would be unwarranted. The professional educator shall respond within 30 days of receipt of the order. The final adjudication by an appropriate licensing authority of another jurisdiction shall be conclusive as to the misconduct of a professional educator under this act. Within 30 days after the time allotted for the professional educator to respond to the order to show cause, the commission may impose the identical or comparable discipline unless the professional educator demonstrates that:

- (i) the discipline would result in a grave injustice;
- (ii) the discipline is substantially different from what would have been imposed for similar conduct in this Commonwealth; or
- (iii) the procedure used in the other jurisdiction did not provide due process.

(4) Direct reinstatement of a certificate revoked, suspended or surrendered in lieu of discipline in accordance with this act.

§ 2070.10. Confidentiality.

(a) All information relating to any complaints, including the identity of the complainant, or any proceedings relating to or resulting from such complaints, shall remain confidential, unless or until discipline, other than a private reprimand, is ordered, any provision of law to the contrary notwithstanding. Should proceedings, after all appeals, result in discipline, other than private reprimand, such discipline

and all records pertaining thereto shall become public. There shall be no ex-parte communication on any pending matter regarding discipline.

(b) This section shall not prohibit any person from disclosing information previously made public as a result of action by a school entity to dismiss a certified employe for cause or as a result of a certified employe having been formally charged with or convicted of a crime of moral turpitude or another offense requiring mandatory revocation of a certificate.

(c) The provisions of this section shall not apply to reinstatements.

(d) Nothing in this section shall be construed to deny a professional educator access to information necessary to prepare a defense in a disciplinary proceeding under this act.

§ 2070.11. Duties of local school board officials.

(a) Upon receipt of the preliminary findings from the department, a local school board shall investigate and may pursue the local disciplinary procedures established by law or by collective bargaining agreement for adjudication of complaints against professional educators. The local school board shall inform the department within 90 days of receipt of the preliminary findings whether the local school board will pursue disciplinary action and whether the board believes that professional disciplinary action by the commission is warranted.

(b) The school board, when its local investigation is completed, may make a definite recommendation concerning discipline. The school board shall notify the affected educator of any such recommendation and shall provide to the department:

(1) Its findings and a summary of evidence gathered.

(2) Any other relevant information which the department may request including information related to individuals interviewed by the local school board.

(c) A school district, intermediate unit, area vocational-technical school or charter school, and any official or employe thereof, shall cooperate with the department during all stages of the disciplinary process.

§ 2070.12. Department action after investigation.

After completion of an investigation, the department may dismiss the charges, determine that appropriate and sufficient punishment has been imposed by the local school board, or initiate hearing procedures. If the complaint is dismissed or it is determined that appropriate and sufficient punishment has been imposed by the local school board, the department shall inform the professional educator, the complainant, and the local school board of the determination.

§ 2070.13. Hearing.

(a) Upon determination to initiate hearing procedures, the department shall, within 30 days, send a written notice to the affected professional educator advising of the charges and of his right to request a hearing within 30 days of receipt of such notice. A copy of the written notice of the charges shall be served upon the professional educator's current or prior employer.

(b) Notwithstanding any other provision of this act, if the department in its discretion determines that immediate discipline is necessary to protect the health, safety or welfare of students or other persons in the schools of this Commonwealth, it shall request that the commission modify the procedure set forth in this section and schedule an expedited hearing.

(c) The hearing shall be held in accordance with the following procedures:

(1) Within 45 days of receiving a request for a hearing, the commission shall appoint a hearing officer from a list of impartial third parties qualified to conduct such hearings. The list shall have been previously agreed upon jointly by the Governor's General Counsel and at least two-thirds of the commission, and shall have at least 5 names which shall be chosen on a rotating basis.

(2) The burden of proof shall be on the department, which shall act as prosecutor, to establish that grounds for discipline exist.

(3) The professional educator against whom the charge is made shall have the right to be represented by counsel and to present evidence and argument in accordance with rules of procedure promulgated by the commission.

(4) The governing board of the school entity in which the affected professional educator is or was last employed may intervene, for cause shown, in accordance with 1 Pa. Code § 35.28.

(5) The hearing shall be closed, unless the affected professional educator requests that it be open to the public. If the hearing is open, the hearing officer, in his discretion, may close any portion of the hearing for good cause shown. If the hearing is closed, only the department, commission members and staff, the affected professional educator and his or her representatives, any intervenors, if applicable, and any material witnesses shall be permitted to attend. Students attending school in the district which employs the professional educator shall not be permitted to attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made.

(6) The department may recommend to the hearing officer and commission appropriate discipline.

(7) The hearing officer shall, within 60 days after the conclusion of the hearing, issue a decision concerning whether discipline should be imposed. A decision shall include findings of fact and conclusions of law and specify the discipline.

§ 2070.14. Decision by hearing officer.

(a) The decision of the hearing officer shall become final unless the professional educator or the department files exceptions or a brief on exceptions within 30 days of the date of the recommended decision.

(b) The commission shall promptly consider exceptions to the hearing officer's decision. The commission by a majority vote of the full membership shall accept, modify or reject the hearing officer's decision, except that, in the case of discipline of an administrator, all exceptions shall be taken by a special panel of at least nine members of the commission selected by the chairperson, which will include no more than three teachers.

(c) Within 45 days after receiving the decision from the hearing officer and the exceptions thereto, the commission shall issue a written opinion and order affirming, reversing or modifying the hearing officer's decision and imposing discipline, if any.

§ 2070.15. Appeal.

(a) An order of the commission regarding discipline of a professional educator may be appealed only by the department or the professional educator as an adjudication by a State agency in the manner provided by law.

(b) An appeal filed under subsection (a) shall operate as a stay of the discipline until the determination of the appeal, except where the commission's decision to discipline is accompanied by a finding that immediate discipline is necessary to protect the health, safety or welfare of students or other persons in the schools of this Commonwealth.

(c) Where the commission's adjudication is in favor of the professional educator, the charges pertaining to the disciplinary proceeding shall be expunged from any personal or professional file of the professional educator maintained by the department and/or the local school entity.

§ 2070.16. Reinstatement.

(a) Any professional educator whose certificate has been suspended, revoked, or surrendered may apply to the commission for an order lifting the suspension or reinstating the certificate. The commission shall order the lifting of the suspension or reinstatement if the commission determines it would be just and proper. The commission shall seek and consider recommendations from the department prior to ordering the lifting of the suspension or reinstatement of the certificate and shall conduct hearings on the application at the request of the professional educator in accordance with procedures of this act. For purposes of determining whether it is just and proper to lift a suspension or reinstate a certificate, at a minimum, the commission may consider:

- (1) the conduct which resulted in discipline;
- (2) other past conduct of the applicant;
- (3) the applicant's current attitude towards past conduct;

- (4) rehabilitation efforts and activities;
- (5) references and letters of support or opposition.

(b) The commission shall not lift the suspension or reinstate the certificate of a professional educator if the suspension or revocation resulted from any of the following:

- (1) A finding of guilt by the commission for sexual abuse or exploitation;
- (2) Surrender of a certificate in lieu of discipline for conduct relating to sexual abuse or exploitation.

(c) The commission shall not lift the suspension or reinstate the certificate of a professional educator convicted of an offense under 18 Pa. C.S. (relating to crimes and offenses) set forth in section 111(e)(1) through (3) of the act of March 10, 1949 (P.L. 30, No. 14) known as the "Public School Code of 1949" for the time period set forth in that section.

§ 2070.17. Unauthorized release of information.

(a) Except as otherwise provided in section 10, a member, staff member or employe of the commission, the Department of Education, or any local school entity who releases or gives out information received at a commission meeting or hearing or through any disciplinary proceedings conducted pursuant to this act, without authorization of the commission, is guilty of a misdemeanor of the third degree.

(b) Any material witness or his or her representative who releases or gives out information received at a commission meeting or hearing involving disciplinary proceedings, or who releases or gives out information obtained as a result of direct involvement in the investigation of a professional educator or in any disciplinary proceedings conducted pursuant to this act, without authorization of the commission, is guilty of a misdemeanor of the third degree unless this information was known to the material witness or his or her representative prior to that meeting, hearing or investigation.

§ 2070.17a. Immunity from liability.

Notwithstanding any other provision of law, no person shall be subject to civil liability for filing a complaint or providing information to or cooperating with the department or the commission in the course of an investigation or proceeding conducted under this act. This section shall not apply to malicious action by any person or the provision of false information if the person knew, or had reason to know, that the information was false.

§ 2070.18. Commission proceedings and procedures.

(a) The commission shall conduct its proceedings in accordance with the provisions of this act and Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedures); if any inconsistency arises, the provisions of this act shall be controlling. Any person is entitled to be heard by the commission in person, in writing, or through his or her designated representative, in

accordance with procedures adopted pursuant to this act. The commission shall enter as a matter of record the minutes of each meeting, every vote taken by the commission and every official act of the commission.

(b) In all investigations or disciplinary proceedings, the commission is authorized to issue subpoenas as provided for by law to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidentiary material. A professional educator shall have five days from service to respond to a subpoena.

(c) No commissioner shall vote in any case where:

- (1) the professional educator who is the subject of the proceeding is employed by the same school entity; or
- (2) the professional educator is a member of a Statewide professional educator organization of which the commissioner is an officer, director or employe.

§ 2070.18a. Charter school staff members.

(a) Except as otherwise provided in this section, this act shall apply to charter school staff members.

(b) The commission may require a charter school staff member to meet certain conditions or take corrective action as an element of any discipline.

(c) When an order is issued prohibiting or suspending the employment of a charter school staff member by a charter school, the charter school staff member may apply for reinstatement in accordance with section 16. For a charter school staff member, reinstatement shall mean the lifting of an order to permit the person to be employed in a charter school.

(d) The director or chief administrator of a charter school shall comply with section 9.1 regarding both professional educators and charter school staff members. A violation of section 9.1 by a director or chief administrator of a charter school may result in the discipline of the director or chief administrator.



CHILD ABUSE RECOGNITION AND REPORTING TRAINING

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for child abuse recognition and reporting training.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a section to read:

Section 1205.6. Child Abuse Recognition and Reporting Training.—

(a) School entities and independent contractors of school entities shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The following apply:

- (1) Training shall address, but shall not be limited to, the following topics:
 - (I) Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct in this Commonwealth.
 - (II) Provisions of the act of December 12, 1973 (P.L.397, No.141), known as the "Professional Educator Discipline Act," including mandatory reporting requirements.
 - (III) The school entity's policies related to reporting of suspected abuse and sexual misconduct.
 - (IV) Maintenance of professional and appropriate relationships with students.
- (2) School entities and independent contractors may provide training through the Internet or other distance communications systems.
- (3) Employees shall complete a minimum of three (3) hours of training every five (5) years.
- (4) Employees required to undergo continuing professional education under section 1205.2 shall receive credit toward their continuing profession education requirements, if the training program has been approved by the Department of Education in consultation with the Department of Public Welfare.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Abuse." Conduct that falls under the purview and reporting requirements of 23 Pa.C.S. Ch. 63 (relating to child protective services) and is directed toward or against a child or student, regardless of the age of the child or student.

"Direct contact with children." The possibility of care, supervision, guidance or control of children or routine interaction with children.

"School entity." A public school, charter school, cyber charter school, private school, nonpublic school, intermediate unit or area vocational-technical school.

"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:

- (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 exposure of a sexual, romantic or erotic nature.
- (6) Any sexual, indecent, romantic or erotic contact with the child or student.

Section 2. This act shall take effect in 180 days.

SUSQUEHANNA COMMUNITY SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: CHILD/STUDENT ABUSE

ADOPTED: May 16, 2007

REVISED:

<p>1. Authority 23 Pa. C.S.A. 6301 et seq</p> <p>2. Definitions</p>	<p style="text-align: center;">806. CHILD/STUDENT ABUSE</p> <p>The Board adopts this policy to affirm district employees' obligation to assist in identifying possible child abuse as well as victimization of students by other school employees, and to establish procedures for reporting such in compliance with the Child Protective Services Law of 1990 and its amendments.</p> <p>The following definitions are for purposes of this policy.</p> <p>Child Abuse - shall mean any of the following:</p> <ol style="list-style-type: none">1. Any recent act or failure to act by a perpetrator which causes non-accidental serious physical injury to a child under eighteen (18) years of age.2. Any act or failure to act by a perpetrator which causes non-accidental serious mental injury to or sexual abuse or sexual exploitation of a child under eighteen (18) years of age.3. Any recent act, failure to act, or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under eighteen (18) years of age.4. Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning. <p>No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors that are beyond the control of the parent or person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing, and medical care.</p>
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Serious Mental Injury - a psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

1. Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious Physical Injury - an injury that causes a child severe pain, or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual Abuse or Exploitation - the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in or assist any other person to engage in any sexually explicit conduct, or any simulation of any sexually explicit conduct, for the purpose of producing any visual depiction including photographing, videotaping, computer depicting or filming of any sexually explicit conduct, or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other forms of sexual exploitation of children.

Perpetrator - a person who has committed child abuse and is a parent/guardian of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child, or a paramour of a child's parent/guardian. The term does not include a person who is employed by or provides services or programs in district schools.

Serious Bodily Injury - bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

Administrator - the person responsible for the administration of a district school. The term includes a person responsible for employment decisions in a school and an independent contractor. The **principal** of the school where the abused student is enrolled will serve as the administrator under this policy.

School Employee - an individual employed in a district school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.

Student - an individual enrolled in a district school under eighteen (18) years of age.

The school official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child.

STUDENT ABUSE BY SCHOOL EMPLOYEE

Duty To Report

A school employee shall immediately contact the principal when the school employee has reasonable cause to suspect, on the basis of his/her professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation by a school employee.

If the accused school employee is the principal, the school employee shall immediately report to law enforcement officials and the district attorney.

The principal who receives a report from a school employee or who has independent cause to suspect injury or abuse shall immediately report to law enforcement officials and the appropriate district attorney. The principal shall exercise no discretion but has an absolute duty to report when receiving notice from a school employee.

A school employee or principal who refers a student abuse report shall be immune from civil and criminal liability arising out of the report.

23 Pa. C.S.A.
6352

A school employee who willfully fails to report suspected student abuse or who willfully violates the confidentiality of such a report commits a summary offense.

23 Pa. C.S.A.
6353

An administrator who willfully fails to report immediately to law enforcement officials and the appropriate district attorney any report of serious bodily injury or sexual abuse or sexual exploitation alleged to have been committed by a school employee against a student commits a misdemeanor of the third degree.

Reporting Procedures

The principal's report to law enforcement officials and the district attorney shall include: name, age, address, and school of the student; name and address of the student's parent/guardian; name and address of the principal; name, work, and home address of the school employee; nature of the alleged offense; and any specific comments or observations directly related to the alleged incident and the individuals involved.

The school employee making a report of student abuse or injury by another employee shall not reveal the existence or content of the report to any person other than those to whom reporting is required under this policy.

Investigation

Upon receipt of a report of suspected student abuse, an investigation shall be conducted by law enforcement officials, in cooperation with the district attorney.

If law enforcement officials have reasonable cause to suspect, on the basis of initial review, that there is evidence of serious bodily injury, sexual abuse or sexual exploitation committed by a school employee against a student, the officials shall notify the county agency in the county where the alleged abuse or injury occurred for the purpose of the agency conducting an investigation.

School officials shall cooperate with the Department of Public Welfare or the county agency investigating a report of suspected student abuse, including permitting authorized personnel to interview a student while in attendance at school.

Law enforcement officials and the county agency shall coordinate their respective investigations. They shall conduct joint interviews with students, but law enforcement officials shall interview school employees prior to the county agency.

The principal has an independent duty to report to the Superintendent or designee that an employee has allegedly abused or otherwise victimized a student. The requirement not to divulge the existence of the report or its content shall not limit the principal's responsibility to use the information received to initiate and conduct an independent school investigation into the allegations. The independent school investigation shall be conducted in cooperation with the county agency and law enforcement officials, and shall be for the purpose of ascertaining appropriate employee discipline and taking action necessary to curtail wrongdoing.

CLEARANCE STATEMENT/EMPLOYMENT

In accordance with Board policy, the Superintendent shall require each applicant for employment, including each covered employee being transferred, to submit an official clearance statement issued within the preceding year by the Department of Public Welfare, except for those exempted by law.

No applicant may be hired who is named as the perpetrator in a founded report or is named as an individual responsible for injury or abuse in a founded report for a school employee. The school district has discretion whether to hire someone who has been named on an indicated report.

PA Statute
23 Pa. C.S.A.
6301

PA Statute
42 Pa. C.S.A.
5945

SUSQUEHANNA
COMMUNITY
SCHOOL DISTRICT

SECTION: EMPLOYEES
TITLE: CONDUCT/DISCIPLINARY PROCEDURES
ADOPTED: August 8, 2007
REVISED: December 7, 2011

317. CONDUCT/DISCIPLINARY PROCEDURES	
<p>1. Authority</p> <p>Title 22 Sec. 235.10</p> <p>SC 510, 514</p> <p>SC 1121, 1122, 1126, 1127, 1128, 1129, 1130 2 Pa. C.S.A. Sec. 551 et seq</p>	<p>All administrative, professional and noninstructional employees are expected to conduct themselves in a manner consistent with appropriate and orderly behavior. Effective operation of district schools requires the cooperation of all employees working together and complying with a system of Board policies, administrative regulations, rules and procedures, applied fairly and consistently.</p> <p>The Board requires employees to maintain professional, moral and ethical relationships with students at all times.</p> <p>The Board directs that all district employees shall be informed of conduct that is required and is prohibited during work hours and the disciplinary actions that may be applied for violation of Board policies, administrative regulations, rules and procedures.</p> <p>When demotion or dismissal charges are filed against a certificated administrative or professional employee, a hearing shall be provided as required by applicable law. Noncertificated administrative and noninstructional employees may be entitled to a Local Agency Law hearing, at the employee's request.</p> <p>All district employees shall comply with Board policies, administrative regulations, rules and procedures; attempt to maintain order; perform assigned job functions; and carry out directives issued by supervisors.</p> <p>When engaged in assigned duties, district employees shall not participate in activities that include but are not limited to the following:</p> <ol style="list-style-type: none"> 1. Physical or verbal abuse, or threat of harm, to anyone. 2. Causing intentional damage to district property, facilities or equipment. 3. Forceful or unauthorized entry to or occupation of district facilities, buildings or grounds.

317. CONDUCT/DISCIPLINARY PROCEDURES - Pg. 2

Pol. 351	<p>4. Use, possession, distribution, or sale of alcohol, drugs or other illegal substances.</p> <p>5. Use of profane or abusive language.</p>
SC 1122	<p>6. Failure to comply with directives of district officials, security officers, or law enforcement officers.</p> <p>7. Carrying onto or possessing a weapon on school grounds without authorization from the appropriate school administrator.</p>
SC 1122	<p>8. Violation of Board policies, administrative regulations, rules or procedures.</p>
SC 1122	<p>9. Violation of federal, state, or applicable municipal laws or regulations.</p> <p>10. Conduct that may obstruct, disrupt, or interfere with teaching, research, service, operations, administrative or disciplinary functions of the district, or any activity sponsored or approved by the Board.</p>
<p>2. Delegation of Responsibility SC 1122, 1151</p>	<p>The Superintendent or designee shall develop and disseminate disciplinary rules for violations of Board policies, administrative regulations, rules and procedures that provide progressive penalties, including but not limited to verbal warning, written warning, reprimand, suspension, demotion, dismissal, and/or pursuit of civil and criminal sanctions.</p>
	<p><u>Arrest Or Conviction Reporting Requirements</u></p>
SC 111	<p>Employees shall use the designated form to report to the Superintendent or designee, within seventy-two (72) hours of the occurrence, an arrest or conviction required to be reported by law.</p>
SC 111	<p>An employee shall be required to submit a current criminal history background check report if the Superintendent or designee has a reasonable belief that the employee was arrested or has been convicted of an offense required to be reported by law, and the employee has not notified the Superintendent or designee. Failure to accurately report such arrests and convictions may, depending on the nature of the offense, subject the employee to disciplinary action up to and including termination and criminal prosecution.</p>

References:

School Code – 111, 510, 514, 1121, 1122, 1126, 1127, 1128, 1129, 1130, 1151

State Board of Education Regulations, Code of Professional Practice and
Conduct for Education – 22 PA Code Sec. 235.1 et seq.

Local Agency Law – 2 Pa. C.S.A. Sec. 551 et seq.

Board Policy – 000, 351

SUSQUEHANNA COMMUNITY SCHOOL DISTRICT

SECTION: EMPLOYEES
 TITLE: UNLAWFUL HARASSMENT
 ADOPTED: August 8, 2007
 REVISED:

348. UNLAWFUL HARASSMENT	
<p>1. Authority</p> <p>43 P.S. Sec. 951 et seq 20 U.S.C. Sec. 1681 et seq 42 U.S.C. Sec. 2000e et seq</p>	<p>The Board strives to provide a safe, positive working climate for its administrative, professional and noninstructional employees. Therefore, it shall be the policy of the district to maintain an employment environment in which harassment in any form is not tolerated.</p> <p>The Board prohibits all forms of unlawful harassment of employees and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages employees and third parties who have been harassed to promptly report such incidents to the designated administrators.</p> <p>The Board directs that complaints of harassment shall be investigated promptly, and corrective action taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.</p> <p>No reprisals nor retaliation shall occur as a result of good faith charges of harassment.</p>
<p>2. Definitions</p> <p>29 CFR Sec. 1606.8 (a) 66 Fed. Reg. 5512</p>	<p>For purposes of this policy, harassment shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, gender, age, disability, sexual orientation or religion when such conduct:</p> <ol style="list-style-type: none"> 1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment. 2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance. 3. Otherwise adversely affects an individual's employment opportunities.

<p>29 CFR Sec. 1604.11 (a)</p>	<p>For purposes of this policy, sexual harassment shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"> 1. Acceptance of such conduct is made, explicitly or implicitly, a term or condition of an individual's continued employment. 2. Submission to or rejection of such conduct is the basis for employment decisions affecting the individual. 3. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee's job performance or creating an intimidating, hostile or offensive working environment.
<p>3. Delegation of Responsibility Pol. 104</p>	<p>Examples of conduct that may constitute sexual harassment include but are not limited to sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with an employee's ability to work or creates an intimidating, hostile or offensive working environment.</p> <p>In order to maintain a work environment that discourages and prohibits unlawful harassment, the Board designates the Superintendent or designee as the district's Compliance Officer.</p> <p>The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least annually to students, parents/guardians, employees, independent contractors, vendors, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer.</p> <p>Each employee shall be responsible to maintain a working environment free from all forms of unlawful harassment.</p> <p>The building principal or designee shall be responsible to complete the following duties when receiving a complaint of unlawful harassment:</p> <ol style="list-style-type: none"> 1. Inform the employee or third party of the right to file a complaint and the complaint procedure.

<p>4. Guidelines</p>	<p>2. Notify the complainant and the accused of the progress at appropriate stages of the procedure.</p> <p>3. Refer the complainant to the Compliance Officer if the building principal is the subject of the complaint.</p> <p><u>Complaint Procedure – Employee/Third Party</u></p> <p>Step 1 – Reporting</p> <p>An employee or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to the building principal.</p> <p>If the building principal is the subject of a complaint, the employee or third party shall report the incident directly to the Compliance Officer.</p> <p>The complainant is encouraged to use the report form available from the building principal, but oral complaints shall be acceptable.</p> <p>Step 2 – Investigation</p> <p>Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the building principal to investigate the complaint, unless the building principal is the subject of the complaint or is unable to conduct the investigation.</p> <p>The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.</p> <p>The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.</p> <p>Step 3 – Investigative Report</p> <p>The building principal shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.</p>
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<p>Pol. 317</p>	<p>The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer.</p> <p>Step 4 – District Action</p> <p>If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.</p> <p>Disciplinary actions shall be consistent with Board policies, administrative regulations and procedures, applicable collective bargaining agreements, and state and federal laws.</p> <p>If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action.</p> <p><u>Appeal Procedure</u></p> <ol style="list-style-type: none">1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Compliance Officer within fifteen (15) days.2. The Compliance Officer shall review the investigation and the investigative report and may also conduct a reasonable investigation.3. The Compliance Officer shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the building principal who conducted the initial investigation.
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References:

Pennsylvania Human Relations Act – 43 P.S. Sec. 951 et seq.

Federal Anti-Discrimination and Civil Rights Laws –

20 U.S.C. Sec. 1681 et seq. (Title IX)

42 U.S.C. Sec. 2000e et seq. (Title VII)

Harassment Regulations and Guidelines

Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8(a)

Federal Register – 66 Fed. Reg. 5512

Board Policy – 104, 317

REPORT FORM FOR COMPLAINTS OF UNLAWFUL HARASSMENT

Complainant: _____
Home Address: _____
Home Phone: _____
School Building: _____
Date of Alleged Incident(s): _____

Alleged harassment was based on: _____

Name of person you believe violated the district's unlawful harassment policy:

If the alleged harassment was directed against another person, identify the other person:

Describe the incident as clearly as possible, including what force, if any, was used; verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved. Attach additional pages if necessary: _____

When and where incident occurred: _____

List any witnesses who were present: _____

This complaint is based on my honest belief that _____ has harassed me or another person. I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

Complainant's Signature

Date

Received By

Date