

Operations Policy #906 Child Abuse

Authority

The Board of Trustees (Board) requires Charter School employees, independent contractors and volunteers to comply with identification and reporting requirements for suspected child abuse, as well as the training requirement for recognition and reporting of child abuse in order to comply with the Child Protective Services Law and the School Code.

Definitions

The following words and phrases, when used in this policy, shall have the meaning given to them in this section:

Adult - an individual eighteen (18) years of age or older.

Bodily injury - impairment of physical condition or substantial pain.

Certifications - refers to the child abuse history clearance statement and state and federal criminal history background checks required by the Child Protective Services Law and/or the School Code.

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

Child Abuse - 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:
 - 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 severed 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

Independent contractor - an individual other than a Charter School employee who provides a program, activity or service who is otherwise responsible for the care, supervision, guidance or control of children pursuant to a contract. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

Perpetrator - a person who has committed child abuse and is a parent/guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; 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; an individual fourteen (14) years of age or older who resides in the same home as the child; an adult 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 an adult 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: a parent/guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; an adult responsible for the child's welfare; or an adult 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.

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.

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 bodily injury 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 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: 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.

Student - an individual enrolled in the Charter School under eighteen (18) years of age.

Volunteer - an unpaid adult individual, 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.

Delegation of Responsibility

In accordance with Board policy, the Chief Executive Officer or designee shall:

1. Require each candidate for employment to submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law.
2. Require each applicant for transfer or reassignment to submit the required certifications unless the applicant is applying for a transfer from one position as a Charter School employee to another position as a Charter School employee of this Charter School and the applicant's certifications are current.

Charter School employees and independent contractors shall obtain and submit new certifications every sixty (60) months.

The Chief Executive Officer or designee shall annually inform students, parents/guardians, independent contractors, volunteers and staff regarding the contents of this Board policy.

The Chief Executive Officer or designee shall annually notify Charter School staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Board policy and administrative procedures.

The Chief Executive Officer or designee shall ensure that the poster, developed by the Pennsylvania Department of Education and Pennsylvania Department of Human Services, displaying the statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues is posted in a high-traffic, public area of the Charter School. The designated area shall be readily accessible and widely used by students.

Aiding and Abetting Sexual Abuse

Charter School employees, acting in an official capacity for this Charter School, are prohibited from assisting another Charter School employee, contractor or agent in obtaining a new job if the Charter School employee knows, or has probable cause to believe, that such Charter 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:

1. 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.
2. The Charter School employee, contractor or agent has been acquitted or otherwise exonerated of the alleged misconduct.

3. The case or investigation remains open and no charges have been filed against, or indictment of, the Charter School employee, contractor or agent within four (4) years of the date on which the information was reported to the law enforcement agency.

Guidelines

Training

The Charter School, and independent contractors of the Charter School, shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, 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. Charter School 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.

Duty to Report

Charter 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 Charter 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 Charter 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 Charter 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 Charter School employee, independent contractor or volunteer that s/he has committed child abuse.

A child is not required to come before the Charter 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.

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.

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

Reporting Procedures

Charter School employees, independent contractors or volunteers who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies (www.compass.state.pa.us/cwis) 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 Charter School employee, independent contractor or volunteer who makes a report of suspected child abuse shall immediately, after making the initial report, notify the building principal or administrator, and if the initial report was made electronically, also provide the principal or administrator with a copy of the report confirmation. The building principal or administrator shall then immediately notify the Chief Executive Officer 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 Charter School employee, independent contractor or volunteer as required by law, the Charter 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 Charter 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 building principal or administrator with a copy of the report confirmation promptly after the written electronic report has been filled.

The building principal or administrator shall, in turn, provide a copy of the report confirmation to the Chief Executive Officer or designee.

If the Chief Executive Officer or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Safe Schools Act, the Chief Executive Officer or designee shall inform local law enforcement, in accordance with applicable law, regulations and Board policy.

Investigation

The building principal or administrator shall facilitate the cooperation with the Department of Human Services of the Commonwealth or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school

Upon notification that an investigation involves suspected child abuse by a Charter School employee the building principal or administrator shall immediately implement a plan of supervision or alternative arrangement that has been approved by the Chief Executive Officer for the Charter School employee under investigation. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval.