
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 363 Session of
2017

INTRODUCED BY WILLIAMS, FONTANA, RESCHENTHALER, VULAKOVICH,
FOLMER, HAYWOOD, RAFFERTY, AUMENT AND BROWNE,
FEBRUARY 15, 2017

REFERRED TO EDUCATION, FEBRUARY 15, 2017

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in preliminary provisions, providing
6 for prohibition against employment assistance.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 111.3. Prohibition Against Employment Assistance.--

13 (a) The following individuals and entities may not assist an
14 employe, contractor or agent of a school entity to obtain new
15 employment if the individual or entity knows or has a reasonable
16 belief that the employe, contractor or agent engaged in abuse or
17 sexual misconduct regarding a minor or student in violation of
18 law:

19 (1) An individual who is an employe, contractor or agent of

1 a school entity or the department.

2 (2) A member of the governing body of a school entity.

3 (3) A school entity.

4 (4) The department.

5 (b) Nothing in this section shall be construed:

6 (1) To relieve any of the following of the legal
7 responsibility to report suspected incidents of abuse in
8 accordance with the provisions of 23 Pa.C.S. Ch. 63 (relating to
9 child protective services):

10 (i) An individual who is an employe, contractor or agent of
11 a school entity or the department.

12 (ii) A school entity.

13 (iii) The department.

14 (2) To relieve a school entity, school administrator or
15 independent contractor of the legal responsibility to report
16 suspected incidents of professional misconduct in accordance
17 with the act of December 12, 1973 (P.L.397, No.141), known as
18 the "Educator Discipline Act."

19 (c) (1) Except as provided in paragraph (2), the department
20 shall have jurisdiction to determine wilful violations of
21 subsection (a) and may, following a hearing, assess a civil
22 penalty not to exceed ten thousand dollars (\$10,000). A school
23 entity shall be barred from contracting with an independent
24 contractor that is found to have wilfully violated subsection
25 (a).

26 (2) For a determination of a wilful violation of subsection
27 (a) by the department, the Attorney General shall have the
28 authority to investigate and may bring an action for a civil
29 penalty in Commonwealth Court. In this action, the department,
30 if found by the Commonwealth Court to have wilfully violated

1 subsection (a), shall be liable for a civil penalty not to
2 exceed ten thousand dollars (\$10,000).

3 (d) Notwithstanding any provision of law to the contrary,
4 the department may initiate disciplinary action before the
5 Professional Standards and Practices Commission in accordance
6 with the "Educator Discipline Act" against an employe,
7 independent contractor or school administrator who is subject to
8 the "Educator Discipline Act" for a wilful violation of
9 subsection (a).

10 (e) The department shall develop any forms necessary to
11 carry out the provisions of this section.

12 (f) As used in this section, the following words and phrases
13 shall have the meanings given to them in this subsection:

14 "Abuse." Conduct that falls under the purview and reporting
15 requirements of 23 Pa.C.S. Ch. 63 and is directed toward or
16 against a child or student, regardless of age of the child or
17 student.

18 "Assist." When used in relation to assisting an individual
19 to obtain employment, includes, but is not limited to, the
20 provision of any written or oral endorsement or recommendation
21 of an individual to a potential future employer. The term does
22 not include the routine transmission of administrative and
23 personnel files.

24 "Department." The Department of Education of the
25 Commonwealth.

26 "School entity." A school district, joint school district,
27 intermediate unit, area vocational-technical school, charter
28 school, regional charter school, cyber charter school, licensed
29 private academic school and any other public or nonpublic school
30 serving students in any grade between kindergarten and grade

1 twelve within this Commonwealth.

2 "Sexual misconduct." An act, including, but not limited to,
3 a verbal, nonverbal, written or electronic communication or
4 physical activity, directed toward or with a child or a student
5 regardless of the age of the child or student that is designed
6 to establish a romantic or sexual relationship with the child or
7 student. Such acts include, but are not limited to:

8 (1) Sexual or romantic invitation.

9 (2) Dating or soliciting dates.

10 (3) Engaging in sexualized or romantic dialog.

11 (4) Making sexually suggestive comments.

12 (5) Self-disclosure or physical exposure of a sexual,
13 romantic or erotic nature.

14 (6) Any sexual, indecent, romantic or erotic contact with
15 the child or student.

16 Section 2. This act shall take effect in 60 days.