

COMMONWEALTH CHARTER ACADEMY

BOARD OF DIRECTORS POLICY SECTION: 400 PERSONNEL

425. REPORTING EMPLOYEE/EDUCATOR MISCONDUCT

§ 1. Purpose and Authority

In order to comply with the Child Protective Services Law, the Public School Code, the Educator Discipline Act, and the Every Student Succeeds Act, the Board requires employees and contracted educational providers to comply with the requirements outlined in this policy in order to ensure the health and safety of students.

The Board directs the CEO or designee to develop the administrative guidelines or regulations required to implement this policy.

§ 2. Definitions

Unless the context clearly indicates otherwise, the following terms used in this policy shall have the following meanings:

Certificate - Any Commonwealth of Pennsylvania certificate, commission, letter of eligibility or permit issued under the Public School Code.

Contracted educational provider - An individual or an entity with which CCA has contracted to provide direct educational services to its students.

Contracted educational provider staff member - A person who:

1. Serves in a position for which certification would be required in a public school other than a charter or cyber charter school; and
2. Is employed by a contracted educational provider or by or in a school entity as an individual contracted educational provider.

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

Educator - A person who holds a certificate or an individual employed by CCA in a position for which certification would be required in a public school other than a charter or cyber charter school but who is not required to hold certification under the Charter School Law. The term includes an individual who is an administrator, including the CEO, and a contracted educational provider staff member.

Sexual Abuse or Exploitation - Any of the following:

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, 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 disclosure of a sexual or erotic nature.
6. Any sexual, indecent, romantic or erotic contact with a child or student.

§ 3. Guidelines

Reporting of Arrests, Convictions, and Founded or Indicated Reports of Child Abuse

Employees shall report to the CEO or designee, in writing, within seventy-two (72) hours of the occurrence, an arrest or conviction required to be reported by law. Employees shall also report to the CEO or designee, in writing, within seventy-two (72) hours of notification, that the employee has been named as a perpetrator in a founded or indicated report pursuant to the Child

Protective Services Law. The reports shall be made on the PDE-6004 Form or such successor form developed by the Pennsylvania Department of Education.

An employee shall be required to submit new criminal history background checks if the CEO 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 CEO or designee.

An employee shall be required to submit a new child abuse history certification if the CEO or designee has a reasonable belief that the employee was named as a perpetrator in a founded or indicated report pursuant to the Child Protective Services Law or has provided written notice of such occurrence.

Failure to comply with the reporting requirements may subject the employee to disciplinary action up to and including termination and/or criminal prosecution.

Reporting Educator Misconduct to the Pennsylvania Department of Education

Duty to Report

The CEO 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:

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;
2. Who has been arrested or convicted of any crime that is graded a misdemeanor or felony;
3. Against whom there are any allegations of sexual misconduct or sexual abuse or exploitation involving a child or student;
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;
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;
6. Who is the subject of a report filed by the school entity under the Child Protective Services Law; or
7. Who the school entity knows to have been named as a perpetrator of an indicated or founded report under the Child Protective Services Law.

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 CEO and his/her immediate supervisor, within fifteen (15) days of discovery of such misconduct.

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.

Investigation

CCA 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.

Upon receipt of notification in writing from the Pennsylvania Department of Education, the CEO or designee shall investigate the allegations of misconduct as directed by the Department and may pursue its own disciplinary procedure.

Within ninety (90) days of receipt of notification from the Pennsylvania Department of Education directing the CCA to conduct an investigation, or such other time permitted by the Department if an extension is requested by CCA, the CEO or designee shall report to the Department the outcome of its investigation and whether it will pursue local employment action. The CEO or designee may make a recommendation to the Department concerning discipline. If CCA makes a recommendation concerning discipline, it shall notify the educator of such recommendation.

Confidentiality Agreements

CCA shall not enter into confidentiality or other agreements that interfere with the mandatory reporting requirement.

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.

Prohibition on Aiding and Abetting Sexual Abuse

School employees, acting in an official capacity for CCA, are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the school employee knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student.

This prohibition applies only to assistance that extends beyond performance of normal processing of personnel matters including routine transmission of files or other information. This prohibition shall not apply if:

- The relevant information has been properly reported to law enforcement officials and any other authority required by federal, state or local law and the matter has been officially closed or the prosecutor or law enforcement officials notified school officials that there is insufficient information to establish probable cause.
- The school employee, contractor or agent has been acquitted or otherwise exonerated of the alleged misconduct.
- The case or investigation remains open and no charges have been filed against, or indictment of, the school employee, contractor or agent within four (4) years of the date on which the information was reported to the law enforcement agency.

Distribution of Policy

This policy is hereby incorporated by reference into CCA's Employee Handbook and shall be posted on CCA's publicly accessible website.

History:	Adopted April 2, 2019
Previous Policy No.:	None
Legal Ref.:	23 Pa.C.S. § 6301 et seq. (Child Protective Services Law) 24 P.S. § 1-111 (Reporting of Arrests and Convictions) 24 P.S. § 17-1724-A (Charter School Staff) 24 P.S. § 2070.1a et seq. (Educator Discipline Act) 22 Pa. Code § Chap. 235 (Code of Professional Practice & Conduct) 20 U.S.C. § 7926 (Prohibition on aiding and abetting sexual abuse)
Cross Ref.:	Child abuse recognition and reporting and background check requirements for employees are separately addressed in Policy 825