



SCHOOL EMPLOYEE REPORTING DUTIES

Prepared by the PSEA Legal Division

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DUTY	LAW	WHO REPORTS	WHAT TO REPORT	WHERE TO REPORT
Report suspected child abuse.	CPSL	All school employees (except for administrative or support personnel with NO direct contact with students).	Intentional, knowing, or reckless harm to a child under 18 years of age. See 23 Pa.C.S. 6303(b.1) for a listing of specific categories.	Immediately call ChildLine or file an electronic written report on the website at www.compass.state.pa.us/cwis . Immediately inform school administration. File a written report with local C&Y within 48 hours unless you have filed an electronic written report with ChildLine.
Report sexual abuse or exploitation or sexual misconduct of educators.	EDA	Educators as defined by EDA to include: (1) Certificate holders (2) Charter/cyber staff members (3) Contracted educational provider staff members.	Conduct that is sexual abuse or exploitation as defined in CPSL and/or conduct that is sexual misconduct as defined by EDA (includes grooming).	Within 15 days, file a report with PDE and inform supervisor and chief school administrator.
Self-report arrests, indictments, and/or convictions of section 111 (e) or (f.1) crimes.	Section 111 of Public School Code and EDA	All school employees.	See Section 111(e) for complete list of reportable crimes. Under section 111(f.1) all felonies and first degree misdemeanors and certain multiple DUIs are reportable.	Inform school administration within 72 hours. (Note that school administration has duty to report this information to PDE for educators included under EDA).
Self-report when named as a perpetrator of child abuse.	CPSL	All school employees.	When named as a perpetrator in an indicated or founded report of child abuse.	Inform school administration within 72 hours. (Note that school administration has duty to report this information to PDE for educators included under EDA).

¹ School administrator mandatory reporting duties not addressed in this chart.



IMPORTANT INFORMATION REGARDING REPORTING OBLIGATIONS

The following reporting guidelines have been prepared by the PSEA Legal Division and are current as of June 5, 2015. Please review the information in this critical alert to ensure you are properly following the reporting guidelines for the following four laws:

- **Child Protective Services**, 23 Pa.C.S. § 6301 - § 6386
- **Educator Discipline Act**, 24 P.S. § 2070.1a - § 2070.18a
- **Criminal Conduct**, 24 P.S. § 1-111.1(e), (f.1)
- **Employment History Review Act** (Act 168 of 2014), 24 P.S. § 1-111.1

Each of the guidelines includes a description of the law and definitions of terms appearing within the reporting obligations to ensure complete understanding. If you have any questions about a reporting obligation, please call your PSEA UniServ representative, who will refer you to the appropriate PSEA attorney.

Under Section 6311 of the Law, mandated reporters (including “school employees”) must report if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

- (i) the mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service;
- (ii) the mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child;
- (iii) a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse; or
- (iv) an individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

DEFINITIONS (from Section 6303(b.1))

Child abuse means intentionally, knowingly or recklessly* doing any of the following:

- (1) Causing bodily injury 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 bodily injury 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:
 - (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - (iii) Forcefully shaking a child under one year of age.
 - (iv) Forcefully slapping or otherwise striking a child under one year of age.
 - (v) Interfering with the breathing of a child.
 - (vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
 - (vii) Leaving a child unsupervised with an individual, other than the child’s parent, who the actor knows or reasonably should have known:
 - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
 - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
 - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
- (9) Causing the death of the child through any act or failure to act.

*Intentionally, recklessly, and knowingly have the same definition as the definitions of those terms found in 18 Pa.C.S. § 302

Under Section 2070.9a(d) of the Act, educators must report when they know of any action, inaction, or conduct of another educator that constitutes sexual abuse or exploitation or sexual misconduct under the Act.

Under Section 2070.9a(a) of the Act, chief school administrators must report:

- (1) any educator against whom allegations have been made that the educator has committed sexual abuse or exploitation involving a child or student; or engaged in sexual misconduct with a child or student;
- (2) information which constitutes reasonable cause to suspect that an educator has caused physical injury to a child or student as a result of negligence or malice;
- (3) any educator who has resigned, retired, or otherwise separated from employment after a school entity has received information of alleged misconduct under this act;
- (4) any educator who is the subject of a report filed by the school entity under the reporting requirements of the Child Protective Services Law; and
- (5) any educator who the school entity knows to have been named as the perpetrator of an indicated or founded report of child abuse or named as an individual responsible for injury or abuse in an indicated or founded report for a school employer under [the Child Protective Services Law].

DEFINITIONS (from Section 2070.1b)

Chief school administrator shall mean the superintendent or chief executive officer of a school district, the executive director of an intermediate unit, the director of an area vocational-technical school, the chief administrator of a charter or cyber charter school, the director of a private academic school or the chief administrator of a contracted educational provider.

Educator shall mean a person who holds a certificate, who is a charter or cyber charter school staff member or who is a contracted educational provider staff member.

Sexual abuse or exploitation shall have the meaning given to the term by 23 Pa.C.S. Ch. 63 (relating to child protective services).

Sexual misconduct shall mean any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. Such prohibited acts include, but are not limited to, the following:

- (1) sexual or romantic invitations;
- (2) dating or soliciting dates;
- (3) engaging in sexualized or romantic dialogue;
- (4) making sexually suggestive comments;
- (5) self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
- (6) any sexual, indecent, romantic or erotic contact with the child or student.

CRIMINAL CONDUCT, 24 P.S. § 1-111.1(e), (f.1)

Under these sections of the School Code, all current and prospective employees of public and private schools must report (to an administrator, on the specific form provided by the Department of Education) within 72 hours of being arrested for, or convicted of, the crimes summarized below:

- (1) Crimes defined in certain enumerated provisions of Title 18 of the PA Consolidated Statutes, which includes: criminal homicide, aggravated assault, stalking, kidnapping, unlawful restraint, luring a child into a motor vehicle or structure, rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, indecent exposure, sexual intercourse with an animal, incest, concealing the death of a child, endangering the welfare of children, dealing in infant children, felony prostitution offenses, obscene and other sexual materials and performances, corruption of minors, sexual abuse of children, unlawful contact with a minor, solicitation of minors to traffic drugs, and sexual exploitation of children.
- (2) Any felony defined under Pennsylvania's Controlled Substance, Drug, Device and Cosmetic Act.
- (3) Any crime similar to the above-listed crimes under other jurisdictions.
- (4) Any other crime that is graded as a felony offense of the first, second, or third degree.
- (5) Any other crime that is graded as a misdemeanor of the first degree.
- (6) Any DUI where the individual has been convicted more than once and the offense is graded as a misdemeanor of the first degree, except where the DUI relates to the operation of a commercial or school vehicle in which case any first degree misdemeanor must be reported.¹

¹PSEA interprets the law to require that, with respect to personal vehicles, an employee only report a first degree misdemeanor offense for DUI if it is the employee's second first degree misdemeanor offense for DUI. In other words, there is no obligation to report an initial first degree misdemeanor for DUI, or any initial or later lower DUI offense. If the DUI relates to the use of a commercial or school vehicle, then any initial first degree DUI offense must be reported. Whenever a member is charged with DUI, regardless of the grading, the member should consult with a PSEA region attorney regarding reporting requirements and options.

Under this section of the School Code, applicants seeking employment with public and private school entities, and independent contractors of such entities, must disclose if they have ever:

- (1) been the subject of an abuse or sexual misconduct investigation by any employer, state licensing agency, law enforcement agency or child protective services agency (unless the investigation resulted in a finding that the allegations were false);
- (2) been disciplined, discharged, non-renewed, asked to resign from employment, resigned or otherwise separated from employment while allegations of abuse or sexual misconduct were pending or under investigation or due to adjudication or findings of abuse or sexual misconduct; or
- (3) had a license, professional license or certificate suspended, surrendered or revoked while allegations of abuse or sexual misconduct were pending or under investigation or due to an adjudication or findings of abuse or sexual misconduct.

Current/former employers must disclose the same information.

DEFINITIONS (from Section 1-111.1(n))

Sexual Misconduct has the same definition as the definition of that term found in Educator Discipline Act.

Abuse is defined as “conduct that falls under the purview and reporting requirements of [the Child Protective Services Law] is [sic] directed toward or against a child or a student, regardless of the age of the child or student.”



PROCEDURE FOR REPORTING CHILD ABUSE

- ✓ **Step 1:** Call ChildLine at 1-800-932-0313 or file an electronic report at www.compass.state.pa.us/cwis. Keep a copy of any written report that is filed for your records.

- ✓ **Step 2:** Within 48 hours of an oral report, file a written report to the county CYS agency in the county in which the alleged abuse occurred. If an electronic report was filed under step 1, the county is automatically notified and there is no need to file a written report with the county agency.

- ✓ **Step 3:** Immediately notify school administration that a report was filed. Keep a copy of this notification for your records.



WHEN AND HOW TO REPORT SUSPECTED CHILD ABUSE

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Who has a legal duty to report suspected child abuse?

Under the CPSL, a mandatory reporter who has reasonable cause to suspect that a child is a victim of child abuse must file a report.

Are school employees mandatory reporters?

Yes, school employees (except for administrative or other support personnel who do not have direct contact with children) are mandatory reporters under the CPSL.

What is child abuse?

Child abuse is intentional, knowing, or reckless harm upon a child under the age of 18. The CPSL lists many specific categories of child abuse. For a complete description of these categories as well as a description of exclusions from the definition of child abuse, please see the FAQ on the Department's website at <https://www.compass.state.pa.us/CWIS/Public/FAQ>.

What is reasonable cause to report?

There is no definition of "reasonable cause" in the CPSL. It is clear, however, that the reporter does not need to have firsthand knowledge of child abuse in order to have a reporting obligation under the law. The CPSL provides that a mandated reporter with reasonable cause to suspect that a child is a victim of child abuse under the following circumstances shall file a report when:

1. The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service;
2. The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization, or other entity that is directly responsible for the care, supervision, guidance or training of the child;
3. A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse; or
4. An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

Are child abuse reports and the identity of the reporter confidential?

The CPSL provides that the name and contact information of the individual making the report is provided only to the agencies investigating the report, such as the police, county, or state Children and Youth agencies, and any other agencies cooperating in the investigation.

Are there any consequences for the mandatory reporter who reports in good faith if the investigation determines that there is no child abuse?

No. The CPSL provides that individuals who make good faith reports of child abuse have immunity from civil and criminal liability that results from making a report, cooperating with or consulting with a child abuse investigator, and/or testifying in a proceeding arising out of a child abuse report.

Are there penalties for failure to report?

Yes. Mandatory reporters who willfully fail to report child abuse commit a crime. A mandatory reporter's willful failure to report child abuse may constitute a misdemeanor or felony, depending on the circumstances.

What is the procedure to report child abuse?

- **Step 1:** Call ChildLine at 1-800-932-0313 or file an electronic report at www.compass.state.pa.us/cwis. Keep a copy of any written report that is filed for your records.
- **Step 2:** Within 48 hours of an oral report, file a written report to the county CYS agency in the county in which the alleged abuse occurred. If an electronic report was filed under step 1, the county is automatically notified and there is no need to file a written report with the county agency.
- **Step 3:** Immediately notify school administration that a report was filed. Keep a copy of this notification for your records.

Must I give my name to report child abuse?

Yes. The CPSL requires that a report filed by a mandated reporter must include the name, telephone number, and email address of the person making the report.

Will I have to testify in court?

Possibly. You may have to testify in court if criminal charges are filed against the alleged perpetrator.

Will parents find out about the report?

Parents will find out about the report if they are the alleged perpetrators or when officials interview their child. Officials, however, are required to protect the identity of the mandated reporter.

Can I take a photo of the child's injury?

The law specifically allows mandated reporters to take photographs of the child who is the subject of the report. In addition, the law provides that mandated reporters have immunity from criminal or civil liability when they take photographs of the child. School employees should; however, make sure that their employer also permits them to take photographs.

What happens after I file a child abuse report?

A CYS case worker must see the child within 24 hours of a report from the Department of Human Services.

If state officials conclude that the conduct alleged also implicates a crime, they will notify local law enforcement and the county Children and Youth agency where the alleged conduct arose. Law enforcement and county Children and Youth will then investigate the crime through a multidisciplinary team approach. Otherwise, the local Children and Youth agency will investigate alone. Generally, the investigation is to be completed within 30 days.

After 60 days of the date the initial report is filed, the Department must issue notice on its statewide register of the final status of the report. The Department will determine whether the report was founded, indicated, or unfounded. If an investigation by the county agency does not result in a determination of a founded or indicated report within 60 days of the date that the report is filed and unless within that same 60-day period court action has been initiated and is responsible for the delay, the report is automatically deemed unfounded.

Will officials contact me regarding my report?

Officials must interview reporters prior to the conclusion of the investigation.

Will anyone notify me about the outcome of the investigation?

The Department must notify mandated reporters of the following within three days of the Department's receipt of the results of the investigation: (a) whether the child abuse report was founded, indicated, or unfounded; and (b) whether any services were provided, arranged, or will be provided or arranged by the county agency to protect the child.

What should I do if during the investigation I believe that action is going to be taken against me for violating reporting requirements or that I am a target of the investigation?

Contact your UniServ representative immediately. He or she will put you in touch with the appropriate PSEA attorney.