

Lower Merion School District

ADMINISTRATIVE REGULATIONS

No.: 908
Section: COMMUNITY
Title: VOLUNTEERS
Adopted: 2/4/22; 2/7/2020, 12/11/2015
Revised: 2/4/22; 2/7/2020

R908 VOLUNTEERS

As set forth in Policy 908, the District values the participation of volunteers in both curricular and extra-curricular programs in order to support and enhance the learning experiences of all students. The purpose of this Administrative Regulation is to implement a process to ensure that our volunteers meet the standards of safety established by the Commonwealth of Pennsylvania as well as to set forth the District’s general guidelines for volunteer participation in school-sponsored programs and activities.

This Administrative Regulation provides guidance and procedures with respect to the following areas:

- Section A: Required Certifications (sometimes referred to as “background checks”)
- Section B: Discriminatory Harassment by and of Volunteers
- Section C: Maintaining Appropriate Boundaries with Students
- Section D: Child/Student Abuse – Mandatory Reporting

A. Required Certifications

1. Definitions

A **Volunteer** is an adult (individual who is 18 years or older) applying for or holding an unpaid position in the service of the District. Depending on the type of service provided, volunteers are designated as either **Tier I** or **Tier II** as described below. This definition does not include volunteers for outside groups, such as Home and School Associations and Booster Clubs, unless the person is directly acting in the service of the District in relation to a District program, activity, or service.

Direct volunteer contact with children or **Direct volunteer contact** means the care, supervision, guidance or control of children and routine interaction with children.

Routine interaction with children means regular or repeated contact that is integral to a person’s employment or volunteer responsibilities.

Person responsible for a/the child’s welfare means 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. This includes any person who has direct or regular contact with a child through any school-sponsored program, activity or service.

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Immediate vicinity means an area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

Program, activity or service means any of the following in which children participate: youth camps or programs, recreational camps or programs, sports or athletic programs, community or social outreach programs, enrichment or educational programs, and troops, clubs, or similar organizations.

Tier I Volunteers are those volunteers who will either be responsible for a child’s welfare or will have direct volunteer contact with children.

Tier II Volunteers are those volunteers who will not be responsible for a child’s welfare and also not have direct volunteer contact with children.

A **Visitor** means any individual who is in the school building or on school property to attend and/or observe a specific event or activity without providing a service to the students, staff, or school/District operations and who would not be responsible for the care, supervision, guidance or control of students. See Policy 907 for more information regarding visitors.

Appropriate school district administrator means the Superintendent or designee.

2. Requirement to Obtain Certifications & Confidentiality

Pursuant to Pennsylvania law, certain volunteers are required to obtain FBI, State Police, and Department of Human Services (DHS) certifications (“certifications”), and will be required to renew those certifications every sixty (60) months.

The District respects the privacy of volunteer applicants, and will hold all certification results in strict confidence to the extent permitted by law. There will be only limited personnel access approved by the Superintendent or designee to certification files on a “need-to-know” basis.

3. Tier I Volunteers

a. Timeline for Obtaining Certifications:

Tier I Volunteers must obtain valid certifications prior to commencing volunteer services to the District. Current Tier I Volunteers with a current certification issued before August 25, 2015 must obtain the required certifications within sixty (60) months of their oldest certification

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b. Renewal Certifications

All Tier I Volunteers have an ongoing obligation to renew their certifications every sixty (60) months from the date of their oldest certification.

c. Exception to Obtaining FBI Federal Criminal History Record

If a Tier I Volunteer has been a resident of Pennsylvania for the entirety of the previous ten-year period and swears or affirms by properly executing a Lower Merion School District Volunteer Affirmation that they are not disqualified from service and have not been convicted of a prohibited offense listed in existing law or a similar offense in another jurisdiction, only the State Police and DHS certifications will be required. The Lower Merion School District Volunteer Affirmation is attached as **Appendix A**. If a Tier I Volunteer is a resident of Pennsylvania but has not resided in Pennsylvania for the entirety of the previous ten-year period, that individual must obtain an FBI criminal history background check only once, and not at successive intervals until that individual has satisfied the ten-year continuous residency requirement in Pennsylvania.

d. Provisional Basis

Upon Superintendent (or designee) approval, a Tier I Volunteer may serve on a provisional basis not to exceed a total of 30 days in a calendar year, if the volunteer is in compliance with the certification standards under the law of the jurisdiction in which they are domiciled. The non-resident volunteer must provide the employer, administrator, supervisor or other person responsible for selection of volunteers with documentation of certifications.

e. Reporting Child Abuse

Tier I Volunteers must report all incidents of suspected child abuse in accordance with this Policy and Administrative Regulation.

f. Reporting of Arrests and Convictions

Tier I Volunteers must report new arrests or convictions for any offense that would create a ban on employment or volunteer work with children to an administrator in writing within 72 hours. If a person responsible for employment decisions or an administrator has a reasonable belief that any volunteer was arrested or convicted for an offense that would constitute grounds for denying employment, or was named as a perpetrator in a founded

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or indicated report of child abuse, or the volunteer has provided notice as required under the Act, the employer or administrator must immediately require that individual to submit current FBI, State Police, and DHS certifications. If any volunteer does not disclose arrests or convictions as required, they will be terminated immediately from all services to the District.

g. Training

Tier I Volunteers are required to become familiar with District policies and attend training sessions required by the District for Tier I Volunteers. In particular, Tier I Volunteers are expected to comply with the following:

- District policies and administrative regulations regarding child abuse identification and reporting.
- District policies and administrative regulations regarding the prohibition of discrimination within the District.
- District policies and administrative regulations regarding unlawful harassment.
- District policies and administrative regulations regarding student accidents.
- District policies and administrative regulations regarding student hazing.
- District policies and administrative regulations regarding student discipline.
- District policies and administrative regulations regarding controlled substances and alcohol.
- District policies and administrative regulations regarding the accommodation of special needs students in 22 Pennsylvania Code Chapter 14 and 15.

The volunteer position is not a right, but rather a privilege. As such, any volunteer position may be eliminated and/or the services of any volunteer may be terminated at any time at the sole discretion of the Superintendent or designee for failure to abide by established procedures or applicable policies.

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h. Approval and Renewal

The Department of Human Resources shall be responsible for approval of all volunteers. No person may be approved as a Tier I Volunteer if their certifications indicate that they have been convicted of any offense which would disqualify a current or prospective employee from employment. This Department shall maintain a database of all approved Tier I Volunteers and track their renewal dates in order to facilitate reminders to approved volunteers when their certifications are subject to expiration.

4. Tier II Volunteers

Tier II Volunteers do not need certifications.

5. All Volunteers: Guidelines

In support of the District’s responsibilities to operate an effective instructional program, and ensure the safety and welfare of all students, volunteer activities will be provided only as requested by the District and will be under the direction of a District employee at all times.

All volunteers will be expected to follow the guidelines stated below:

- Respect the authority of the teacher or District-employed supervisor (“supervisor”) as the decision-maker and as the person responsible for the instructional program, all classroom or school-related activities, and the well-being of all children in the classroom or school. Teachers and supervisors bear the ultimate responsibility for the welfare of students during school activities. When working with students or chaperoning field/class trips or school activities, volunteers must report all incidents of inappropriate behavior or situations in which students might be in danger to the teacher or supervisor in charge of the activity.
- Respect the privacy and anonymity of each child by maintaining the confidentiality of information regarding students. Information regarding student classroom performance and/or behavior, and information contained in student records must be shared only with other District employees with an “educational need to know” the information. Information from student records is regulated by the Family Educational Rights Privacy Act.
- Maintain a professional relationship with students. Volunteers are viewed as representatives of the Board and Administration. When issues of a personal or

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confidential nature are raised by students, volunteers are placed in a difficult situation. Nonetheless, volunteers must refrain from imposing their own opinions on students regarding matters of a personal nature.

- Courteously inform your supervising teacher or supervisor if unable to attend a volunteer activity and document attendance as requested by supervising teacher or supervisor.

B. Discriminatory Harassment by and of Volunteers

1. Discriminatory Harassment Prohibited

In order to maintain a working environment which promotes self-worth and respect for the dignity and worth of others, the Lower Merion School District prohibits all forms of harassment based on membership in designated classifications defined in Section A.2 below (referred to as “discriminatory harassment”) and to provide guidelines for a prompt and appropriate response to allegations of discriminatory harassment as well as guidelines for a prompt and appropriate remedy of any instance of discriminatory harassment.

2. Definitions

As to volunteers, **Discriminatory harassment** means verbal, written, graphic or physical conduct relating to an individual's race, color, ethnicity, national origin, language, immigration status, sex assigned at birth, sexual orientation, gender identity, gender expression, disability, creed, or religion when such conduct has the purpose or effect of substantially or unreasonably interfering with an individual's volunteer work.

3. Reporting Discriminatory Harassment

The District encourages volunteers and third parties who believe they or others have been subject to discriminatory harassment, including sexual harassment to the District’s Title IX Coordinator, even if some elements of the related incident took place or originated away from school ground, school activities, or school conveyances. If the Title IX Coordinator is the subject of the report, then the incident shall be reported to the Superintendent. A person who is not an intended victim or target of discrimination but is adversely affected by the harassing conduct is also encouraged to file a report of discrimination in accordance with this Policy.

The Contact information for the Title IX Coordinator for the District is set forth below:

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Title IX Coordinator	Megan Shafer
Office Address	301 E. Montgomery Ave., Ardmore, PA 19003
Email	shaferm@lmsd.org
Telephone Number	610-645-1955/1928

4. Procedures for Resolving Reports of Discriminatory Harassment

Any volunteer who believes that the actions or words of a District employee, or other volunteer constitute sexual or other discriminatory harassment has a responsibility, first, to make the objection known to that volunteer or employee and in the absence of a satisfactory resolution, to report in writing such conduct to the immediate supervisor of the employee, or to the Superintendent of Schools, if the complaint involves that supervisor. A written statement or report will be requested following an initial oral report to the supervisor.

Any volunteer who observes or becomes aware of sexual or other discriminatory harassment of or by a District employee by or of a District student(s), contracted individual(s), vendor(s), volunteer(s), or other third party(s) in the schools, on District property and/or in connection with any District/school-sponsored event must report such conduct to the immediate supervisor of the employee, or to the Superintendent of Schools, if the complaint involves that supervisor.

Any complaints of harassment by or against a volunteer shall be made to any member of the administrative staff, or the Superintendent when the complaint involves a member of the administrative staff, as soon as possible but in no event more than 30 days after the alleged incident. The administrator shall confer with the Human Resources Manager, who shall normally be designated by the Superintendent to investigate such complaints. Such complaints shall be investigated promptly and in an impartial and as confidential a manner as possible. If a volunteer is not satisfied with the handling of a complaint or the action taken by the investigator, then the volunteer may bring the complaint to the attention of the Superintendent. In all cases, the volunteer will be advised of relevant findings and conclusions in a timely fashion.

Any volunteer who is found, after appropriate investigation, to have engaged in the sexual harassment of another volunteer or employee shall be subject to prohibition from volunteering on behalf of the District.

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5. Retaliation Prohibited

Retaliation against an individual who files a good faith complaint in accordance with either the formal or informal procedures, or against an individual who participates in or cooperates with an investigation, is prohibited. Such retaliation will result in the same disciplinary action applicable to one who engages in harassment.

Reporting harassment will not affect the reporting individual's status with respect to a volunteer's future assignments.

6. Intentionally False Accusations Prohibited

False accusations of harassment can have serious effects on innocent individuals. Therefore, it is prohibited to intentionally falsely accuse an individual of harassment. Such intentionally false accusations will result in removal of the volunteer.

7. Confidentiality

In all phases of the complaint resolution process, every reasonable effort shall be made to maintain the confidentiality and protect the privacy of all parties, consistent with the District's responsibility to investigate and address such complaints.

8. Consequences of Violation of Discriminatory Harassment Policy

A substantiated charge against a volunteer will subject such volunteer to removal.

C. Maintaining Appropriate Boundaries with Students

All volunteers and other adults, as defined below, shall be expected to maintain professional, moral and ethical relationships with District students that are conducive to an effective, safe learning environment. The following guidance provides direction to staff in how to maintain appropriate relationships with students and to avoid certain conduct including romantic/sexual relationships, social interactions, and electronic communications.

1. Definitions

District Adults means all District employees, volunteers, student teachers, and independent contractors and their employees who interact with students or are present on school

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grounds. The term District Adults as used in this regulation, does not include District students who perform services on a volunteer or compensated basis.

Legitimate educational reasons include cocurricular or extracurricular activities and means justified entirely by professional interest, not personal or private interest. Such determinations are made on a case-by-case basis.

Personal means of or concerning one’s private life, relationships, and emotions rather than matters connected with one’s public or professional career.

2. Conduct Implicated by this Regulation

- a. **Romantic or Sexual Relationships:** Volunteers are prohibited from dating, seeking the romantic affections of, entering or attempting to form a romantic or sexual relationship with any student enrolled in the District, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with adults as defined in this regulation.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body.
- Sexual jokes, notes, stories, drawings, gestures, or pictures
- Spreading sexual or romantic rumors.
- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.
- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
- Displaying or transmitting sexual objects, pictures, or depictions

- b. **Social Interactions:** In order to maintain professional boundaries, volunteers shall ensure that their interactions with students are appropriate.

- Disclosing personal, sexual, family, employment concerns or other private matters to one or more students unrelated to a legitimate educational reason. Exchanging notes, emails or other communications of a personal nature with a student

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unrelated to a legitimate educational reason. Giving personal gifts, cards or letters to a student without written approval from the building principal.

- Initiating, permitting, or requesting inappropriate or unnecessary physical contact with a student (e.g., massage, kissing, tickling) or facilitating situations which result in close physical contact with a student unrelated to a legitimate educational reason. (Reasons could include the need for assistance when injured, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction).
- Singling out a particular student or students for personal attention or friendship beyond the ordinary volunteer-student relationship.
- Taking a student out of class without a legitimate educational reason.
- Being alone with a student behind closed doors without a legitimate educational reason. Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
- Sending or accompanying a student on personal errands.
- Inviting a student to home without express authorization from building principal and the student's parents/guardians.
- Going to a student's home to see the student without express authorization from the employee's supervisor.
- Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal.
- Giving a student a ride alone in a vehicle in a nonemergency situation without prior notification to and approval from both the parent/guardian and the building principal.
- Addressing students or permitting students to address volunteers with personalized terms of endearment, pet names, or otherwise in an overly familiar manner or permitting the student to do the same to the adult.
- Telling a student personal secrets or sharing personal secrets with a student.
- For volunteers who are not guidance/counseling staff, psychologists, social workers or other employees with designated responsibilities to counsel students, encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, the student should be referred to the appropriate school resource.
- Furnishing alcohol, drugs or tobacco to a student or being present where any student is consuming these substances.
- Engaging in harassing or discriminatory conduct prohibited by other District policies or by state or federal law and regulations.

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- c. **Electronic Communications:** For purposes of this regulation, ***electronic communication*** shall mean a communication transmitted by means of an electronic device including, but not limited to, a telephone, cellular telephone, computer, computer network, personal data assistant or pager. Electronic communications include, but are not limited to, emails, instant messages and communications made by means of an Internet website, including social media and other networking websites.

As with other forms of communication, when communicating electronically, volunteers shall maintain professional boundaries with students. Electronic communication with students shall be for legitimate educational reasons only.

When available, District-provided email or other District-provided communication devices shall be used when communicating electronically with students. The use of District-provided email or other District provided communication devices shall be in accordance with District policies and procedures.

Volunteers are prohibited from using personal email, text messaging, instant messaging, and social-networking accounts, websites, and any other applications for communicating with parents/guardians and students that are not specifically authorized. Volunteers shall not follow or accept requests for current students to be friends or connections on personal social networking sites and shall not create any networking site for communication with students other than those provided by the District for this purpose, without the prior written approval of the building principal. Some examples of allowable communications in this context include where the adult is a family relative of the student.

Improper and/or inappropriate electronic communication between volunteers and students is prohibited, regardless of whether the volunteer or the student initiates the communication. Improper and/or inappropriate electronic communication includes but is not limited to any type of message that may be viewed as:

- Derogatory;
- Sexual, lewd, pornographic, or obscene in content;
- Offensive through the use of profanity;
- Threatening or harassing;
- Discriminatory;
- Facilitation of illegal activities;
- Having the purpose to assist personal, commercial or for-profit ends;
- Expression of political viewpoints;

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- Unauthorized or illegal distribution, reproduction, or use of copyrighted materials;
- Fraternalization or otherwise crossing the line between professional and personal boundaries; and/or
- Suggestive in nature.

d. **Group Messaging for Sports and Other Activities:** Regarding the use by adults of text messages and other electronic messaging platforms, the Board realizes that these may be a form of electronic communication that are especially valuable in certain contexts when the possibility of immediate and/or urgent contact with students by employees is desirable. Such contexts include but are not limited to the following:

- Volunteer coaches who need the ability to reach student athletes, team members, etc., quickly.
- Volunteer advisors of extra-curricular programs or activities who need the ability to reach student participants in a short time frame.
- Volunteers chaperoning District field trips who need the ability to monitor the locations of students.

If a volunteer plans to communicate electronically with students through the use of text messages, the volunteer must obtain permission to do so from their building principal using the form appended as **Attachment 1**. Also, if permission is received, the volunteer must not only provide students' parents/guardians with written notification of the intent to use text messaging but must also obtain written parental/guardian permission to do so.

All electronic communications from coaches and advisors to team or club members shall be sent in a single communication to all participating team or club members, except for communications concerning an individual student's medical or academic privacy matters, in which case the communications will be copied to the building principal. In the case of sports teams under the direction of the Athletic Director, such medical or academic communications shall also be copied to the Athletic Director.

3. Exceptions

An emergency situation or a legitimate educational reason may justify deviation from professional boundaries set out in this regulation. The District Adult shall be prepared to articulate the reason for any deviation from the requirements of this regulation and must demonstrate that they have maintained an appropriate relationship with the student.

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Under no circumstance will an educational or other reason justify deviation from the "Romantic and Sexual Relationships" section of this regulation.

There will be circumstances where personal relationships develop between a District Adult and a student's family, e.g., when their children become friends. This regulation is not intended to interfere with such relationships or to limit activities that are normally consistent with such relationships. District Adults are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity.

It is understood that many District Adults are involved in various other roles in the community through non-District-related civic, religious, athletic, scouting or other organizations and programs whose participants may include District students. Such community involvement is commendable, and this regulation is not intended to interfere with or restrict a District Adult's ability to serve in those roles. However, District Adults are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity with regard to all youth with whom they interact in the course of their community involvement.

4. Reporting Inappropriate or Suspicious Conduct

Any person, including a student, who has concerns about or is uncomfortable with a relationship or interaction between a District Adult and a student, shall immediately notify the Superintendent, principal or other administrator.

All District employees, independent contractors and volunteers who have reasonable cause to suspect that a child is the victim of child abuse, shall immediately report the suspected abuse, in accordance with applicable law, regulations and Board policy.

A volunteer who knows of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under the Educator Discipline Act shall report such misconduct to the Pennsylvania Department of Education on the required form, and shall report such misconduct to the Superintendent and their immediate supervisor, within fifteen (15) days of discovery of such misconduct.

If the Superintendent or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Child Protective Services Law, the Educator Discipline Act or the Safe Schools Act, the Superintendent or designee shall make a report, in accordance with applicable law, regulations and Board policy.

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It is a violation of this regulation to retaliate against any person for reporting any action pursuant to this regulation or for participating as a witness in any related investigation or hearing.

5. Investigation

Allegations of inappropriate conduct shall be promptly investigated in accordance with the procedures utilized for complaints of prohibited harassment of students as referenced below. It is understood that some reports made pursuant to this Administrative Regulation will be based on rumors or misunderstandings; the mere fact that the reported District Adult is cleared of any wrongdoing shall not result in disciplinary action against the reporter or any witnesses. If as the result of an investigation any individual, including the reported District Adult, the reporter, or a witness is found to have intentionally provided false information in making the report or during the investigation or hearings related to the report, or if any individual intentionally obstructs the investigation or hearings, this may be addressed as a violation of this regulation and other applicable laws, regulations and District policies. Obstruction includes but is not limited to violation of "no contact" orders given to the reported District Adult, attempting to alter or influence witness testimony, and destruction of or hiding evidence.

6. Disciplinary Action

A volunteer who violates this regulation may be subject to removal.

The District shall provide training with respect to the provisions of this regulation to current and new District volunteers subject to this regulation.

D. Child Abuse

1. Reporting Child Abuse

Volunteers are required to make a report of suspected child abuse if they have reasonable cause to suspect that a child is a victim of child abuse as defined in Section D.3., below.

a. Duty to Report

Volunteers are required to 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:

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- 1) The 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 volunteer 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 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 volunteer that they have committed child abuse.

A child is not required to come before the volunteer 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 volunteer 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 volunteer required to report child abuse who willfully fails to do so may be subject to removal.

Any volunteer 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 removal.

Any volunteer 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 removal.

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

b. Reporting Procedures

Volunteers who suspect child abuse shall immediately notify the school principal. 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.

2. Training

LMSD volunteers may be required to complete periodic training including, but not limited to, the following topics:

- Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.
- Maintenance of professional and appropriate relationships with students.

3. Definitions

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:

- a. Causing bodily injury to a child through any recent act or failure to act.
- b. 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.
- c. 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.
- d. Causing sexual abuse or exploitation of a child through any act or failure to act.
- e. Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- f. Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

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- g. Causing serious physical neglect of a child.
- h. Engaging in any of the following recent acts:
 - 1) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - 2) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - 3) Forcefully shaking a child under one (1) year of age.
 - 4) Forcefully slapping or otherwise striking a child under one (1) year of age.
 - 5) Interfering with the breathing of a child.
 - 6) 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.
 - 7) 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 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).
- i. Causing the death of the child through any act or failure to act.
- j. 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:

- a. 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.
- b. 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.

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- c. 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:
 - 1) 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.
 - 2) 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 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.
- d. 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.
- e. 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.
- f. 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).

- g. 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/guardian; (3) a paramour or former paramour of the child's parent/guardian; (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 a child in lieu of parental/guardian care, supervision and control. The term includes any such person who

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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:

- 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 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:

- a) 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
- b) 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:

- a) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- b) 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:

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- a) 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:
 - i. 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.
 - ii. 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.
 - iii. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - iv. 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.

- b) 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.

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.

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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4. Exclusions

- a. Use of force for supervision, control and safety purposes: No child shall be deemed physically or mentally abused due to the use of reasonable force on or against a child by the child's parent/guardian, or person responsible for the child's welfare if any of the following conditions apply:
 - 1) the use of reasonable force constitutes incidental, minor, or reasonable physical contact with the child.
 - 2) 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 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, other dangerous objects, controlled substances or paraphernalia that are on the child or within the child's control.
- b. 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.
- c. 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 during a dispute, fight or scuffle entered into by mutual consent. Exceptions: The following child-on-child acts constitute crimes against a child which are subject to reporting requirements of this regulation:
 - 1) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
 - 2) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
 - 3) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
 - 4) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
 - 5) indecent assault, as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);
 - 6) indecent exposure, as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

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- d. 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.

E. Rules for Building Visitors

See Policy No. 907 (Visitors to School District Buildings and Classrooms During the School Day).