

COMMONWEALTH CHARTER
ACADEMY

BOARD OF DIRECTORS POLICY
SECTION: 800 OPERATIONS

**825. BACKGROUND CHECKS AND
CHILD ABUSE RECOGNITION AND REPORTING**

§ 1. Purpose and Authority

In order to comply with the Child Protective Services Law and the Public School Code, the Board requires employees and independent contractors to comply with the: child abuse history clearance statement and state and federal criminal history background checks (certifications) requirements; reporting requirements for suspected child abuse; and training requirement for recognition and reporting of child abuse.

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:

Child - An individual under eighteen (18) years of age.

Child abuse - Intentionally, knowingly or recklessly doing any of the following:

1. Causing impairment of physical condition or substantial pain to a child through any recent act or failure to act.
2. Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
3. Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
4. Causing sexual abuse or exploitation of a child through any act or failure to act.
5. Creating a reasonable likelihood of impairment of physical condition or substantial pain to a child through any recent act or failure to act.
6. Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
7. Causing serious physical neglect of a child.
8. Engaging in any of the following recent acts:
 - a. Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

- b. Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - c. Forcefully shaking a child under one (1) year of age.
 - d. Forcefully slapping or otherwise striking a child under one (1) year of age.
 - e. Interfering with the breathing of a child.
 - f. Causing a child to be present during the operation of methamphetamine laboratory, provided that the violation is being investigated by law enforcement.
 - g. Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known was required to register as a Tier II or Tier III sexual offender, has to register for life, or has been determined to be a sexually violent predator or sexually violent delinquent.
9. Causing the death of the child through any act or failure to act.
10. Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined in the law.

The term child abuse does not include physical contact with a child that is involved in normal participation in physical education, athletic, extracurricular or recreational activities. Also excluded from the meaning of the term child abuse is the use of reasonable force by a person responsible for the welfare of a child for purposes of supervision, control or safety, provided that the use of force:

- 1. Constitutes incidental, minor or reasonable physical contact in order to maintain order and control;
- 2. Is necessary to quell a disturbance or remove a child from the scene of a disturbance that threatens property damage or injury to persons;
- 3. Is necessary for self-defense or defense of another;
- 4. Is necessary to prevent the child from self-inflicted physical harm; or,
- 5. Is necessary to gain possession of weapons, controlled substances or other dangerous objects that are on the person of the child or in the child's control.

Direct contact with children - The possibility of care, supervision, guidance or control of children or routine interaction with children. As used in this policy, contact shall be considered to also include contact in the virtual environment.

Perpetrator - A person who has committed child abuse and is:

- 1. A parent/guardian of the child;
- 2. A spouse or former spouse of the child's parent/guardian;
- 3. A paramour or former paramour of the child's parent/guardian;
- 4. An individual fourteen (14) years of age or older who is responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program activity or service;
- 5. An individual fourteen (14) years of age or older who resides in the same home as the child;

6. An individual eighteen (18) years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child; or,
7. An individual eighteen (18) years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined in the law.

Only the following may be considered a perpetrator solely based upon a failure to act:

1. A parent/guardian of the child;
2. A spouse or former spouse of the child's parent/guardian;
3. A paramour or former paramour of the child's parent/guardian;
4. An individual eighteen (18) years of age or older responsible for the child's welfare; or,
5. An individual eighteen (18) years of age or older who resides in the same home as the child.

Person responsible for the child's welfare - A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

Program, activity or service - Any of the following in which children participate and which is sponsored by a school or a public or private organization:

1. A youth camp or program.
2. A recreational camp or program.
3. A sports or athletic program.
4. A community or social outreach program.
5. An enrichment or educational program.
6. A troop, club or similar organization.

Recent act or failure to act - Any act or failure to act committed within two (2) years of the date of the report to the Department of Human Services of the Commonwealth or county agency.

Routine interaction - Regular and repeated contact that is integral to a person's employment or volunteer responsibilities. As used in this policy, contact shall be considered to also include contact in the virtual environment.

School employee - An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

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; or
2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks

Serious physical neglect - Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes impairment of physical condition or substantial pain or impairs a child's health, development or functioning:

1. A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
2. The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

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, any of 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.

The conduct described above 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.

2. Any of the following offenses committed against a child:
 - a. Rape;
 - b. Statutory sexual assault;
 - c. Involuntary deviate sexual intercourse;
 - d. Sexual assault;
 - e. Institutional sexual assault;
 - f. Aggravated indecent assault;
 - g. Indecent assault;
 - h. Indecent exposure;
 - i. Incest;

- j. Prostitution;
- k. Sexual abuse;
- l. Unlawful contact with a minor; or
- m. Sexual exploitation.

Volunteer - An unpaid individual eighteen (18) years of age or older, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service is a person responsible for the child's welfare or has direct contact with children.

§ 3. Guidelines

Certifications, Reporting of Arrests and Convictions, and Employment History Reviews

CCA requires each candidate for employment to submit the following certifications, which must be no older than one (1) year from date of employment:

- 1. Pennsylvania State Police Criminal Records Check;
- 2. Pennsylvania Child Abuse History Clearance; and
- 3. Federal Criminal History Record Information.

Each candidate for employment shall complete and submit to CCA, in addition to the certifications above, the PDE-6004 Form or such successor form developed by the Pennsylvania Department of Education for reporting any arrest or conviction for an offense enumerated under 24 P.S. §§ 1-111(e) and (f.1) and for providing notification of having been named as a perpetrator of a founded report of child abuse within the past five (5) years as defined by the Child Protective Services Law.

CCA shall conduct an employment history review prior to offering employment to an applicant whose position will involve direct contact with children.

CCA requires each applicant for transfer or reassignment to submit the required certifications unless the applicant is applying for a transfer from one position as a CCA employee to another position as a CCA employee and the applicant's certifications are current.

CCA employees shall obtain and submit new certifications to the Senior Director of Human Resources or designee or other individual designated by the CEO every sixty (60) months.

Training

CCA employees who have direct contact with children shall receive mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, all the following topics:

- 1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.

2. Provisions of the Educator Discipline Act, including mandatory reporting requirements.
3. CCA policy related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.

Employees are required to complete a minimum of three (3) hours of training every five (5) years. Failure to complete the training may result in disciplinary or other action determined appropriate by the CEO or designee.

Duty to Report Suspected Child Abuse

School employees, independent contractors and volunteers shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is the victim of child abuse under any of the following circumstances:

1. The school employee, independent contractor or volunteer comes into contact with the child in the course of employment, occupation and the practice of a profession or through a regularly scheduled program, activity or service.
2. The school employee, independent contractor or volunteer is directly responsible for the care, supervision, guidance or training of the child.
3. A person makes a specific disclosure to a school employee, independent contractor or volunteer that an identifiable child is the victim of child abuse.
4. An individual fourteen (14) years of age or older makes a specific disclosure to a school employee, independent contractor or volunteer that s/he has committed child abuse.
5. A child is not required to come before the school employee, independent contractor or volunteer in order for that individual to make a report of suspected child abuse.

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.

Any person who, in good faith, makes a report of suspected child abuse, regardless of whether the report is required, cooperates with an investigation, testifies in a proceeding, or engages in other action authorized by law shall have immunity from civil and criminal liability related to those actions as may be provided by law.

Any person required to report child abuse who willfully fails to do so may be subject to disciplinary action and criminal prosecution.

Any person who intentionally or knowingly makes a false report of child abuse or intentionally or knowingly induces a child to make a false claim of child abuse may be subject to disciplinary action and criminal prosecution.

Any person who engages in intimidation, retaliation, or obstruction in the making of a child abuse report or the conducting of an investigation into suspected child abuse may be subject to disciplinary action and criminal prosecution.

CCA shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse.

Reporting Procedures

School employees, independent contractors or volunteers who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies (<https://www.compass.state.pa.us/cwis/public/home>) or an oral report via the statewide toll-free telephone number (1-800-932-0313). A person making an initial oral report of suspected child abuse must also submit a written electronic report within forty-eight (48) hours after the oral report. Upon receipt of an electronic report, the electronic reporting system will automatically respond with a confirmation, providing a written record of the report.

A school employee, independent contractor or volunteer who makes a report of suspected child abuse shall immediately, after making the initial report, notify the appropriate grade-level principal or supervisor and if the initial report was made electronically, and also provide a copy of the report confirmation. The appropriate grade-level principal or supervisor shall then immediately notify the Director of Family Services or designee that a child abuse report has been made and if the initial report was made electronically, also provide a copy of the report confirmation.

When a report of suspected child abuse is made by a school employee, independent contractor or volunteer as required by law, the school is not required to make more than one (1) report. An individual otherwise required to make a report who is aware that an initial report has already been made by a school employee, independent contractor or volunteer is not required to make an additional report. The person making an initial oral report is responsible for making the follow-up written electronic report within forty-eight (48) hours, and shall provide the appropriate grade-level principal or supervisor with a copy of the report confirmation promptly after the written electronic report has been filed. The appropriate grade-level principal or supervisor shall in turn provide a copy of the report confirmation to the Director of Family Services or designee.

The Director of Family Services or designee shall inform the CEO or other person designated by the CEO of all reports of suspected child abuse filed by a school employee, independent contractor, or volunteer.

If the CEO or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Safe Schools Act or the Educator Discipline Act, the CEO or designee shall make a report, in accordance with applicable law, regulations and Board policy.

Investigation

CCA shall cooperate with the Pennsylvania Department of Human Services, the county agency, or local law enforcement investigating a report of suspected child abuse.

Upon notification that an investigation involves suspected child abuse by a CCA employee, the Senior Director of Human Resources, in consultation with the employee's supervisor, shall immediately implement a plan of supervision or alternative arrangement for the CCA employee under investigation. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval. If the investigation involves suspected child abuse by an independent contractor or volunteer, the individual shall be removed from all activities related to CCA.

Distribution of Policy and Posting of Statewide Toll-Free Telephone Numbers

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

The CEO or designee shall ensure that the poster, developed by the PA Department of Education, displaying the statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues, or an electronic message containing identical information, is posted in a high-traffic, public area of each school building that is readily accessible and widely used by students.

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 (Criminal History of Employees) 24 P.S. § 1-111.1 (Employment History Review) 24 P.S. § 12-1205.6 (Child Abuse Recognition and Reporting Training) 24 P.S. § 13-1301-A et seq. (Safe Schools Act) 24 P.S. § 17-1724-A (Charter School Staff) 24 P.S. § 2070.1a et seq. (Educator Discipline Act) 22 Pa. Code Chap. 10 (Safe Schools Regulations)
Cross Ref.:	Certification and training requirements for Independent Contractors are addressed separately in Board Policy 818 Reporting of Employee/Educator Misconduct is addressed in Board Policy 425