

ROLES AND RESPONSIBILITIES OF NON-CERTIFICATED EDUCATORS UNDER THE EDUCATOR DISCIPLINE ACT

Introduction

The Professional Standards and Practices Commission (“PSPC”) is the 13-member appointed body that is charged with providing leadership for improving the quality of education in the commonwealth by establishing high standards for preparation, certification, practice and ethical conduct in the teaching profession. One facet of its mission is to oversee the educator discipline system, including the imposition of discipline under the Educator Discipline Act (24 P.S. § 2070.1a *et seq.*) (“Act”). The Act outlines the duties of the PSPC and also sets forth the processes for the intake of educator misconduct complaints and the investigation, prosecution and adjudication of disciplinary cases against the certification and/or employment eligibility of certain educators.

In addition to anyone who holds public or private academic school certification, under the Act the term “educator” includes two groups of non-certificated individuals who are included because of their employment in or with a school: charter or cyber charter school staff members and contracted educational provider staff members. This document will outline the roles and responsibilities of non-certificated educators under the Act, as well as the implications of falling within the jurisdiction of the PSPC.

Who are Charter or Cyber Charter School Staff Members?

Pursuant to section 1724-A of the Public School Code of 1949, at least 75 percent of professional staff members of a charter school must hold appropriate state certification. The remaining 25 percent are exempt from the certification requirements. 24 P.S. § 1724-A.

The Act defines “charter or cyber charter school staff members” as “individual[s] employed by a charter or cyber charter school in a position for which certification would be required in a public school other than a charter or cyber charter school but who are not required to hold certification under section 1724-A” of the Public School Code. The term includes the director or chief administrator of a charter or cyber charter school.

Thus, all individuals holding positions in a charter or cyber charter school who would be required to hold a certificate if they worked in a school district are subject to the PSPC’s jurisdiction. Charter and cyber charter school staff members have been under the jurisdiction of the PSPC since February 20, 2001.

Who are Contracted Educational Provider Staff Members?

Effective February 18, 2014, the PSPC’s jurisdiction includes contracted educational provider staff members. The Act defines “contracted educational provider” as an “individual or entity with which a school entity has contracted to provide direct educational services to its students.” “Contracted educational provider staff member” is “a person who serves in a position for which certification would be required in a public school and who is employed by a contracted educational provider.” This includes the director or chief administrator of a contracted educational provider.

Only individuals who are providing direct educational services to students under a contract with a public or private academic school and who would be required to hold a certificate if they worked in a school district are included in the definition of “contracted educational provider staff member.”

This includes without limitation: teachers and administrators in **private alternative education institutions** (all such institutions must be contracted with a public school) who are exempted from the certification requirements by section 1902-E of the Public School Code of 1949; teachers and administrators in **private residential rehabilitative institutions** that contract with a school entity pursuant to section 914.1-A of the Public School Code of 1949; **private driver training teachers and directors** licensed by the Department of Education under the Private Driver Education or Training School Act who provide driver and safety education to students under a contract with a public or private academic school; and **chief administrators** of entities providing **substitute staffing services** to school entities.

Contractors providing services to students in a public or private academic school who would not be required to hold a certificate if they were employed in a school district are not included in the definition of “contracted educational provider staff member” and therefore do not fall within the PSPC’s jurisdiction. This includes, but is not limited to:

interpreters; physical/occupational therapists/assistant therapists; social workers/behavior therapists; orientation and mobility specialists and coaches.

Non-certificated employees of a public school (other than a charter or cyber charter school) or a private school are not covered by the Act.

What is the Significance of Falling under the Jurisdiction of the PSPC?

Charter and cyber charter school staff members and contracted educational provider staff members are held to the same standards of conduct and share the same legal and ethical responsibilities as certificated educators. General principles of conduct can be found in Pennsylvania's **Code of Professional Practice and Conduct for Educators** ("Code") (22 Pa. Code § 235.1 *et seq.*). The Act sets forth the types of misconduct that can result in educator discipline. The most significant ramifications of falling within the jurisdiction of the PSPC are twofold:

Chief Administrators of all charter schools and contracted educational providers are mandated to report to PDE within 15 days 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 involving a child or student; (4) for whom there is reasonable cause to suspect the educator 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 Act; (6) who is the subject of a report filed by the school entity under 23 Pa.C.S. Ch. 63 (relating to child protective services); and (7) who the school entity knows to have been named as a perpetrator of an indicated or founded report under 23 Pa.C.S. Ch. 63.

The failure of a chief administrator to comply with these mandatory reporting requirements is grounds for discipline, up to and including revocation of the administrator's employment eligibility.

Charter or cyber charter school staff members and contracted educational provider staff members are subject to the Code and to discipline under the Act if they are found guilty of misconduct as defined by the Act.

In addition, these staff members are legally **obligated to report knowledge of sexual misconduct and sexual abuse or exploitation** as defined by the Act to

PDE within 15 days of discovery. The responsibility to report sexual misconduct and sexual abuse or exploitation to PDE is separate from the responsibility to report suspected child abuse under the Child Protective Services Law and failure to report can subject a charter or cyber charter school staff member or a contracted educational provider staff member to discipline, up to and including revocation of the staff member's employment eligibility.

For an overview of the educator discipline system, including the types of conduct that can result in professional discipline, the types of professional discipline that can be imposed and additional information about mandatory reporting under the Act, visit the PSPC's website: www.pspc.education.pa.gov

For assistance or if you have any questions, please contact:
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