



Book	BOT Policies
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## **PURPOSE**

The primary purpose of this policy is to ensure strict compliance with "mandated reporter" requirements so that student safety and well-being is promoted. Furthermore, strict compliance with this policy and applicable laws protects individuals subject to mandated reporting requirements, as well as PA Virtual, from legal and/or civil repercussions for non-compliance.

## **POLICY**

The Pennsylvania Virtual Charter School ("Charter School") Board of Trustees ("Board") requires trustees, 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.

### **I. Definitions**

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

**Bodily injury** – impairment of physical condition or substantial pain.

**Child** – an individual under 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 year of age.
  - d. Forcefully slapping or otherwise striking a child under one year of age.
  - e. Interfering with the breathing of a child.
  - f. 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.
  - g. Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known: Is required to register as a Tier II or Tier III sexual offender under 42 Pa sexually violent predator 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; has been determined to be a sexually violent predator under 42 Pa. C.S. § 9799.24 (relating to assessments) or any of its predecessors; or 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.
  10. Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under Section 103 of the Trafficking Victims Protection Act of 2000.

The term **child abuse** does not include:

1. conduct that causes injury or harm to a child or creates a risk of injury or harm to a child if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child;
2. Injuries that result from the practice of religious beliefs, if, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:
  - a. The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.
  - b. All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.
  - c. The family shall be referred for general protective services, if appropriate.
  - d. This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.
  - e. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.
3. injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides;
4. the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare if any of the following conditions apply:
  - a. The use of reasonable force constitutes incidental, minor or reasonable physical contact in order to maintain order and control;
  - b. The use of reasonable force is necessary:
    - i. to quell a disturbance or remove a child from the scene of a disturbance that threatens property damage or injury to persons;
    - ii. to prevent the child from self-inflicted physical harm;
    - iii. for self-defense or defense of another; or
    - iv. 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.

- c. harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator. Notwithstanding this exclusion, the following shall apply:
- i. Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this policy:
    - Rape as defined in 18 Pa.C.S. § 3121;
    - Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123;
    - Sexual assault as defined in 18 Pa.C.S. § 3124.1;
    - Aggravated indecent assault as defined in 18 Pa.C.S. § 3125;
    - Indecent assault, as defined in 18 Pa.C.S. § 3126;
    - Indecent exposure, as defined in 18 Pa.C.S. § 3127.
  - ii. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.

An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this policy.

**Direct contact with children** - the care, supervision, guidance or control of children or routine interaction with children.

**Independent contractor** - an individual who provides a program, activity or service that is responsible for the care, supervision, guidance, or control of children. The term does not include an individual who has no direct contact with children.

**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) a person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school, or through a program, activity, or service, (5) an individual 14 years of age or older who resides in the same home as the child, or (6) an individual 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, (7) an individual 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 under Section 103 of the Trafficking Victims Protection Act of 2000.

Only the following may be considered a perpetrator for failing to act: 1) A parent of the child, 2) A spouse or former spouse of the child's parent, 3) A paramour or former paramour of the child's parent, 4) A person 18 years of age or older and responsible for the child's welfare, 5) A person 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** - a public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following:

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 years of the date of the report to

the Department of Public Welfare (also known as the Department of Human Services) or county agency.

**Recklessly** – this term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability)

**School employee** - an individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children.

**Serious bodily injury** - Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

**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 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.
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 abuse or exploitation does not include consensual activities between a child who is 14 years of age or older and another person who is fourteen 14 years of age or older and whose age is within 4 years of the child's age.

**Student** - An individual enrolled in a public or private school (including PA Virtual), intermediate unit or area vocational-technical school, who is under eighteen (18) years of age.

## II. Guidelines

### A. Training

The Charter School, shall provide their employees and independent contractors of the Charter School, who have direct contact with children with mandatory training on the 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 per the PA Child Protective Services Law.
2. Provisions of the Educator Discipline Act, including mandatory reporting requirements for suspected abuse and sexual misconduct.
3. The Charter School's 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 hours of training every five years. Volunteers and student teachers should be provided with opportunity to participate in training.

## **B. Duty to Report**

Trustees, 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 trustee, 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 trustee, 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 trustee, school employee, independent contractor or volunteer that an identifiable child is the victim of child abuse.
4. An individual 14 years of age or older makes a specific disclosure to a trustee, school employee, independent contractor or volunteer that the individual has committed child abuse.

A child is not required to come before the trustee, 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 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.

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

## **C. Reporting Procedures**

Trustees, 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](http://www.compass.state.pa.us/cwis) at the time of the adoption of this policy) or an oral report via the statewide toll-free telephone number (1-800-932-0313 at the time of the adoption of this policy). A person making an initial oral report of suspected child abuse must also submit a written electronic report within 48 hours after the oral report. Upon receipt of an electronic report, the electronic reporting system will automatically respond with a confirmation, providing the school with a written record of the report. If such automatic written confirmation is not received, then the person reporting the suspected child abuse shall immediately make an oral report via the statewide telephone number.

A trustee, school employee, independent contractor or volunteer who makes a report of suspected child abuse shall immediately, after making the initial report, notify the Chief Executive Officer ("CEO") of the

Charter School and if the initial report was made electronically, also provide the CEO with a copy of the report confirmation.

When a report of suspected child abuse is made by a trustee, school employee, independent contractor or volunteer as required by law, the school is not required to make more than one report.

If the CEO reasonably suspects that conduct being reported involves an incident required to be reported under the PA Virtual's Memorandum of Understanding with local law enforcement, the CEO or his/her designee shall inform local law enforcement, in accordance with applicable law, regulations and Board policy.

#### **D. Investigation**

The CEO or his/her designee shall facilitate the cooperation of PA Virtual with the Department of Human Services of the Commonwealth, the county agency, or law enforcement investigating a report of suspected child abuse.

Upon notification that an investigation involves suspected child abuse by a school employee or independent contractor, the CEO shall immediately implement a plan of supervision or alternative arrangement for the school employee or independent contractor under investigation to ensure the safety of the child and other children who are in the care of PA Virtual. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

Legal                      23 Pa. C.C. Chapter 63  
                                  Educator Discipline Act  
                                  42 Pa. C.S. Ch. 97  
                                  18 Pa. C.S. § 4906.1

Last Modified by Katie Capers on June 23, 2020