

WEST CHESTER AREA SCHOOL DISTRICT
Personnel Committee
Monday, April 19, 2021
6:15 pm
Spellman Education Center Board Room

AGENDA

• Approval of September 21, 2020 Personnel Committee Meeting Minutes	Dr. Herrmann
• Approval of Revised Policy 314 – Physical Education	Dr. Ulmer
• Approval of New Policy 317.1 - Educator Misconduct	Dr. Ulmer

Committee Protocol for Responding to Comments from the Public:

1. *There will be a public comment period at the end of the meeting on agenda items only (Policy 903).*
2. *A community member will be called upon by the Committee Chair.*
3. *If the comment can be answered quickly, or can be answered in order to clarify information, someone will respond.*
4. *If a community member has a more detailed question about a topic, the committee chair may refer the person to the superintendent or appropriate administrator to make an appointment so the question can be answered in more detail.*

West Chester Area School District
Personnel Committee –September 21, 2020

Meeting Minutes

Committee Members: Dr. Karen Herrmann-Chair, Mr. Randell Spackman

Other Board Members: Ms. Joyce Chester, Mr. Chris McCune, Mrs. Sue Tiernan

Administration: Dr. Tammi Florio, Dr. Sara Missett, Dr. Leigh Ann Ranieri, Dr. Jim Scanlon, Mr. John Scully, Dr. Sokolowski, Dr. Jeffrey Ulmer, Mr. Michael Wagman

Agenda Item	Vote
• Approval of Personnel Committee Meeting Minutes from October 28, 2019 Combined Personnel and Property & Finance Committee Meeting	2-0
• Approval of revised Policy 323 Smoking, Tobacco, and Vaping Products – Employees (formerly known as Tobacco/Nicotine)	2-0
• Approval of 2020-21 Board Goals	2-0
• Approval of Technology Department Reorganization	2-0
• Approval of job description and new position: Director of Equity and Assessment	2-0

Book	Policy Manual
Section	300 Employees
Title	Physical Examination
Code	314
Status	Review
Adopted	August 1, 2015
Last Reviewed	February 23, 2015

Purpose

In order to certify the fitness of administrative, professional, and support employees to discharge efficiently the duties they will be performing and to protect the health of students and staff, **the Board shall require** ~~from the transmission of communicable diseases,~~ physical examinations of all district employees ~~shall be required~~ prior to beginning employment **and may require health monitoring to prevent the transmission of communicable diseases in the school setting.**

Definition

A **physical examination, for purposes of this policy,** shall mean a general examination by a licensed physician, certified registered nurse practitioner, or a licensed physician assistant.

Health monitoring, for purposes of this policy, shall mean screening or monitoring an employee for specific symptoms that may indicate the presence of a communicable disease, in accordance with guidance from state and local health officials.

Authority

After receiving an offer of employment but prior to beginning employment, all candidates shall undergo ~~medical~~ **physical** examinations, as required by law and as the Board may require.[\[1\]](#)[\[2\]](#)[\[3\]](#)

The Board requires that all employees undergo a tuberculosis examination upon initial employment, in accordance with regulations of the Pennsylvania Department of Health.[\[1\]](#)[\[4\]](#)

The Board may require an employee to undergo a physical examination at the Board's request.[\[1\]](#)

An employee who presents a signed statement that a ~~medical~~ **physical** examination is contrary to ~~his/her~~ **the employee's** religious beliefs shall be examined only when the Secretary of Health determines that **facts exist indicating that certain conditions would present** ~~the employee presents a substantial menace to the health of others~~ **in contact with the employee if the employee is not examined for those conditions.**[\[5\]](#)[\[6\]](#)

Guidelines

Health Monitoring and Communicable Diseases

The district may require employees to participate in health monitoring by designated staff to check for signs and symptoms of communicable diseases in accordance with guidance issued by state and local health officials and the Board-approved health and safety plan. An employee may request an alternative or supplemental method of monitoring as an accommodation, and designated district staff shall assess and respond to such request in accordance with applicable law, regulations and Board policy. A request for an accommodation that would unreasonably impair workplace safety or cause undue hardship will not be granted.[7]

Employees exhibiting symptoms that indicate health concerns may be referred to the school nurse or designated staff for further assessment, and may be excluded from school facilities in accordance with regulations of the PA Department of Health or guidance from state or local health officials for specified diseases and infections conditions. Employees may return to school facilities when the criteria for readmission following a communicable disease have been met, in accordance with law, regulations or guidance from state or local health officials.
[8][9][10][11]

Delegation of Responsibility

The results of all required ~~medical~~ **physical** examinations shall be made known to the Superintendent on a confidential basis and discussed with the employee.

Medical records **and other health information** of an employee shall be **maintained confidentially and** kept in a file separate from the employee's personnel file.[3][12]

Legal

1. 24 P.S. 1418
 2. 28 PA Code 23.43
 3. 42 U.S.C. 12112
 4. 28 PA Code 23.44
 5. 24 P.S. 1419
 6. 28 PA Code 23.45
 7. 42 U.S.C. 2000ff et seq
- 24 P.S. 1416
- 42 U.S.C. 12101 et seq

Book	Policy Manual
Section	300 Employees
Title	Educator Misconduct
Code	317.1
Status	Review

Purpose

The Board adopts this policy to promote the integrity of the education profession and to create a climate within district schools that fosters ethical conduct and practice.

Authority

The Board requires certificated district employees to comply with the Code of Professional Practice and Conduct and the requirements of the Educator Discipline Act.[\[1\]](#)[\[2\]](#)

Definitions

Educator - shall mean a person who holds a certificate.[\[3\]](#)

Certificate - shall mean any Commonwealth of Pennsylvania certificate, commission, letter of eligibility or permit issued under the School Code.[\[3\]](#)

Sexual Abuse or Exploitation - shall mean any of the following:[\[4\]](#)

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 Misconduct - any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or student that is designed to establish a romantic or sexual relationship with the child or student, such acts include but are not limited to:[3]

1. Sexual or romantic invitation.
2. Dating or soliciting dates.
3. Engaging in sexualized or romantic dialog.
4. Making sexually suggestive comments.
5. Self-disclosure or physical disclosure of a sexual or erotic nature.
6. Any sexual, indecent, romantic or erotic contact with a child or student.

Delegation of Responsibility

Duty to Report

The Superintendent or designee shall report to the Pennsylvania Department of Education on the required form, within fifteen (15) days of receipt of notice from an educator or discovery of the incident, any educator:[5]

1. Who has been provided with notice of intent to dismiss or remove for cause, notice of nonrenewal 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 indicted for, 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 exploitation involving a child or student.
4. Where there is reasonable cause to suspect that s/he 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 Educator Discipline 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).[6]
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.

An educator who knows of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under the Educator Discipline Act shall report such misconduct to the Pennsylvania Department of Education on the required form, and shall report such misconduct to the Superintendent and his/her immediate supervisor, within fifteen (15) days of discovery of such misconduct.[5]

All reports submitted to the Pennsylvania Department of Education shall include an inventory of all information, including: documentary and physical evidence in possession or control of the school relating to the misconduct resulting in the report.[5]

An educator who is arrested or convicted of a crime shall report the arrest or conviction to the Superintendent or designee, within seventy-two (72) hours of the occurrence, in the manner prescribed in Board policy.[5][7][8]

Failure to comply with the reporting requirements may result in professional disciplinary action.[9]

Guidelines

Investigation

School officials shall cooperate with the Pennsylvania Department of Education during its review, investigation, or prosecution, and shall promptly provide the Pennsylvania Department of Education with any relevant information and documentary and physical evidence upon request.[10]

Upon receipt of notification in writing from the Pennsylvania Department of Education, the Superintendent or designee shall investigate the allegations of misconduct as directed by the Department and may pursue its own disciplinary procedure as established by law or by collective bargaining agreement.[10]

Within ninety (90) days of receipt of written notification from the Pennsylvania Department of Education directing the school district to conduct an investigation (extensions may be requested), the Superintendent or designee shall report to the Department the outcome of its investigation and whether it will pursue local employment action. The Superintendent or designee may make a recommendation to the Department concerning discipline. If the district makes a recommendation concerning discipline, it shall notify the educator of such recommendation.[10]

Title IX Sexual Harassment and Other Discrimination

Whenever the allegations underlying a report of educator misconduct include conduct that appears to constitute harassment or other discrimination, including Title IX sexual harassment, subject to policies and procedures specific to such conduct, the Title IX Coordinator shall be promptly notified and shall respond to such allegations as provided in the applicable Board policies. Whenever an investigation by the district of educator misconduct reveals indications of conduct by any person that appears to constitute harassment or other discrimination, including Title IX sexual harassment, the Title IX Coordinator shall be promptly notified and shall respond to such allegations as provided in policies specific to such discrimination. To the extent feasible, investigations pursuant to discrimination policies shall be conducted jointly with investigations by the district of educator misconduct.[11][12]

Confidentiality Agreements

The district shall not enter into confidentiality or other agreements that interfere with the mandatory reporting requirement.[10]

Confidentiality

Except as otherwise provided in the Educator Discipline Act, all information related to any complaint, any complainant, or any proceeding related to discipline under the Educator Discipline Act shall remain confidential unless or until public discipline is imposed.[13]

Immunity

Any person who, in good faith, files a complaint or report, or who provides information or cooperates with the Pennsylvania Department of Education or Professional Standards and Practices Commission in an investigation or proceeding shall be immune from civil liability. The district also is immune from civil liability for the disclosure of information about the professional conduct of a former or current employee to a prospective employer of that employee.[14]

Legal

1. 22 PA Code 235.1 et seq
2. 24 P.S. 2070.1a
3. 24 P.S. 2070.1b
4. 23 Pa. C.S.A. 6303
5. 24 P.S. 2070.9a
6. Pol. 806
7. 24 P.S. 111
8. Pol. 317
9. 24 P.S. 2070.9c
10. 24 P.S. 2070.11
11. Pol. 103
12. Pol. 104
13. 24 P.S. 2070.17b
14. 24 P.S. 2070.17a
- 23 Pa. C.S.A. 6301 et seq
- 24 P.S. 2070.1a et seq