

COMPLIANCE NOTIFICATION

CHILD PROTECTIVE SERVICES LAW

September 2015

The purpose of this Compliance Notification is to provide general guidance and related information to facilitate good faith compliance with the Child Protective Services Law (“CPSL”), as amended. This Compliance Notification is not intended to constitute legal advice. If you have any specific questions concerning the application of the CPSL to your particular circumstances, you are encouraged to consult with an attorney.

I. MANDATED REPORTERS

A. WHO ARE MANDATED REPORTERS UNDER THE CPSL? There are sixteen separate categories of individuals who are mandated reporters, including all Clergy and all employees and volunteers who, as part of a regularly scheduled program, activity or service, accept responsibility for a child or have direct contact with children. **EXAMPLES:** Pastors, Child Care Employees, Sunday School Teachers, Youth Fellowship Volunteers, Camp Volunteers.

B. WHEN MUST A MANDATED REPORTER MAKE A REPORT OF SUSPECTED CHILD ABUSE? If you are a Mandated Reporter and have reasonable cause to suspect a child is a victim of child abuse, a report must be made, without exception. This includes situations where (i) you come into contact with a child who has been abused, (ii) an individual makes a specific disclosure to you that an identifiable child is the victim of child abuse or (iii) an individual 14 years of age or older makes a specific disclosure to you that he/she has committed child abuse.

C. TO WHOM IS THE MANDATED REPORTER REQUIRED TO REPORT SUSPECTED CHILD ABUSE? The Mandated Reporter must immediately call Childline at 800-932-0313 to make the required report orally (also, tell your immediate supervisor within the church organization), or alternatively, the Mandated Reporter must immediately submit a written report electronically through the Child Welfare Information Solution self-service portal, www.compass.state.pa.us/cwis. As a Mandated Reporter, you must personally make the report, and you may not rely on someone else (for example, a supervisor) to make the report on your behalf. In addition, if the report is made by calling Childline, a written report on Form CY-47 must be made to the county Children and Youth Agency within 48 hours of the report to Childline.

D. WHAT IF I AM NOT A MANDATED REPORTER, AND I SUSPECT CHILD ABUSE HAS OCCURRED? Any person may, and should, report suspected child abuse, even if the person is not a Mandated Reporter. These individuals are called Permissive Reporters, and the CPSL encourages Permissive Reporters to report suspected child abuse, or cause a report of suspected child abuse to be made.

- E. MANDATED AND PERMISSIVE REPORTERS ARE IMMUNE FROM CIVIL LIABILITY FOR GOOD FAITH REPORTING OF SUSPECTED CHILD ABUSE TO THE APPROPRIATE AUTHORITIES.** You should maintain confidentiality with respect to the report of suspected child abuse, and do not make any public statements about the report, including the name of the alleged perpetrator or victim and the nature of the alleged child abuse, as this may give rise to a defamation claim against you.
- F. WHEN IN DOUBT, ALWAYS REPORT, REPORT, REPORT!**

II. MANDATORY EMPLOYEE AND VOLUNTEER CERTIFICATIONS UNDER THE CPSL

A. WHO MUST OBTAIN BACKGROUND CERTIFICATIONS UNDER THE CPSL?

1. **All incumbent and prospective employees**, 14 years of age or older, who are responsible for the welfare of a child or have direct contact with children. An employee is deemed to have “direct contact with children” if the employee is responsible for the care, supervision, guidance or control of children **or** has regular and repeated contact with children that is integral to the person’s employment responsibilities.
2. **All incumbent and prospective volunteers**, 18 years of age or older, who are responsible for the welfare of a child or have direct volunteer contact with children. A volunteer is deemed to have “direct volunteer contact with children” if the volunteer is responsible for the care, supervision, guidance or control of children **and** has regular and repeated contact with children that is integral to the person’s volunteer responsibilities.

B. WHAT BACKGROUND CERTIFICATIONS ARE REQUIRED UNDER THE CPSL?

1. For Employees:

- [Pa State Police Criminal History Report](#);
- [Pa Department of Human Services Certification](#); **and**
- [FBI Criminal History Report](#) (fingerprints required).

2. For Volunteers:

- Pa State Police Criminal History Report;
- Pa Department of Human Services Certification; **and**
- FBI Criminal History Report (fingerprints required), but Volunteers may be excused from this Report if (i) they have been a Pennsylvania resident continuously for the previous 10 years, have not committed certain designated crimes and sign an Affidavit under oath to this effect or (ii) they have received this Report at any time since establishing residency in Pennsylvania and provide a copy thereof to the person responsible for the selection of volunteers.

C. WHEN MUST CPSL BACKGROUND CERTIFICATIONS BE OBTAINED?

1. For Employees:

- By December 31, 2015 for employees who were employed prior to December 31, 2014 and previously were not required to obtain certifications under the CPSL.
- Prior to the commencement of employment for all employees hired on or after December 31, 2014.

2. For Volunteers:

- By July 1, 2016 for volunteers who were approved for volunteer service prior to August 25, 2015 and previously were not required to obtain certifications under the CPSL.
- Prior to commencement of volunteer service for all volunteers approved for volunteer service on or after August 25, 2015.

3. CPSL certifications are valid for 60 months and must be obtained again by employees and volunteers every 60 months.

D. CAN CPSL BACKGROUND CERTIFICATIONS BE TRANSFERRED TO OTHER EMPLOYERS OR OTHER ORGANIZATIONS?

1. Employee certifications may be transferred to a new employer, and they may be transferred and used as certifications for volunteer positions in other organizations.
2. Volunteer certifications may be transferred and used as certifications for volunteer positions in other organizations, but they cannot be transferred and used as certifications for employment purposes.

E. CAN AN EMPLOYER OR ORGANIZATION ESTABLISH BACKGROUND CERTIFICATION STANDARDS AS PART OF THE HIRING OR SELECTION PROCESS FOR EMPLOYEES OR VOLUNTEERS THAT ARE IN ADDITION TO THOSE REQUIRED BY THE CPSL?

1. This is permissible for both employees and volunteers. The CPSL background certification standards are the minimum, but not the maximum, standards that an employer or organization may establish for the hiring or selection process.
2. For example, the Susquehanna Conference is requiring that all of its incumbent and prospective employees obtain CPSL certifications even though some employees are not required by the CPSL to obtain such certifications since they are not responsible for the welfare of a child and do not have direct contact with children as part of their job duties.

F. WHAT ARE THE PROCEDURES FOR OBTAINING CPSL BACKGROUND CERTIFICATIONS?

1. [Procedures for Pastors.](#)
2. [Procedures for Employees.](#)
3. [Procedures for Volunteers.](#)

III. CRIMINAL PENALTIES AND CIVIL LIABILITY FOR NONCOMPLIANCE WITH CPSL REQUIREMENTS

- A. Failure to Comply with CPSL Requirements is Subject to Significant Criminal Penalties and Civil Liabilities:** Timely and continuing compliance with all CPSL requirements is absolutely imperative.
- B. Failure of Mandated Reporter to Report Suspected Child Abuse:** Criminal penalties range from second degree misdemeanor to second degree felony, depending on the facts.
- C. Failure of Employer or Organization to Require Mandatory CPSL Background Certifications for Employees or Volunteers:** Third degree misdemeanor.
- D. Failure by Employee or Volunteer to Disclose Information That Would be a Basis for Denying or Terminating Employment or Volunteer Status:** Third degree misdemeanor.
- E. Civil Liability:** The potential civil liability arising from intentional or negligent noncompliance with CPSL requirements is enormous, which further underscores the critical importance of timely and continuing compliance with CPSL requirements at all times.