



MEMORANDUM OF UNDERSTANDING
FOR CHILD ABUSE REPORTING & INVESTIGATION

BETWEEN

THE DELAWARE DEPARTMENT OF EDUCATION,
LOCAL EDUCATION AGENCIES,

AND

THE DELAWARE DEPARTMENT OF SERVICES FOR CHILDREN,
YOUTH AND THEIR FAMILIES

CHILD ABUSE

Effective 4/24/2023



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I. Title of the Agreement

This Agreement shall be known as the Memorandum of Understanding (MOU) for child abuse and reporting between the Delaware Department of Education (DDOE), Local Education Agencies (LEAs), and the Department of Services for Children, Youth, and their Families (DSCYF), which includes the Division of Family Services (DFS), the Division of Prevention and Behavioral Health Services (DPBHS), and the Division of Youth Rehabilitative Services (DYRS)—CHILD ABUSE.

II. Parties Involved and Their Authority

The parties to this MOU are the DDOE, LEAs, and the DSCYF;

The authority of the parties involved is derived from the following statutes and regulations:

- A. Every Student Succeeds Act 2015
- B. Child Abuse Prevention and Treatment Act (CAPTA) as amended by P.L. 111-320, the CAPTA Reauthorization Act of 2010
- C. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g.
- D. Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104 191)
- E. Child Welfare, Chapter 3, Title 31 of the Delaware Code
- F. Department of Services for Children, Youth and Their Families, Chapter 90, Title 29 of the Delaware Code
- G. Abuse of Children, Chapter 9, Title 16 of the Delaware Code
- H. Education, Title 14 of the Delaware Code
- I. District and School Based Intervention Services, 14 DE Admin. Code 609
- J. Consortium Discipline Alternative Programs for Treatment of Severe Discipline Problems, 14 DE Admin. Code 611

III. Purpose of the Agreement

This MOU between the DDOE, LEAs, and the DSCYF (DFS, DPBHS, and DYRS) has been jointly developed for the following purposes:

- A. To develop a uniform process for all Delaware LEAs to report child Abuse and Neglect;
- B. To develop a uniform process for DFS to receive school reports of child Abuse and Neglect;

- C. To establish consistent procedures for DFS and LEAs to follow when the DFS investigates a report of child Abuse or Neglect or DSCYF is providing case management services;
- D. To establish multi-disciplinary collaboration between DDOE, LEAs, and DSCYF in child Abuse and Neglect investigations, recognizing the paramount goals of all agencies to safeguard the health, safety, and well-being of children;
- E. To address necessary supports for all students and families held in common by the participating entities served by the parties;
- F. To ensure compliance with 14 *Del. C.* § 4162(a)(1) (Child Safety Awareness Prevention and Other Nonacademic Trainings).

In addition, to meet the needs of the parties hereto, the MOU will:

- 1. Define the responsibilities of each participating entity.
- 2. Establish procedures for promoting communication and problem-solving.
- 3. Establish a system to oversee implementation of the MOU.
- 4. Encourage enhanced communication and coordination among participating entities in accordance with this MOU.

IV. Definitions

For the purposes of this MOU, the following words and terms have the following meaning unless the context clearly states otherwise:

- A. **Abuse** - Per 10 *Del. C.* § 901(1), “abuse” means that a person:
 - 1. causes or inflicts sexual abuse on a child; or
 - 2. has care, custody or control of a child, and causes or inflicts:
 - a. physical injury through unjustified force as defined in 11 *Del. C.* §468;
 - b. emotional abuse;
 - c. torture,
 - d. exploitation; or
 - e. maltreatment or mistreatment.
- B. **Dependency** - Per 10 *Del. C.* § 901(8), “dependency” means that a person:
 - 1. is responsible for the care, custody, or control of the child; and
 - 2. does not have the ability or financial means to provide care of the child; and
 - a. fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child's emotional, physical or mental health, or safety and general well-being; or
 - b. the child is living in the home of an "adult individual" who fails to meet the definition of "relative" in this section on an extended basis without an assessment by DSCYF, or an agency licensed by the Department of Education, Office of Child Care Licensing; or

- c. the child has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.
- C. **DFS Caseworker** means the DFS employee responsible for either: investigating reports made to DFS alleging child abuse, neglect, or dependency; or the provision of case management services to a family that has been substantiated or has been identified at risk for child abuse, neglect or dependency.
- D. **Firsthand Knowledge** means information disclosed by a child directly to the School Employee; information School Employees discover themselves; or information that provides the School Employee reason to suspect child abuse or neglect.
- E. **Guardian** means a non-parent legally appointed by the court with the powers, rights, and duties which are necessary to protect, manage and care for a child.
- F. **Immediately** means as soon as possible but no later than within 2 hours and prior to the end of the school day.
- G. **Institutional Child Abuse or Neglect (IA)** – Per 10 Del. C. § 901(13) “Institutional child abuse or neglect” means child abuse or neglect which has occurred to a child in the DSCYF’s custody or occurred in a facility, center, or home that is operated or contracted by the DSCYF, or licensed by the Department of Education, Office of Child Care Licensing.
- H. **Local Education Agency (LEA)** –means any administrative group providing oversight for the delivery of education and school transportation to children. The term LEA is inclusive of school districts, vocational technical school districts, and charter schools.
- I. **Neglect** - Per 10 Del. C. § 901(18), “neglect” means a person:
 - 1. is responsible for the care, custody, and/or control of the child; and
 - 2. has the ability and financial means to provide for the care of the child; and
 - a. fails to provide necessary care with regard to: food, clothing, shelter, education, health, medical or other care necessary for the child's emotional, physical, or mental health, or safety and general well-being; or
 - b. chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being; or
 - c. fails to provide necessary supervision appropriate for a child when the child is unable to care for that child's own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caretaker's absence, and the context of the child’s environment.
- J. **Parent** means a biological or adoptive parent whose rights have not been terminated.
- K. **Relative Caregiver-** Per 14 Del. C. § 202(f)(2), “relative caregiver” means an adult who by blood, marriage or adoption is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the child, but has a valid Caregivers School Authorization as defined in 14 Del. C. § 202(f)(1)(e).
- L. **School Days** are defined by the school calendar or business days in the summer.
- M. **School Employee** means all persons employed by a school district, attendance zone, or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.

- N. **Wellness Center** means a State-funded health clinic that is in a public elementary or high school.

V. Roles and Responsibilities of Each Agency

A. Child Abuse Reporting and Investigation

1. LEA Duty to Report:

Per 16 *Del. C.* §903, a School Employee who "knows or in good faith suspects child Abuse or Neglect shall make a report" to DFS. School Employees shall immediately report known or suspected child Abuse or Neglect via the 24-hour Child Abuse and Neglect Report Line (1-800-292-9582) or the online portal at www.kids.delaware.gov. A report must be made each time Abuse or Neglect is known or suspected regardless of current DFS activity with the family.

a. **Firsthand Knowledge of Abuse or Neglect** – An immediate report by telephone (or online at www.kids.delaware.gov for non-emergency matters) must be made to DFS by all School Employees who have Firsthand Knowledge of the child Abuse or Neglect (16 *Del. C.* §904). This includes allegations involving licensed childcare facilities (e.g., childcare homes and/or centers, residential care), known as Institutional Child Abuse or Neglect (IA) reports. An immediate report may be made in one of the following ways:

- i. **Preferred:** All parties with Firsthand Knowledge make the immediate oral report together and disclose the names of all making the report; or
- ii. Each party with Firsthand Knowledge makes the immediate oral report individually; or
- iii. Each party with Firsthand Knowledge makes an online report for non-emergency matters. Any allegations related to child sexual abuse, child death, current injury, need for immediate medical attention or mental health treatment, or immediate safety concern must be reported via an oral report to the hotline.

b. **The Report** –

- i. Prior to contacting the Report Line, the School Employees with Firsthand Knowledge should gather responses to the following Minimal Facts questions in order to form the basis for their report:
 - A) What happened?
 - B) Where did that happen?

- C) When did that happen?
 - D) Did you tell anyone else what happened, and if so, whom?
 - E) Who did that to you?
 - ii. The reporter should gather minimal facts and avoid asking the child additional probing questions to reduce the possibility of traumatizing the child and compromising the investigation. Care should be given to limit questioning to minimal facts, and any information voluntarily provided by the child should be documented and reported.
 - iii. In addition to the basic information about the alleged child Abuse or Neglect, the reporter will provide, if available:
 - A) demographic information;
 - B) any information about the way the caregiver's behavior is impacting the child;
 - C) known information about Parents or siblings;
 - D) known information about the alleged child victim's physical health, mental health, and educational status;
 - E) information regarding medical attention that may be needed for injuries; and
 - F) known information that could put the child's or DFS worker's safety in peril such as the presence of alcohol, drugs, weapons, dangerous animals, or criminal behavior.
 - iv. The reporter must notify school administration that a report has been or is being made. School Employee should refer to any building/LEA policies that are in addition to the Mandated Reporting law (16 *Del. C.* §903).
 - v. Only those school personnel directly involved with providing support to the child and making a report to the Report Line should interact with the child regarding the disclosure. Care should be given to limit the number of staff involved so as to minimize trauma to the child and avoid violation of privacy.
- c. **Observed Physical or Behavioral Indicators** - Other scenarios in which concerning physical or behavioral indicators are observed, but Abuse or Neglect is not yet suspected, should be referred to the appropriate school personnel (e.g., nurse or counselor) for review, according to building/LEA policy.

d. Follow-Up –

- i. DFS may contact the reporter or other school personnel with knowledge of the situation to obtain additional firsthand information.
- ii. DFS shall notify the school of the decision to accept or screen out a report by phone or e-mail within 24 hours.
- iii. School Employee shall not notify the Parent/Guardian/Relative Caregiver that a report has been made. DFS and/or law enforcement will decide how and when the Parent/Guardian/Relative Caregiver will be notified.

2. DFS Duty to Receive a Report:

- a. Upon receipt of the report, DFS will do one of four things:
 - i. accept the report and investigate the allegations or conduct a family assessment; or
 - ii. refer the report to law enforcement for investigation; or
 - iii. for alleged reports involving licensed childcare facilities (e.g., childcare home and/or centers, residential care) refer the report per DSCYF guidelines for an Institutional Abuse investigation; or
 - iv. document the report but not investigate the allegations.

3. Investigation of the Report:

a. LEA Initiated Reports –

- i. After receipt of a LEA report, the DFS Caseworker and Supervisor will make a decision about whether to initiate the investigation at the school or at another location based on case specific information. If a school response is warranted:
 - A) The assigned DFS Caseworker may call the school administration to advise that the DFS Caseworker is responding to the school to interview the child regarding the report.
 - B) Upon arrival, the DFS Caseworker will show State-issued agency photo identification, request to speak to the school administration, and provide the purpose of the visit. The DFS Caseworker may request to speak to the School Employee who made the report. The school will identify a location where the

child can be interviewed privately by the DFS Caseworker and arrange for the child to come to that location within the school. When requested or approved by the child, a school designee may attend the interview, but only as an observer to support the child. The DFS Caseworker will notify such designee that they may be subpoenaed for subsequent legal proceedings.

- C) It may be necessary for the DFS Caseworker to observe a child's physical injuries to determine if police intervention is warranted and if medical treatment is needed due to the degree of injury.
- D) Per 16 Del. C. §902(22) and 16 Del. C. §906(e)(3), DFS is required to contact the appropriate law enforcement agency upon receipt of any report that would constitute a criminal violation "against a child by a person responsible for the care, custody, and control of the child." In severe injury cases reported by school staff, DFS may contact the police and request they respond to the school to conduct a joint investigation. In the event a child has pending or outstanding criminal charges, the police will approach the child as a victim first.
- E) If an injury does not appear to require medical treatment, the physical assessment shall be limited to an external physical assessment, shall exclude the genital area of a male or female and chest area of a female, and shall be done in the presence of a school nurse. The DFS Caseworker will be sensitive to the age, sex, and special needs of the child. When a child between the ages of 9 and 18 indicates an unwillingness to be physically assessed at the school, the DFS Caseworker will pursue a medical examination.
- F) Children under the age of 9 must be examined by a physician as arranged by the DFS Caseworker.
- G) A physical assessment of a child alleging sexual abuse will not be conducted by school staff or the DFS Caseworker under any circumstances. DFS will coordinate the medical examination with law enforcement and the appropriate medical facility.
- H) The DFS Caseworker or law enforcement officer may photograph the child's injuries to document evidence of the injuries for the investigation. School Employees are not authorized to photograph a child's injuries for evidentiary purposes.

- I) DFS will coordinate law enforcement involvement, including assistance in transporting the child to the hospital in accordance with its policies and statutory responsibilities.
- J) **Temporary Emergency Custody** – A DFS Caseworker has the authority to take temporary emergency protective custody of a child when it is suspected that the child is in imminent danger of suffering serious physical harm or threat to life as a result of Abuse or Neglect, providing the child in question is located at a school, day care facility, or child care facility at the time the authority is initially exercised.
- K) The source of a report will not be divulged unless the reporter consents. The reporter may reserve the right to remain unknown to the family. Even in the event of legal proceedings, the identity of the reporting source may not be disclosed.
- L) Upon the conclusion of the child interview and physical assessment, the DFS Caseworker will inform the school administration:
 - (1) that a response was made, and whether the child is safe or the child was placed out of the home;
 - (2) who is allowed to have contact with the child;
 - (3) if there are any recommendations for follow-up with the child, such as referring the child to a school counselor;
 - (4) that the Child Abuse and Neglect Report Line should be called if there are further incidents of Abuse or Neglect involving the child; and
 - (5) of information, such as the new address and contact information regarding the child's placement, if the child was placed out of the home.

b. Reports Made by Other Sources –

- i. In the event that DFS or the police deem it necessary to pursue an investigation in the school setting, the DFS Caseworker shall inform the school administration and request assistance per the procedures in Section V.A.3 above.
- ii. Alleged physical abuse will be directly investigated by the DFS Caseworker who may request that the school nurse assist with a physical assessment. Physical assessments of alleged physical abuse

reported by sources outside the school will not be conducted by the school nurse prior to DFS response to the school.

- iii. If a report to DFS is received from a Wellness Center, the school will be notified if it is necessary for the DFS Caseworker to obtain information from School Employees.

4. Case Collaboration on Active DFS Investigation Cases:

- a. Verbal or written consent of a Parent/Guardian/Relative Caregiver is not required for DFS to investigate allegations of Abuse, Neglect or Dependency or to interview a child in connection with the foregoing investigation.
- b. Once an investigation has begun, LEAs and DFS are encouraged to share information to enhance the investigation, protect children, prevent further child Abuse and Neglect, and provide family-focused services to the extent permitted by law.
- c. When an investigation is complete and the need for ongoing treatment services has been identified, information can be shared with a signed authorization for release of information from the Parent/Guardian/Relative Caregiver. To expedite the exchange of information, either agency may fax the signed consent form. The Relative Caregiver can only consent to school-based medical and educational decisions. (See **Authorization for Release of Information Form**, found at <https://kids.delaware.gov/policies/dscyf/dsc205-confidentiality-of-client-records.pdf>.) Additional information regarding the sharing of information may be found under "Confidentiality."
 - i. No Identified DFS Caseworker - When the DFS Caseworker's name is not known and a School Employee wants to share information about the case or wants to obtain information relevant to the school, the school may contact the Report Line (1-800-292-9582) to request that the assigned caseworker contact the school staff person about the case.
 - ii. Identified DFS Caseworker - When a School Employee knows the DFS Caseworker's name, the caseworker should be contacted directly to share information or obtain information relevant to the school.

5. Case Collaboration on Active DFS Treatment Cases:

- a. When a case is active in treatment, the DFS Caseworker will contact the school periodically to assess the child's educational status.
- b. If a new report of Abuse or Neglect is received on an active treatment case, either the assigned treatment or investigation DFS Caseworker may make a response. (See V.A.4.a. and b. above.)

B. Confidentiality

Each party will comply with the relevant local, state, and federal laws and regulations that govern privacy and confidentiality related to children and families. However, each party will provide information to each other that is not confidential, or which is otherwise permitted to be disclosed under the applicable law to be disclosed, in order to ensure the successful support of children and families.

Some of the applicable privacy and confidentiality laws, and some of the provisions of those laws are as follows:

1. **Child Abuse Prevention and Treatment Act (CAPTA) - 42 USC 5106a(b)(2)(B)(viii)** requires methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's Parents or Guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this title shall only be made available to –
 - a. Individuals who are the subject of the report;
 - b. Federal, State, or local government entities, or any agent of such entities, as described in clause (ix);
 - c. Child abuse citizen review panels;
 - d. Child fatality review panels;
 - e. A grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and
 - f. Other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose.

2. **Educational Records**

14 Del. C. § 4111 provides that all educational records in public and private schools are confidential. Educational records and personally identifiable information can only be released in accordance with DDOE regulations. DDOE has adopted the Federal Family Educational Rights and Privacy Act and its implementing regulations with two exceptions which are not applicable.

3. **Family Educational Rights and Privacy Act (FERPA)**

Generally, schools must have written permission from the Parent/Guardian or eligible student in order to release any information from a student's education record. However, FERPA, 20 U.S.C. 1232g, and the corresponding regulations, 34 CFR Part 99, allows schools to disclose educational records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

 - a. School officials with legitimate educational interest;
 - b. Other schools to which a student is transferring;
 - c. Educational authorities conducting audit, evaluation, or enforcement of education programs;

- d. Appropriate parties in connection with financial aid to a student;
- e. Organizations conducting certain studies for or on behalf of the school;
- f. Accrediting organizations;
- g. To comply with a judicial order or lawfully issued subpoena;
- h. Appropriate officials in cases of health and safety emergencies; and
- i. Parents/Guardians/Relative Caregivers of a dependent student.

For students in Foster Care, the Uninterrupted Scholars Act permits educational agencies and institutions to disclose a student's educational records, without parental consent, to a caseworker or other representative of a State or local child welfare agency authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with the State law, for care and the protection of the student. 20 U.S.C. § 1232g(b)(1)(L).

Schools may disclose, without consent, "directory information" including a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees and awards received, dates of attendance, and the most recent previous educational agency or institution attended by the student. 20 U.S.C. § 1232g(a)(5)(A). Directory information does not include student identification numbers or Social Security numbers. However, schools must give public notice of the categories of information which it has designated as "directory information" and allow Parents/Guardians/Relative Caregivers and eligible students a reasonable period of time after such notice has been given for a Parent/Guardians/Relative Caregiver to inform the school that any or all information designated should not be released without prior consent. 20 U.S.C. § 1232g(a) (5)(B).

- 4. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**
The reporting of child abuse is not precluded by HIPAA. 42 U.S.C. §1320d-7(b). HIPAA does not preempt State law where "the provision of State law, including State procedures established under such law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention." 45 CFR 160.203(c).

VI. Administration of the MOU

A workgroup (MOU Workgroup) will be established under the Child Protection Accountability Commission (CPAC) Education Subcommittee, including a representative from the Department of Education, the DFS Intake and Investigation Program Manager, one (1) LEA representative from each county and one (1) representative of DFS from each county, to meet to review the implementation of this MOU. This committee will establish

agreed upon data points that can be monitored and evaluated in determining the impact of the MOU and create changes as necessary. This committee will meet on a quarterly basis.

Based on the recommendations of this workgroup, each Department will provide training to the appropriate staff to help ensure all are familiar with the requirements and supports needed to implement this MOU.

VII. Agreement Review

This Agreement shall be effective immediately upon the written signatures of all parties and will remain in effect until a new agreement is signed. This Agreement shall be reviewed annually by appropriate personnel from each party and may be reauthorized at least every five (5) years by the DDOE, the DSCYF, and LEAs. Renegotiation of any portion of this Agreement may occur at any time for good cause, upon the written request of any of the parties. The parties will amend this Agreement based on changes to relevant and applicable federal and state law and regulations and rules. This Agreement may be terminated by any of the parties upon thirty (30) days' written notice.

IX. Signatories

This document was signed by all parties and became effective 4/24/2023. Signatures are on file with the Department of Education.

Cabinet Secretaries

Dr. Mark Holodick Department of Education	Date
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Josette DelleDonne Manning, Esq. Department of Services for Children, Youth, and their Families	Date
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Local Education Agencies

Dr. Matt Burrows Appoquinimink	Date
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Lincoln Hohler Brandywine	Date
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Dr. Christine Alois
Caesar Rodney

Date

Robert S. Fulton
Cape Henlopen

Date

Dr. Vilicia Cade
Capital

Date

Dr. Dan Shelton
Christina

Date

Dr. Jeffrey D. Menzer
Colonial

Date

Charity H. Phillips
Delmar

Date

Dr. Jay F. Owens, Jr.
Indian River

Date

Dr. Steven V. Lucas
Lake Forest

Date

Dr. Shawn Larrimore
Laurel

Date

Dr. Kevin Dickerson
Milford

Date

Dr. Joseph Jones
New Castle County Votech

Date

Dr. Amelia Hodges
Polytech

Date

Dorrell Green Red Clay Consolidated	Date
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Dr. Corey Miklus Seaford	Date
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Dr. Susan Brown Smyrna	Date
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Dr. Kevin Carson Sussex Technical	Date
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Heath B. Chasanov Woodbridge	Date
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Charter Schools

Mercedes Alonso, Executive Director Academia Antonia Alonso	Date
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Dr. Michele Marinucci, Head of School Academy of Dover	Date
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Heidi Greene, Head of School Campus Community School	Date
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Rachel Valentin & Dr. LaRetha Odumosu, Executive Directors Charter School of New Castle	Date
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Reginald Johnson, President Charter School of Wilmington	Date
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Anthony Pullella, Commandant Delaware Military Academy	Date
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Evelyn Edney, School Leader Early College High School at DE State University	Date
Aaron Bass, Chief Executive Officer East Side Charter	Date
Salome Thomas-El, Head of School Edison (Thomas) Charter	Date
Dr. Lilyana Auster, Commandant First State Military Academy	Date
Courtney Fox, Head of School First State Montessori Academy	Date
Madeline Weckel, Head of School Freire Charter	Date
Catherine Dolan, Head of School Gateway Lab School	Date
Dr. LaRetha Odumosu, Executive Director Great Oaks Charter	Date
Sally Maldonado, Head of School Kuumba Academy	Date
Margaret Lopez-Waite, Chief Executive Officer La Americas ASPIRA Academy	Date
Ned Southworth, Head of School MOT Charter	Date
Lisa Ueltzhoffer, Interim Head of School Newark Charter	Date

Elias Pappas, Head of School Odyssey Charter	Date
Edward J. Emmett, Jr., Director Positive Outcomes Charter	Date
Denise Stouffer, Head of School Providence Creek Academy	Date
Eric Anderson, Head of School Sussex Academy of Arts and Sciences	Date
Lisa Coldiron, Head of School Sussex Montessori School	Date
