

Book

Policy Manual

Section

800 Operations

Title

Child Abuse

Code

806

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AUTHORITY

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. [1][2][3][4]

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.

DEFINITIONS

The following words and phrases, when used in this policy, shall have the meaning given to them in this section:

Adult - an individual eighteen (18) years of age or older.

Bodily Injury - impairment of physical condition or substantial pain.

Certified Volunteer - a volunteer who has satisfied the certification requirements for child abuse history clearance statement and state and federal criminal history background checks required by the Child Protective Services Law and/or the School Code.[6][7]

Child - an individual under eighteen (18) years of age.

Child Abuse – the definition of this term shall be consistent with the current, legally applicable definition under the CPSL, intentionally, knowingly or recklessly doing any of the following:[5]

1. Causing bodily injury to a child through any recent act or failure to act.
2. Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
3. Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failure to act.
4. Causing sexual abuse or exploitation of a child through any act or failure to act.
5. Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
6. Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
7. Causing serious physical neglect to a child.
8. Engaging in any of the following recent acts:
 - Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - Forcefully, shaking a child under one (1) year of age.
 - Forcefully slapping or otherwise striking a child under one (1) year of age.
 - Interfering with the breathing of a child.
 - Causing a child to be present during the operation of methamphetamine laboratory, provided that the violation is being investigated by law enforcement.
 - Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have know was required to register as a Tier II or Tier III sexual offender, has to register for life or has been determined to be a sexually violent predator or sexually violent delinquent.
9. Causing the death of the child through any act or failure to act.
10. Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined by law.

The term **child abuse** does not include physical contact with a child that is involved in normal participation in physical education, athletic, extracurricular or recreational activities. Also excluded from the meaning of the term **child abuse** is the use of reasonable force by a person responsible for the welfare of a child for purposes of supervision, control or safety, provided the use of force:

1. Constitutes incidental, minor or reasonable physical contact in order to maintain order and control;
2. Is necessary to quell a disturbance or remove a child from the scene of a disturbance that threatens property damage or injury to persons;
3. Is necessary for self-defense or defense of another;

4. Is necessary to prevent the child from self-inflicting physical harm; or
5. Is necessary to gain possession of weapons, controlled substances or other dangerous objects that are on the person of the child or in the child's control.

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.” [1]

Direct Volunteer Contact – an unpaid adult individual, who, on the basis of the 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 has direct contact with children.[14]

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.[5][14]

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.[5][13]

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.[5]

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:[5]

- 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.[5]

Routine Interaction – regular and repeated contact that is integral to a person's employment and/or an independent contractor or volunteer's responsibilities.[5]

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. [5]

Serious mental injury - a psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

1. Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or
2. Seriously interferes with a child's ability to accomplish age-appropriate development and social tasks.

Serious physical neglect - any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

1. A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
2. The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation - any of the following:

1. The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
 - Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
 - Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
 - Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

The conduct described above does not include consensual activities between a child who is fourteen (14) years of age or older and another person who is fourteen (14) years of age or older and whose age is within four (4) years of the child's age.

2. Any of the following offenses committed against a child: rape; statutory sexual assault; involuntary deviate sexual intercourse, sexual assault; institutional sexual assault; aggravated indecent assault; indecent assault; indecent exposure; incent; prostitution; sexual abuse, unlawful contact with a minor; or sexual exploitation.

Student - an individual enrolled in a district school under eighteen (18) years of age.

DELEGATION OF RESPONSIBILITY

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.[6][7][15][16][17][18]
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.[19][20][21]

School employees, independent contractors and certified volunteers shall obtain and submit new certifications every sixty (60) months.[20]

Certification requirements for volunteers are addressed separately in Board Policy 916.[22]

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.[23]

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.

GUIDELINES

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.[15][16][17][18][21][24][25][26][27]

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:[25]

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.

Training

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][3][4][26]

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.[26][28]
3. District's policies related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.[27]

Employees are required to complete a minimum of three (3) hours of training every five (5) years.[1]

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

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:[14]

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~~ the individual 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.[14]

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.[14]

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.[29]

Any person required to report child abuse who willfully fails to do so may be subject to disciplinary action and criminal prosecution.[30]

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.[31]

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.[32]

The district shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse.[33]

Reporting Procedures

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 a school safety and security incident required to be reported under law, the Safe Schools Act, the Superintendent or designee shall inform the local law enforcement agency that has jurisdiction over the school's property, 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.

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 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.

Investigation

The building principal or administrator shall facilitate the cooperation with the Department of Human Services of the Commonwealth and/or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school.[14][43]

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.[44]