

ADMINISTRATIVE REGULATIONS

No.: 806
Section: OPERATIONS
Title: CHILD/STUDENT ABUSE
Date Adopted: 2/19/13
Date Last Revised: 3/8/19; 1/16/15

R806 CHILD/STUDENT ABUSE

I. Definitions

The following definitions apply for purposes of this Policy and Administrative Regulation:

Bodily Injury: Impairment of physical condition or substantial pain.

Child: An individual under eighteen (18) years of age.

Child abuse: Intentionally, knowingly or recklessly doing any of the following:

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 failures 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 of a child.
8. Engaging in any of the following recent acts:
 - a. Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - b. Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - c. Forcefully shaking a child under one (1) year of age.
 - d. Forcefully slapping or otherwise striking a child under one (1) year of age.
 - e. Interfering with the breathing of a child.
 - f. Causing a child to be present at a location while a violation of 18 Pa. C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
 - g. Leaving a child unsupervised with an individual, other than the child's parent/guardian, who the actor knows or reasonably should have known: is required to register as a Tier II or Tier III sexual offender under 42 Pa. C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of

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the sexual offense was under eighteen (18) years of age when the crime was committed; has been determined to be a sexually violent predator under 42 Pa. C.S. § 9799.24 (relating to assessments) or any of its predecessors; or has been determined to be a sexually violent delinquent child as defined in 42 Pa. C.S. § 9799.12 (relating to definitions).

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 under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

The following are exclusions from child abuse:

- 1) Environmental factors: No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent/guardian, or person responsible for the child's welfare with whom the child resides.
- 2) Practice of religious beliefs: If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents/guardian or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused.
- 3) Use of force for supervision, control and safety purposes: The use of reasonable force on or against a child by the child's own parent/guardian, or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:
 - (i) the use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.
 - (ii) the use of reasonable force is necessary:
 - a) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to personal

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or damage to property

- b) to prevent the child from self-inflicted physical harm;
 - c) for self-defense or the defense of another individual; or
 - d) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.
- 4) Rights of Parents/Guardians: Nothing in this definition shall be construed to restrict the generally recognized existing rights of parents/guardians to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.
- 5) Participation in events that involve physical contact with child: An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirement.
- 6) Child-on-child contact: Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.

The following child-on-child acts constitute crimes against a child which are subject to reporting requirements of this regulation:

- (i) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
- (ii) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
- (iii) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
- (iv) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
- (v) indecent assault, as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);

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(vi) indecent exposure, as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

7) Defensive force: Reasonable force for self-defense or the defense of another individual, consistent with the provisions of with 18 Pa.C.S. §§ 505 (relating to use of force for self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

Direct contact with children: The possibility of care, supervision, guidance or control of children or routine interaction with children.

Direct volunteer contact: The care, supervision, guidance or control of children and routine interaction with children.

Independent contractor: An individual who provides a program, activity or service to the District who is otherwise responsible for the care, supervision, guidance or control of children. The term does not include an individual who has no direct contact with children.

Parent: A biological parent, adoptive parent or legal guardian.

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 resides in the same home as the child, an individual eighteen (18) years of age or older 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 individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

Only the following may be considered a perpetrator for failing to act: (1) a parent/guardian of the child; (2) a spouse or former spouse of the child's parent; (3) a paramour or former paramour of the child's parent; (4) a person eighteen (18) years of age or older who is responsible for the child's welfare; or (5) a person eighteen (18) years of age or older 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

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a child in lieu of parental care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.

Program, activity or service: A public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following:

1. A youth camp or program.
2. A recreational camp or program.
3. A sports or athletic program.
4. A community or social outreach program.
5. An enrichment or educational program.
6. 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 employment or volunteer responsibilities.

School employee: An individual who is employed by the District or who provides a program, activity or service sponsored by the District.

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 developmental and social tasks.

Serious physical neglect: Either 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:

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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:
 - a. 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.
 - b. 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.
 - c. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - d. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

Paragraph 1 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; incest; prostitution and related offenses; sexual abuse of children; unlawful contact with a minor; or sexual exploitation.

Sexual misconduct: Any act, including, but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, directed toward or with a child or student that is designed to establish a romantic or sexual relationship with the child or student. Such acts include, but are not limited to: sexual or romantic invitation; dating or soliciting dates; engaging in sexualized or romantic dialog; making sexually suggestive comments; self-disclosure or physical exposure of a sexual, romantic, or erotic nature; any sexual, indecent, romantic, or erotic contact with the child or student.

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Student: An individual enrolled in the District school under eighteen (18) years of age.¹

Volunteer: An individual eighteen (18) years or older in an unpaid position with a program, activity or service who, within the scope of their volunteer activity, is individually responsible for the welfare of one or more children or has direct volunteer contact.

II. Delegation of Responsibility

In accordance with Board Policy, the Superintendent or designee shall:

1. Require each candidate for employment to submit an official child abuse certification statement and other criminal history background checks/child abuse certifications as required by law.
2. Require each applicant for transfer or reassignment to submit an official child abuse certification statement unless the applicant is applying for a transfer from one position as a District employee to another position as a District employee and the applicant's official child abuse certification statement is current and on file with the District.
3. Require each volunteer to submit an official child abuse certification statement and other criminal history background checks as required by law and applicable Board Policy.

School employees, independent contractors and volunteers shall obtain and submit new criminal history background checks and certifications every sixty (60) months.

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

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.

III. Training

¹ Nothing in this Regulation or accompanying Policy is intended to inhibit the reporting of abuse directed toward students eighteen (18) years of age and older to the appropriate authority.

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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.
2. Provisions of the educator discipline act, including mandatory reporting requirements.
3. District policy related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.

The District may provide this training through the internet or other distance communications systems.

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

Employees of independent contracts of the District who have direct contact with children are required to comply with the requirements of Pennsylvania law regarding mandatory training on child abuse recognition and reporting.

IV. Mandated Reporters

The following adults, among others set forth in the statute, shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is a victim of child abuse:

a school employee; an individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child; an individual supervised or managed by a person already listed here or any others set forth in Section 6311(a) who has direct contact with children in the course of employment; or an independent contractor.

A. Duty to Report

Mandated reporters 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

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following circumstances:

1. The mandated reporter 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 mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
3. A person makes a specific disclosure to a mandated reporter 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 mandated reporter that they have committed child abuse.

A child is not required to come before the mandated reporter in order for those individuals 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.

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

B. Reporting Procedures

Mandated reporters who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies or an oral report via the statewide toll-free telephone number. 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.

A mandated reporter who makes a report of suspected child abuse shall immediately, after making the initial report, notify the school principal and if the initial report was made electronically, also provide the principal with a copy of the report confirmation. The school principal 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. The Superintendent or designee shall also contact local law enforcement officials in all cases where a report has been made to ChildLine.

When a report of suspected child abuse is made by a mandated reporter as required by law, the 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 mandated reporter is not required to make an additional report.

When necessary to preserve potential evidence of suspected child abuse where there is serious and reportedly non-accidental physical injury a school nurse may, after the initial report is made, take or cause to be taken photographs of the child who is the subject of the report as authorized by the building administrator and in the presence of another adult. Any such photographs shall be set 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.

Please see the Appendix to this Administrative Regulation for a guide to reporting child abuse.

C. Investigation

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The school principal or designee 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 that an investigation involves suspected child abuse by a school employee, the principal or designee shall immediately implement a plan of supervision or alternative arrangement for the school employee under investigation. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval.

D. Confidentiality

All information collected in the process of reporting suspected child abuse shall remain a confidential educational record, and shall only be disclosed in accordance with applicable law.

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References:

School Code – 24 P.S. Sec. 111, 1301-A et seq.
State Board of Education Regulations – 22 PA Code Sec. 10.1 et seq.
Child Abuse Recognition and Reporting Training – 24 P.S. Sec. 1205.6
Child Exploitation Awareness Education - 24 P.S. Sec. 1527
Educator Discipline Act – 24 P.S. Sec. 2070.1A et seq
Endangering Welfare of Children – 18 Pa. C.S.A. Sec. 4304
False Reports of Child Abuse – 18 Pa. C.S.A. Sec. 4906.1
Intimidation, Retaliation or Obstruction in Child Abuse Cases – 18 Pa. C.S.A. Sec. 4958
Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq.

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Appendix

Guidelines for Reporting Child Abuse

Mandated reporters must comply with identification and reporting requirements for suspected child abuse.

If an individual defined in Regulation 806 as a mandatory reporter has reasonable cause to suspect that a child is a victim of child abuse, they must immediately make a report of suspected child abuse to the Department of Human Services by phone via ChildLine (800-932-0313) (a state-wide, toll-free number that is staffed 24/7) or via the state’s electronic reporting system at www.compass.state.pa.us/cwis/public/home.

If a mandated reporter makes an oral report, they also shall make a written report within forty-eight (48) hours, which is to be submitted electronically to the Department or county agency assigned to the case in a manner and format established by the Department. Alternatively, a mandated reporter may file the written report electronically, and not have to report by phone.

To file a written report, go to <https://www.compass.state.pa.us/cwis/Public/Home>. You will see a child welfare portal, and you will need to create a new account. Once you have created a new account, check your email address for your new log-in information. Then return to the child welfare portal and click “Log-In” then “Access My Referrals” then “Continue” at the bottom of that page. This will bring you to the Keystone Key log-in page, where you will enter your user name and password. This will bring you to the “My Abuse Referrals” page, and you will proceed from that point to make your report.

Note: A confirmation by the Department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse. Immediately after reporting to the state, a mandated reporter must notify their Building Principal or designee, who will facilitate the cooperation of the District with the investigation of the report.