

SECTION: OPERATIONS
 TITLE: CHILD/STUDENT ABUSE
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EAST STROUDSBURG AREA SCHOOL DISTRICT

<p>1. Purpose</p> <p>21. Authority 18 Pa. C.S.A. Sec. 4304 23 Pa. C.S.A. Sec. 6301 et seq</p> <p>32. Definitions 23 Pa. C.S.A. 6303</p>	<p style="text-align: center;">806. CHILD/STUDENT ABUSE</p> <p>Child abuse is a tragic reality within Pennsylvania, and the Board recognizes the District's role in reporting all instances of suspected child abuse, including abuse and/or sexual misconduct by school employees.</p> <p><u>The Board requires district employees, independent contractors and volunteers to comply with identification and reporting requirements for suspected child abuse, as well as the training requirement for recognition and reporting of child abuse in order to comply with the Child Protective Services Law and the School Code.</u></p> <p>This Policy establishes procedures for the mandatory reporting of suspected child abuse in compliance with the PA Child Protective Services Law (CPSL) as well as the mandatory reporting by educators of sexual abuse, sexual exploitation or sexual misconduct under the Educator Discipline Act.</p> <p>The Superintendent or designee is authorized to develop administrative regulations, consistent with Pennsylvania law and this Policy, in order to effectively ensure the proper implementation of this Policy throughout the District.</p> <p><u>The following words and phrases, when used in this policy, shall have the meaning given to them in this section:</u></p> <p>Certified Volunteer – a volunteer who has satisfied the certification requirements <u>for child abuse history clearance statement and state and federal criminal history background checks underrequired by</u> the Child Protective Services Law <u>and/or the School Code.</u></p> <p>Child Abuse – the definition of this term shall be consistent with the current, legally-applicable definition under the CPSL.</p> <p>Direct Contact with Children – for the purposes of this Policy, this term, consistent with the CPSL, shall mean “the care, supervision, guidance or control of children or routine interaction with children.”</p> <p>Direct Volunteer Contact – <u>an unpaid adult individual, who, on the basis of the</u></p>
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individual's role as an integral part of a regularly scheduled program, activity or service is a person responsible for the child's welfare or care, supervision, guidance or control has direct contact with children of children and routine interaction with children.

Independent Contractor – an individual other than a school employee who provides a program, activity or service who is otherwise responsible for the care, supervision, guidance or control of children pursuant to a contract. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

Perpetrator – a person who has committed child abuse and is a parent/guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; an individual fourteen (14) years of age or older who is responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program activity or service; an individual fourteen (14) years of age or older who resides in the same home as the child; or an adult who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child; or an adult who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined in the law. Only the following may be considered a perpetrator solely based upon a failure to act: a parent/guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; an adult responsible for the child's welfare; or an adult who resides in the same home as the child.

Person Responsible for the Child's Welfare – a person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

Program, activity or service – any of the following in which children participate and which is sponsored by a school or a public or private organization:

- A youth camp or program
- A recreational camp or program
- A sports or athletic program
- A community or social outreach program
- An enrichment or educational program
- A troop, club or similar organization

Recent Act or Failure to Act – any act or failure to act committed within two (2) years of the date of the report to the Department of Human Services of the Commonwealth or county agency.

Routine Interaction – regular and repeated contact that is integral to a person's

43. Delegation of Authority

employment and/or an independent contractor or volunteer's responsibilities.

School Employee – any individual employed by the District who provides a program, activity or service sponsored by a District and has or may have direct contact with children during the course of his/her employment. ~~This term includes independent contractors who have direct contact with children.~~

~~The Superintendent or designee shall have the authority to draft administrative regulations containing specific procedural requirements regarding mandated child abuse reporting by school employees, child abuse clearances for school employees, and rules and regulations for school volunteers, including, but not limited to clearance requirements and procedures for “certified volunteers.”~~

The Superintendent or designee shall:

1. Require each candidate for employment to submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law.

2. Require each applicant for transfer or reassignment to submit the required certifications unless the applicant is applying for a transfer from one position as a district employee to another position as a district employee of this district and the applicant's certifications are current.

School employees, independent contractors and certified volunteers shall obtain and submit new certifications every sixty (60) months.

Certification requirements for volunteers are addressed separately in Board Policy 916.

The Superintendent or designee shall annually notify district staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Board policy and administrative regulations.

The Superintendent or designee shall ensure that the poster, developed by the PA Department of Education, displaying the statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues be posted in a high-traffic, public area of each school. The designated area shall be readily accessible and widely used by students.

The Superintendent or designee shall annually inform students, parents/guardians, independent contractors, volunteers and staff regarding the contents of this Board policy.

54. Guidelines and Requirements

AIDING AND ABETTING SEXUAL ABUSE

School employees, acting in an official capacity for this district, are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the school employee knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student

This prohibition applies only to assistance that extends beyond performance of normal processing of personnel matters including routine transmission of files or other information. This prohibition shall not apply if:

1. The relevant information has been properly reported to law enforcement officials and any other authority required by federal, state or local law and the matter has been officially closed or the prosecutor or law enforcement officials notified school officials that there is insufficient information to establish probable cause.
2. The school employee, contractor or agent has been acquitted or otherwise exonerated of the alleged misconduct.
3. The case or investigation remains open and no charges have been filed against, or indictment of, the school employee, contractor or agent within four (4) years of the date on which the information was reported to the law enforcement agency.

ANNUAL PROVISION OF WRITTEN MANDATORY REPORTING PROCEDURES TO ALL SCHOOL EMPLOYEES

24 P.S. §12-1207.6

~~All school employees shall be provided, on an annual basis, a copy of the required mandatory reporting procedures, which shall be consistent with this Policy and shall include the following:~~

- ~~● The current definition of “child abuse” under the CPSL;~~
- ~~● Procedures for reporting suspected abuse, consistent with this Policy, including specific procedures for providing notification to the building principal;~~
- ~~● Procedures and definitions pertaining to the mandatory reporting by educators of sexual abuse, sexual exploitation or sexual misconduct under the Educator Discipline Act;~~

23 Pa. C.S.A.
6311, ~~6313~~
42 Pa. C.S.A.
5945

~~23 Pa. C.S.A.
6313~~

TRAINING OF DISTRICT EMPLOYEES

~~All District employees who come into contact with children shall receive training regarding child abuse recognition and reporting, which shall include training on the following legally required topics~~The District, and independent contractors of the District, shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, the following topics:

1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct under the CPSL.
2. The requirements of the "Professional Educator Discipline Act," including mandatory reporting requirements.
3. District's policies related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.

Employees are required to complete a minimum of three (3) hours of training every five (5) years.

The Superintendent or designee shall be responsible for ensuring the proper enforcement of these training requirements as well as ensuring that the training provided is in full compliance with the requirements of Act 126 and provides training on all of the above-listed topics, as mandated by Act 126.

DUTY TO REPORT CHILD ABUSE

~~All school employees have a duty and legal responsibility to report all instances where the employee has reasonable cause to suspect that a child is the victim of child abuse.~~

~~Professional privilege and/or promises / assurances of confidentiality to the student do not apply to any situations involving suspected abuse and do not relieve a mandated reporter of the duty to make a report of suspected child abuse.~~

School employees, independent contractors or volunteers shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is the victim of child abuse under any of the following circumstances:

1. The school employee, independent contractor or volunteer comes into contact with the child in the course of employment, occupation and the practice of a profession or through a regularly scheduled program, activity or service.
2. The school employee, independent contractor or volunteer is directly

responsible for the care, supervision, guidance or training of the child.

3. A person makes a specific disclosure to a school employee, independent contractor or volunteer that an identifiable child is the victim of child abuse.

4. An individual fourteen (14) years of age or older makes a specific disclosure to a school employee, independent contractor or volunteer that s/he has committed child abuse.

A child is not required to come before the school employee, independent contractor or volunteer in order for that individual to make a report of suspected child abuse.

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.

Any person who, in good faith, makes a report of suspected child abuse, regardless of whether the report is required, cooperates with an investigation, testifies in a proceeding, or engages in other action authorized by law shall have immunity from civil and criminal liability related to those actions.

Any person required to report child abuse who willfully fails to do so may be subject to disciplinary action and criminal prosecution.

Any person who intentionally or knowingly makes a false report of child abuse or intentionally or knowingly induces a child to make a false claim of child abuse may be subject to disciplinary action and criminal prosecution.

Any person who engages in intimidation, retaliation, or obstruction in the making of a child abuse report or the conducting of an investigation into suspected child abuse may be subject to disciplinary action and criminal prosecution.

The district shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse.

~~23 Pa. C.S.A.
6339~~

REPORTING PROCEDURES

~~The legally required Child Abuse reporting procedures are comprised of a 3-step process:~~

~~STEP 1: Initial Report~~

~~School employees and volunteers with reasonable cause to suspect child abuse are required to immediately report such suspicions to the Department of Human Services (formerly Department of Public Welfare) via the statewide toll-free child abuse reporting hotline (800-932-0313) or make an electronic report via the DHS online reporting system (www.compass.state.pa.us/ewis). If an electronic report is~~

~~24 P.S. §1-111
23 Pa. C.S.A.
6344~~

~~made, the reporting employee must secure a copy of the confirmation page, which confirms transmission of the report to DHS. If such confirmation is not provided, the report must be re-submitted until such confirmation is obtained, or the report must be made via the oral reporting hotline.~~

~~All employees and volunteers with independent reason to suspect abuse (i.e., whose reason to suspect child abuse does not arise exclusively from another employee's suspicion) shall be required to make the mandatory report to DHS regardless of whether a report has been made by another school employee regarding the same child.~~

~~**STEP 2: Notification of Building Principal/Designee**~~

~~Once the initial report has been made to DHS via telephone hotline or online reporting system, such individual is required to then immediately notify the building principal/designee of the child's school. In such instances, the building principal/designee is not required to file a separate report of suspected abuse to DHS unless the principal/designee has reason to suspect child abuse independent of the employee's report. The building principal/designee shall be responsible for the facilitation of the school's cooperation in the investigation process, including, but not limited to, facilitating interviews with the child and staff members.~~

~~Each building is required have a consistent established procedure for the immediate notification of the building principal/designee by an employee reporting suspected child abuse. It shall be the responsibility of the Superintendent or designee to determine the proper manner in which notification to the building principal/designee must be made under this Policy, which may be standardized in all District buildings or be independently established in each school building.~~

~~**STEP 3: Written/Online Report** (only necessary where oral report was made in Step 1)~~

23 Pa. C.S.A.
§6344.2


~~If the initial report was made via the child abuse reporting hotline, a written report (either electronic or physical report) must be submitted within 48 hours of the initial oral report. If an electronic report is made, the reporting employee must secure a copy of the confirmation page, which confirms transmission of the report to DHS. If such confirmation is not provided, the report must be re-submitted until such confirmation is obtained, or the employee must provide a physical written report.~~

~~School employees, independent contractors or volunteers who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies (www.compass.state.pa.us/cwis) or an oral report via the statewide toll-free telephone number (1-800-932-0313). A person making an initial oral report of suspected child abuse must also submit a written electronic report within forty-eight (48) hours after the oral report. Upon receipt of an electronic report, the electronic reporting system will automatically respond with a confirmation, providing the~~

district with a written record of the report.[14][34][35]

A school employee, independent contractor or volunteer who makes a report of suspected child abuse shall immediately, after making the initial report, notify the building principal or administrator and if the initial report was made electronically, also provide the building principal or administrator with a copy of the report confirmation. The building principal or administrator shall then immediately notify the Superintendent or designee that a child abuse report has been made and if the initial report was made electronically, also provide a copy of the report confirmation.[14][34][35]

When a report of suspected child abuse is made by a school employee, independent contractor or volunteer as required by law, the school district is not required to make more than one (1) report. An individual otherwise required to make a report who is aware that an initial report has already been made by a school employee, independent contractor or volunteer is not required to make an additional report. The person making an initial oral report is responsible for making the follow-up written electronic report within forty-eight (48) hours, and shall provide the building principal or administrator with a copy of the report confirmation promptly after the written electronic report has been filed. The building principal or administrator shall in turn provide a copy of the report confirmation to the Superintendent or designee.[14][34][35]

 When necessary to preserve potential evidence of suspected child abuse, a school employee may, after the initial report is made, take or cause to be taken photographs of the child who is the subject of the report. Any such photographs shall be sent to the county agency at the time the written report is sent or within forty-eight (48) hours after a report is made by electronic technologies or as soon thereafter as possible. The building principal or administrator shall be notified whenever such photographs are taken.[36]

If the Superintendent or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Safe Schools Act, the Superintendent or designee shall inform local law enforcement, in accordance with applicable law, regulations and Board policy.[37][38][39][40][41][42]

Where Suspected Abuser is the Building Principal:

In cases where the suspected abuser is the building principal, employees reporting suspected abuse are required to report the suspected abuse directly to the Superintendent.

*23 Pa. C.S.A.
6301, et. seq.*

REPORTS OF SUSPECTED ABUSE BY SCHOOL EMPLOYEES AND/OR SCHOOL CERTIFIED VOLUNTEERS

The building principal or administrator must immediately notify the Superintendent

of all reports of suspected abuse by a school employee and/or a school volunteer. The Superintendent, upon receiving such notice, shall contact the District's legal counsel and authorize a thorough investigation into the allegations of abuse. This shall occur in addition to the legally-required mandatory reporting requirements to the PA Department of Human Services set forth under the law and in this Policy. This investigation process may not affect or delay the required reporting procedures set forth in the Child Protective Services Law and this Policy.

CONFIDENTIALITY OF REPORTS

All reports of suspected child abuse shall remain confidential, and the release of data by the school that would identify the individual who made a report of suspected child abuse and/or who cooperated in a child abuse investigation is strictly prohibited. Information regarding child abuse reporting may be shared with the building principal/~~designee~~ or administrator and the Superintendent, as permitted under this Policy.

EMPLOYEE CLEARANCES

School employees shall be subject to the requirements of 24 P.S. §1-111 and §1-111.1 and shall, in addition, be required to submit to the District, prior to employment, certification from the PA Department of Human Services as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated child abuse report.

Every 60 months, as required by law, school employees shall be required to obtain and produce updated clearances required in 24 P.S. 1-111 as well as the statewide database certification from the PA Department of Welfare indicated above. The 60-month period shall be determined by the date of the oldest of the individual's oldest clearance. All clearances must be updated within 60 months of the date of the individual's oldest clearance.

It shall be the responsibility of each school employee to keep track of their clearance expiration date and to obtain and produce to the Human Resources Department updated clearances within the required timeframe. Employees may not continue to be employed in a position with direct contact with children without properly-updated clearances. It shall be the responsibility of the Human Resources Department to ensure, on behalf of the District, that the District has maintained the required clearances. Any employee whose clearances have not been renewed within the 60-month timeframe shall be subject to discipline, up to and including termination.

The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants/employees, shall not be subject to the PA Right to Know law (65 P.S. § 67.101 et seq.).

VOLUNTEERS

Volunteers who, in their role as volunteer, are responsible for a child’s welfare or have “direct volunteer contact” (as defined above) with children are required to be “certified volunteers.”

Certification requirements for certified volunteers are addressed separately in Board Policy 916.

~~Volunteers who served as approved volunteers prior to July 1, 2015 [EG1] and who meet the requirements of a “certified volunteer” but do not have the requisite background checks, must fulfill the “Affidavit Requirement,” as set forth, below, and must obtain the required clearances by no later than July 1, 2016.~~

~~Certified volunteers are required to produce the following clearances/background checks:~~

- ~~(1) **PA State Police Criminal History Report**—Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).~~
- ~~(2) **Department of Human Services Child Abuse Certification**—A certification from the Department of Human Services as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.~~

~~Volunteers who have resided outside of the Commonwealth of Pennsylvania within the past ten (10) years and those who do not meet the requirements for exemption from the Federal criminal history record information are required to submit to a third background check requirement:~~

- ~~(3) **FBI Criminal History**—Submission of a full set of fingerprints to the PA State Police for the purpose of a record check, and the PA State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identify of the applicant and obtaining a current record of any criminal arrests and convictions.~~

~~Requirements for exemption of the third requirement (FBI Criminal History):~~

- ~~(1) The position for which the individual is being considered is an unpaid,~~

~~volunteer position;~~

~~AND~~

~~(2) The prospective volunteer has been a Pennsylvania resident for the past ten years.~~

~~Where an individual who has lived in PA for less than ten years but is able to produce a valid FBI Criminal History report that was conducted within the time that the individual was a PA resident, the District shall accept such report as fulfilling the volunteer's certification requirement.~~

~~Clearances/background checks for volunteers may not be older than 60 months, and volunteers who are required to be "certified volunteers," under this Policy, shall be required to provide updated clearances within 60 months of the date of the volunteer's oldest clearance.~~

~~Affidavit Requirement—In addition to the background check/clearance process, all volunteers who are required to be "certified volunteers," as per this Policy, shall be required to affirm, in writing, that they are not disqualified from service under 23 P.S. 6344(c) (Grounds for denying employment or participation in program, activity or service) and/or has not been convicted of an offense similar in nature to the crimes listed in 6344(c) under the laws or former laws in the United States or abroad. Non-disclosure of relevant criminal history or falsification of any information contained within the affidavit shall constitute grounds for immediate termination of the individual's right to serve as a volunteer within the school, and the District retains the right to take legal action against such individual and/or report such falsification to the police.~~

~~COUNTY AGENCY CHILD ABUSE INVESTIGATIONS INVOLVING DISTRICT EMPLOYEES~~

~~The building principal or administrator shall facilitate the cooperation with the Department of Human Services of the Commonwealth or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school.~~

Upon notification by a state or county agency that a child abuse investigation involves suspected child abuse by a District employee, including, but not limited to, a service provider, independent contractor or administrator, the building principal or administrator shall immediately notify the Superintendent and implement a plan of supervision or alternative arrangement approved by the Superintendent for the

individual under investigation. As required by law, such plan of supervision or alternative arrangement must be approved by the county agency and kept on file with the agency until the investigation is completed.

References:

PA Department of Human Services (Formerly PA Department of Public Welfare)

Regulations – 55 PA Code Sec. 3490.1 et seq.

Endangering Welfare of Children – 18 Pa. C.S.A. Sec. 4304, [4906.1](#), [4958](#), [7508.2](#)

[PA Title 24 P.S. 111, 1205.6](#)

[22 U.S.C. 7102](#)

[24 P.S. 111.1, 2070.1a](#)

[20 U.S.C. 7926](#)

Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq., [6303](#), [6311](#), [6318](#),

[6319](#), [6322](#), [6344](#), [6344.3](#), [9344.4](#)

Confidential Communications to School Personnel – 42 Pa. C.S.A. Sec. 5945

Registration of Sex Offenders – 42 Pa. C.S.A. Sec. 9795.1, 9795.4, 9798.1, [9799.12](#),

[9799.24](#), [9799.55](#), [9799.58](#)

Board Policy – 302, 303, [305](#), [306](#), [309](#), [333](#), 317, [317.1](#), 404, 405, [406](#), 417, [417.1](#),

[433](#), 504, 505, [506](#), 517, [818](#), [824](#), [916](#)