
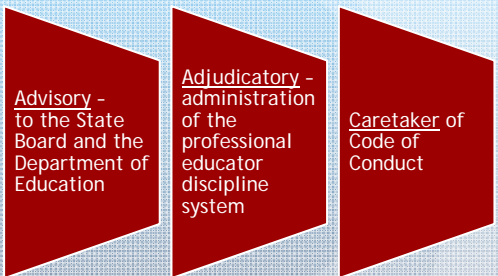


ACT 126
The PA Child Protective
Services Law
Mandated Reporting for School Employees
MODULE 5

**Professional Education
Discipline Act**



Professional Standards & Practices Commission
(PSPC) – Primary Roles



Advisory -
to the State
Board and the
Department of
Education

Adjudicatory -
administration
of the
professional
educator
discipline
system

Caretaker of
Code of
Conduct

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PSPC Mission and Composition

Mission

The PSPC is committed to providing leadership for improving the quality of education in this Commonwealth by establishing high standards for preparation, certification, practice and ethical conduct in the teaching profession.

Composition

- 7 classroom teachers, including one educational specialist
- 3 public school administrators; one a principal and one a Commissioned officer
- 1 administrator from a higher education program
- 2 members of the general public; one a school board member

Statutory Authority/Jurisdiction

Professional Educator Discipline Act
24 P.S. section 2070.1 et seq.

- All certified professionals
- Charter school staff members
- Private academic schools/Independent Contractors

C. Angelo, 4/3/2013

Code of Conduct: Guiding Principles

Commitment to:

- excellence
- value and dignity of each individual
- act in a fiduciary capacity and to protect students
- modeling societal responsibilities

C. Angelo, 4/3/2013

Code's Prohibitions

- Accepting employment or encouraging employment in an area when not properly certified
- Discriminating
- Interfering with a student's or colleague's exercise of political/civil rights or responsibilities
- Accepting gratuities, gifts or favors that might impair or appear to impair professional judgment

C. Angelo, 4/3/2013

Code's Prohibitions

- Exploiting a professional relationship
- Misrepresenting student or colleague evaluations
- Misrepresenting subject matter or curriculum
- Sexually harassing students or colleagues
- Engaging in relationships of a sexual nature with students

C. Angelo, 4/3/2013

Code's Prohibitions

- Withholding evidence from authorities concerning violations of the Code
- Using coercive means to influence professional decisions of colleagues
- Threatening, coercing or discriminating against a colleague who in good faith reports or discloses actual or suspected violations of laws, regulations, or standards

C. Angelo, 4/3/2013

Grounds for Discipline

C. Angelo, 4/3/2013

Non-Criminal Misconduct

- Incompetency
- Intemperance
- Negligence
- Cruelty
- Immorality
- Violation of Act of May 29, 1931
- Violation of the Code of Conduct

C. Angelo, 4/3/2013

Definitions

- **Incompetency:** continuing or persistent mental or intellectual inability or incapacity to perform
- **Intemperance:** loss of self-control or self-restraint, which may result from excessive conduct
- **Negligence:** continuing or persistent action or omission in violation of a duty (est. by law, rules, policies, directives)

C. Angelo, 4/3/2013


Definitions

- **Cruelty:** intentional, malicious and unnecessary infliction of physical or psychological pain upon living creatures, particularly human beings
- **Immorality:** conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals an educator has a duty to foster and elevate

C. Angelo, 4/3/2013

Criminal Conduct

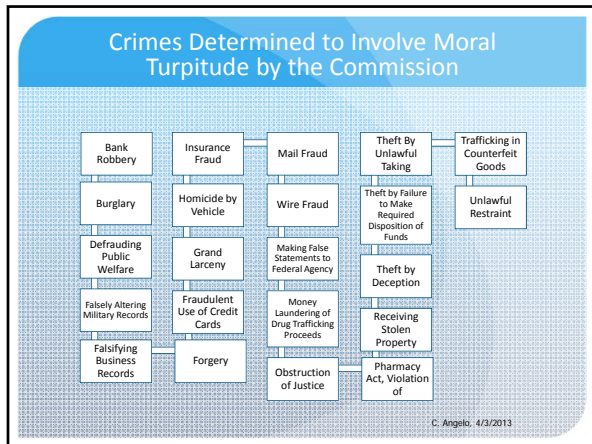
- Conviction/indictment of a crime involving moral turpitude
- Conviction/indictment of a crime listed in section 111(e)

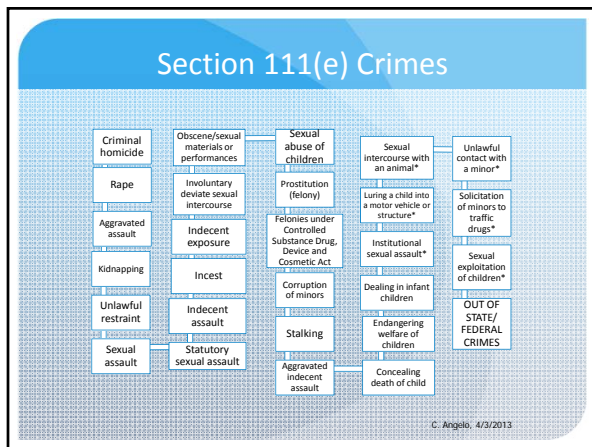


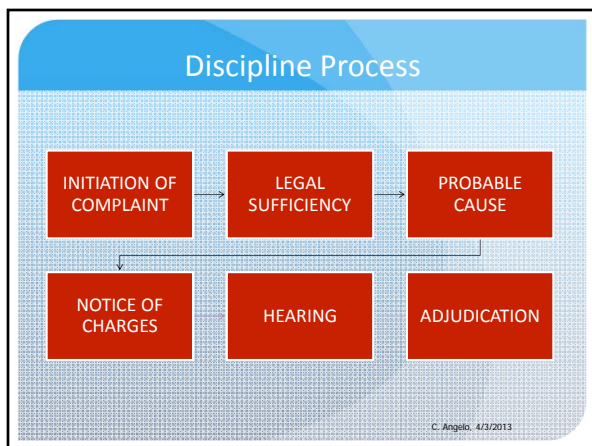
C. Angelo, 4/3/2013

Definition of Moral Turpitude

- That element and personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings;
- Conduct done knowingly contrary to justice, honesty or good morals;
- Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury.







Types of Professional Discipline

- Private reprimand
- Public reprimand
- Suspension
- Revocation
- Surrender in lieu of discipline

Filing a Complaint

In completing the Educator Misconduct Complaint, it is very important to be specific and to include the following information when describing the professional misconduct:

- What happened?
- Who was involved?
- When did the conduct occur?
- Where did the conduct occur?

The Educator Misconduct Complaint must be signed in the presence of a notary and the notary's original stamp and signature must be affixed. The completed complaint form and related materials must be sent to the address found on the Educator Misconduct Complaint.

Filing a Complaint

The following information must be included in every Educator Misconduct Complaint:

- The complainant's name and contact information, including current mailing address and daytime telephone number;
- Information to identify the educator, including the educator's full name, available contact information, employing school district or charter school, and position in the school district or charter school;
- Detailed description of educator's professional misconduct, including the date or dates on which the conduct occurred;
- Copies of documents that support the complaint (e.g., police reports, court records, medical bills, emails, text messages, correspondence); and
- Information related to complaints filed with other agencies (e.g., school district or charter school, police, children and youth services).

Educator Misconduct Complaint Form (PDE-348)

The image shows three overlapping copies of the Educator Misconduct Complaint Form (PDE-348). The forms are white with black text and a large, semi-transparent 'CONFIDENTIAL' watermark. The top form is the most visible and shows the following sections:

- INVESTIGATION**
- Administrative Review**
- Administrative Hearing**

The forms contain various fields for names, dates, and signatures, as well as checkboxes for different stages of the process.

When a Complaint is Received

PDE reviews the complaint and all pertinent information.

If there are not enough facts to warrant discipline, the complaint is dismissed.

If there are enough facts to warrant discipline, PDE investigates to determine whether there is probable cause to believe that grounds for discipline exist.

If probable cause is found, PDE may conduct a full investigation or transmit its preliminary findings to the local school governing board to allow them to investigate.

If probable cause is not found, a written notice is issued to the affected professional educator, the complaining party and the employer and the complaint is dismissed.

Complaints Against Educators

Disciplinary proceedings are initiated by the filing of a complaint with the PDE within 1 year from the date of the occurrence of any alleged action (or the date of its discovery).

- Complaints involving sexual abuse or exploitation of a child or a student may be filed beyond the date of the alleged occurrence, up until 5 years after the child or student reaches 18 years of age.
- If the alleged action is of a continuing nature, the date of its occurrence is considered the last date on which the conduct occurred for purposes of the complaint.

Adjudication from an Out-of-State Licensing Authority

Adjudication by an appropriate licensing authority of another state, territory or nation is considered conclusive evidence of misconduct.

- After receiving notice of an adjudication from the licensing authority in another jurisdiction, the professional educator must demonstrate for the Commission that imposition of identical or comparable discipline in PA would be unwarranted.
- The professional educator has 30 days to demonstrate that:
 - the discipline would result in a grave injustice
 - the discipline is substantially different from what would have been imposed for similar conduct
 - the procedure used in the other jurisdiction did not provide due process
- Within 30 days after the professional educator's response window, the Commission will decide whether to impose the identical or comparable discipline.

Imposition of Discipline

Revocation of certificate required for:

- Crime under 111(e) of the Public School Code
- Crime involving moral turpitude
- Similar crime in federal or state court

Note: For purposes of this subsection, the term "conviction" includes a plea of guilty or nolo contendere.

Imposition of Discipline

If a professional educator is indicted of a crime under 111(e) of the Public School Code, or a crime involving moral turpitude and if the Commission determines that the professional educator poses a threat to the health, safety or welfare of a student or other individual in a school, the Commission may suspend the professional educator's certificate.

Suspension or revocation of certificate recommended for:

- Indictment of crime under Public School Code
- Educator determined to be threat to health, safety, welfare of student or faculty/staff member

Confidentiality, Release of Information & Immunity

- Confidentiality
- Release of Information
- Immunity from Liability

Role of the School Board

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graph TD
    A[PDE shares preliminary findings] --> B[School board investigates and decides whether to pursue disciplinary action]
    B --> C[Within 90 days, school board tells PDE if it has decided to pursue discipline and if action by the Commission is necessary]
    C --> D[School board notifies the affected educator of any recommendation]
    D --> E[School board provides to PDE:  
- Findings & summary of evidence  
- Any other relevant information requested]
  
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Role of PDE After Investigation

After completion of an investigation, PDE may:

- dismiss the charges
- determine that the school board has imposed appropriate discipline
- initiate hearing procedures
- settle the case

Reporting to the PDE

Administrators (such as the superintendent, assistant superintendent, executive director of an intermediate unit, chief administrator of an area vocational-technical school, administrator of a charter school or their designees) **must report**:

- The dismissal of a certificated employee for cause.
- A criminal indictment or conviction for a crime listed in 111(e) of the Public School Code or involving moral turpitude
- Information regarding physical injury to a student or child as a result of negligence or malice, or sexual abuse/exploitation of a student or child by a professional educator.

Failure to report may result in disciplinary action against the administrator.

Hearing Procedures

- A hearing officer is appointed by the Commission within 45 days, if requested by the educator
- PDE acts as prosecutor and must establish that grounds for discipline exist.
- The professional educator has the right to be represented by counsel and to present evidence and arguments.
- All hearings are closed to the public.
- When the hearing ends, PDE recommends discipline, and the hearing officer has 60 days to issue a decision.
- PDE or the defendant may appeal the hearing officer's decision to the Commission and delay the imposition of discipline.
 - If the appeal finds in favor of the defendant, records of the complaint and proceedings are expunged from any/all personnel files of PDE.

Reinstatement

Any professional educator whose certificate has been suspended, revoked or surrendered may apply to the Commission for reinstatement. When making a decision, the Commission will consider:

- the conduct which resulted in discipline
- other past conduct of the applicant
- the applicant's current attitude towards past conduct
- rehabilitation efforts and activities
- references and letters of support or opposition

The Commission **will not** reinstate the certificate of a professional educator if the suspension or revocation resulted from:

- a finding of guilt by the Commission for sexual abuse or exploitation
- surrender of a certificate in lieu of discipline for conduct relating to sexual abuse or exploitation

Permissive Reporting

Any interested party, regardless of profession, are considered permissive reporters with a duty to protect students and children.

Current Mandatory Reporting

- Dismissal for Cause
- Reasonable Belief of Sexual Abuse/Exploitation or Physical Injury as Result of Negligence or Malice
- Criminal Indictment/Conviction for Crime Involving Moral Turpitude or Section 111(e)

C. Angelo, 4/3/2013

Ethical & Fiduciary Obligation to Protect Students

- **Fiduciary:** a person in a position of authority whom the law obligates to act solely on behalf of the person he or she represents and in good faith
- Inherent imbalance of power between teacher and student – must not abuse that power or allow others to abuse it
- Mandatory Reporting laws in place to protect students from abuse and teachers who report abuse, encourage educators to act ethically

Proposed Amendments to the PEDA

- Expanding the jurisdiction of the Commission to include private school educators and educators working for independent contractors in public schools
- Identifying sexual misconduct as a specific basis for discipline and redefining the term to make it consistent with its use in other statutes and proposed legislation, including behaviors such as sending a student sexually explicit text messages
- Expanding grounds for discipline to being named in founded and indicated reports of child abuse
- Expanding mandatory reporting to PDE to include all educators who resign following an allegation of misconduct

Proposed Amendments to the PEDA

- Shortening the time period for mandatory reporting to PDE
- Prohibiting school entities from entering into confidential settlement agreements
- Protecting school districts that provide accurate references for employees who resign while facing allegations of misconduct
- Eliminating the current statute of limitations for the filing of complaints
- Specifying rehabilitation opportunities as an option to be used in addition to discipline
- Imposing a self-reporting requirement on educators who have been indicted or convicted of certain crimes

Proposed Definition of Sexual Misconduct

"Sexual misconduct" shall mean any act, including but not limited to any verbal, non-verbal, written or electronic communication or physical activity, directed towards 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:

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

The consent of a child or a student to engage in sexual misconduct may not be a defense or a mitigating factor in any discipline proceeding under this act.

Challenges to Maintaining Appropriate Boundaries

- Small community
- Growing informality
- New technologies

Practice Pointers:

- Confining passion for teaching to instruction
- Awareness of one's own vulnerabilities
- Recognizing whose needs are being met by interactions with students
- Protecting your privacy/your personal brand

C. Angelo, 4/3/2013

Acting as a Role Model

- Because of teachers' position of authority in the classroom/community, there is an expectation that teachers will model acceptable behavior for their students.
- Teachers are held to a high standard of conduct/ethics – when these standards are not upheld, community demands consequences.

Relationships with Students

- Teachers may feel flattered by their students' attention or may be inclined to treat their students like peers.
- However – it is incumbent on all teachers to safeguard the well-being of their students from dangers inside and outside of school.
- Teachers must guard against putting their needs before their students' needs.

Boundaries

- Boundaries are external and internal
- Boundaries become blurred or ambiguous when dual relationships are formed
- Boundaries are endangered when educator is personally vulnerable and when student is particularly vulnerable

Maintaining Appropriate Boundaries and Communications with Students

- At minimum:
 - Do not make comments of a personal nature or suggestive in tone to a student
 - Do not share information of a personal nature about yourself with students
 - Do not give personal gifts to a student
 - Do not place yourself in situations which could be construed as posing a risk to the student or facilitating an inappropriate relationship with students

Maintaining Appropriate Boundaries and Communications with Students

- Educators have no reasonable expectation to privacy in materials viewed, accessed, written or stored on a school district computer.

Student and Educator Vulnerabilities

- Students as peers, suffering from adult relationship issues, immaturity, need for attention, a sense of invulnerability, absence of a developed personal moral compass and lack of personal crisis management skills.
- Teachers should preface every decision with: **"Whose needs are being met by my course of action?"**

Acceptable vs. Unacceptable Behavior

- **Acceptable**
 - Fostering a safe, ethical learning environment for all students
 - Referring students to the appropriate resource if they are in need of counseling
 - Ensuring that your actions always serve the best interests of the student
 - Being mindful of your reputation in the community

Acceptable vs. Unacceptable Behavior

- **Unacceptable**
 - Developing a relationship with a student beyond the recognized boundaries of a teacher/student relationship
 - Pursuing any sexual or romantic contact with a student
 - Exchanging notes, e-mails or other communications with a student of a personal nature
 - Inviting students to your home or meeting students in an isolated or private situation

Appearances of Impropriety

- Activities that may reasonably raise concerns as to their propriety include:
 - Meeting alone with a student outside of learning/tutoring
 - Social networking with a student
 - Giving or soliciting gifts

Red Flags

- “Grooming” behavior
- Unintentional grooming

Responding to Misconduct

Teachers who witness, or suspect their colleagues of engaging in behavior that causes physical, emotional and/or psychological harm, are legally required to report it.

Intersection of Technology and Expectations of Educators

- Your personal brand
- Appropriate students/teacher boundaries
- Social media DOs and DON'Ts

C. Angelo, 4/3/2013

Your Public Brand

- High community and legal expectations
- Perception affects reputation and effectiveness
- Impact on job/certification

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Boundary Violations

- Boundaries are external and internal
- Boundaries become blurred or ambiguous when dual relationships are formed
- Boundaries are endangered when educator is personally vulnerable and when student is particularly vulnerable

C. Angelo, 4/3/2013

Tips

- Do not engage in activities that may reasonably raise concerns as to their propriety;
- Do not engage in activities directed towards developing a relationship with a student beyond the recognized boundaries of a teacher/student relationship regardless of the student's age;
- Do not make comments of a personal nature or suggestive in tone to a student;
- Do not pursue any sexual or romantic contact with a student regardless of the student's age or apparent consent;
- Do not invite students to your home;
- Do not see students in isolated or private situations;


Tips

- Do not share information of a personal nature about yourself with students;
- Do not give personal gifts to a student;
- Do not exchange notes, e-mails or other communications with a student of a personal nature;
- Do not place yourself in situations which could be construed as posing a risk to the student or facilitating an inappropriate relationship with students;
- Refer students to the appropriate resource if they are in need of counseling;
- Ensure that your actions always serve the best interests of the student, and
- Be mindful of your reputation in the community;


Educator Ethics and Conduct Toolkit

Available on the PDE website (www.education.state.pa.us):

Click on "Professional Standards & Practices Commission" at the bottom of the website.



Click on "Educator Ethics and Conduct Toolkit" in the navigation menu on the left.



Words to Live By

“Whenever you do a thing, act as if the whole world is watching.”

— Thomas Jefferson

C. Angelo, 4/3/2013

Check Your Understanding

1. Who is covered under the jurisdiction of the Professional Educator Discipline Act?

- a) All certified professionals
- b) Charter school staff members
- c) Private academic school employees
- d) Independent Contractors
- e) All of the above

Check Your Understanding

2. Educators cannot be disciplined for sexual misconduct with a student if the student consents to the sexual activity.

- a) True
- b) False

Check Your Understanding

3. "Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury" is part of PEDDA's definition of:

- a) Negligence
- b) Indecent Assault
- c) Moral Turpitude
- d) Immorality

Check Your Understanding

4. Educators have a reasonable expectation to privacy in materials viewed, accessed, written or stored on a school district computer.

- a) True
- b) False

Check Your Understanding

5. Which of the following are considered the "seven deadly sins" of non-criminal misconduct?

- | | |
|-------------------------------------|-------------------------------------|
| a) Incompetency | f) Stalking |
| b) Cruelty | g) Negligence |
| c) Forgery | h) Indecent Assault |
| d) Immorality | i) Violation of Act of May 29, 1931 |
| e) Violation of the Code of Conduct | j) Intemperance |

Contact Information

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