

## **Joint DESE/DCF Advisory Regarding Mandated Reporting Responsibilities of School Personnel in Cases of Suspected Child Abuse and Neglect**

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To: School Committee Chairpersons  
Superintendents of Schools  
Principals of Public and Private Schools  
Charter School Leaders  
Other Interested Parties

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This advisory serves to assist school personnel in carrying out their responsibilities as mandated reporters under [Massachusetts General Laws c. 119, §51A](#). It updates and replaces the previous advisory on this topic issued in 2010 by the Department of Children and Families (DCF) and the Department of Elementary and Secondary Education (DESE). This updated advisory, jointly issued by DCF and DESE, summarizes the mandated reporting law, addresses commonly asked questions about the law and the responsibilities that it imposes on school personnel, and includes links to the relevant statutes and regulations. This advisory should be read in conjunction with DESE's [Promoting Student Engagement, Learning, Wellbeing and Safety](#) guidance.

In addition to the duties of school personnel to report child abuse and neglect consistent with [G.L. c. 119, §51A](#), school committees continue to have a duty under [G.L. c. 71, §37L](#) to inform teachers, administrators and other professional staff of their reporting obligations under [G.L. c. 119, §51A](#). This advisory should assist school committees in complying with [G.L. c. 71, §37L](#). Additionally, a mandated reporter who is professionally licensed by the Commonwealth must complete training to recognize and report suspected child abuse or neglect. [G.L. c. 119, §51A\(k\)](#).

### **Duties of Mandated Reporters**

Under [G.L. c. 119, §51A](#), mandated reporters have a duty to report certain information to the Department of Children and Families (“DCF”) or if they are a member of the staff of a school, they may instead notify the person or designated agent in charge of such school who becomes responsible for notifying DCF. The duty to report under [G.L. c. 119, §51A](#) is triggered when a mandated reporter, in their professional capacity, has reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from: 1) abuse, which causes harm or substantial risk of harm to the child’s health or welfare, including sexual abuse; 2) neglect, including malnutrition; 3) physical dependence upon an addictive drug at birth; (4) being a sexually exploited child; or (5) being a human trafficking victim as defined by [section 20M of chapter 233](#). The definition of “mandated reporters” in [G.L. c. 119, § 21](#) includes, among others, public and private school teachers, nurses, educational administrators, guidance counselors, psychologists, school attendance officers, social workers, child care workers,

physicians, emergency medical technicians, and certain court and public safety officials, such as police officers.

In schools, mandated reporters must fulfill their mandatory reporting duty under [G.L. c. 119, §51A](#) by:

- (1) immediately making an oral report directly to DCF and then following up with a written report (which can be filed online, by fax, or mail) to the DCF local area office within 48 hours; **or**
- (2) immediately notifying the person in charge of the school (or that person's designee), in which case that individual becomes responsible for immediately making the oral report to DCF and submitting the written report (which can be filed online, by fax, or mail) to the DCF local area office within 48 hours.

A mandated reporter who works for a school *may* also choose to immediately notify *both* DCF and the person in charge of the school.

On weekdays between 9 a.m. and 5 p.m., reports can be telephoned to the local DCF area office based on where the child resides.<sup>1</sup> Before 9 a.m. and after 5 p.m. on weekdays, and on weekends and holidays, calls should be made to the Massachusetts Child Abuse Emergency Line at 1-800-792-5200. In addition to filing a report with DCF, a mandated reporter may contact local law enforcement authorities or the Office of the Child Advocate<sup>2</sup> about the suspected abuse or neglect. [G.L. c.119, §51A\(a\)](#).

The law states that any person who is legally required to report suspected child abuse or neglect (i.e., is a mandated reporter), and fails to do so, is subject to a criminal fine of up to \$1,000. [G.L. c.119, §51A\(c\)](#). A mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to, or death of, a child and who willfully fails to report such abuse or neglect may be fined up to \$5,000 or imprisoned in the house of correction for up to 2 1/2 years or both.

The statute also provides protection for mandated reporters who do report, if they did not knowingly and willfully file a frivolous report. A mandated reporter who makes a report of suspected child abuse or neglect to DCF as required is immune from liability in any criminal or civil action filed in connection with the report or contact if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. In addition, the law prohibits any employer of a mandated reporter from discharging, discriminating, or retaliating against the employee for making a report to DCF in good faith.

For more information and resources on student wellbeing, family engagement, and collaboration between schools and social workers, please visit the websites of [DESE](#) and [DCF](#).

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<sup>1</sup> Telephone numbers and locations of DCF area offices can be found at [Department of Children and Families website](#).

<sup>2</sup> [M.G.L. c. 18C](#) created the Office of the Child Advocate (OCA), which is independent of any supervision or control by any executive agency. The Child Advocate, who is appointed by and reports directly to the Governor, has broad authority relative to, among other things, the care and services that executive agencies of the Commonwealth provide to children. The OCA may be reached at [Office of the Child Advocate \(OCA\)](#) or at 617-979-8360 (toll free: 1-866-790-3690).

## Reporting Suspected Child Abuse and Neglect: Commonly Asked Questions

### 1. Who is a mandated reporter?

Mandated reporters include public and private school teachers, educational administrators, guidance counselors, school attendance officers, psychologists, nurses, physicians, emergency medical technicians, social workers, child care workers, foster parents, police officers, firefighters, and others listed in [G.L. c. 119, §21](#).

### 2. How are abuse and neglect defined by DCF?

DCF has definitions of abuse and neglect, as noted below, that govern how DCF responds to information that is reported to it.<sup>3</sup> These definitions provide further guidance that may help inform mandated reporters and aid their decision-making in each unique situation.

DCF defines **abuse** as the non-accidental commission of any act by a caregiver which causes or creates a substantial risk of physical or emotional injury or sexual abuse to a child; **or** the victimization of a child through sexual exploitation and/or human trafficking, whether or not the person responsible is a caregiver. This definition is **not** dependent upon location. Abuse can occur while the child is in an out-of-home or in-home setting.<sup>4</sup>

DCF defines **neglect** as failure by a caregiver, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, education, emotional stability and growth, or other essential care; or to prevent malnutrition; or failure to thrive. A neglect determination cannot result solely from inadequate economic resources. Similarly, a neglect determination cannot be due solely to the existence of a parent's/caregiver's disability or limited physical condition.<sup>5</sup>

If a mandated reporter working for a school has a question about whether a particular situation must be reported under [G.L. c. 119, §51A](#), they should consult with the school's or district's legal counsel.

### 3. How does DCF define caregiver?

In its [Protective Intake Policy](#), DCF defines **caregiver** as a child's parent, stepparent or guardian, or any household member entrusted with responsibility for a child's safety and well-being; **or** any other person entrusted with responsibility for a child's safety and well-being, whether in the child's home, a relative's home, a school setting, a child care setting (including babysitting), a foster home, a group care facility, or any other comparable setting.

The term "caregiver" includes, but is not limited to, schoolteachers, babysitters, school bus drivers, and camp counselors. The "caregiver" definition should be construed broadly and inclusively to encompass any person who at the time in question is entrusted with a

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<sup>3</sup> [DCF Protective Intake Policy # 86-015](#), rev. 5/18/21.

<sup>4</sup> [DCF Protective Intake Policy # 86-015](#), rev. 5/18/21.

<sup>5</sup> [DCF Protective Intake Policy # 86-015](#), rev. 5/18/21.

degree of responsibility for the child. This specifically includes a caregiver who is a child such as a babysitter under age 18.

**4. What information, if known, must be included in the report to DCF under [Section 51A](#)?**

The 51A report is to contain the name and address of the child and the child's parents or other persons responsible for the child's care, if known; the child's age; the child's sex; the nature and extent of the child's injuries, abuse, maltreatment, or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; the circumstances under which the reporter first became aware of the child's injuries, abuse, maltreatment or neglect; what action, if any, was taken to assist the child; the name, address and telephone number of the person making the report; and any other information that the reporter believes might be helpful in establishing the cause of the abuse or neglect, including the identity of the person or persons responsible for the abuse or neglect. A mandated reporter can make a report even if some of this information is not available to them. The report form is available at: <https://www.mass.gov/doc/child-abuse-reporting-form/download>.

**5. If a mandated reporter knows or believes a family is already involved with DCF or the Juvenile Court, but the reporter has reasonable cause to believe there is another instance of abuse or neglect, what should the reporter do?**

The mandatory duty to report applies even if there is current DCF or court involvement with a family or a child at the time of the suspected abuse or neglect. Even if the reporter has raised concerns to the child's DCF social worker, the reporter must still make the required report if the reporter has reasonable cause to believe a child is being abused or neglected. If the mandated reporter has concerns about the child that do not rise to the level of a 51A report (see #4 above), the reporter should contact the social worker. Mandated reporters must likewise report even if the suspected abuse or neglect occurs in a foster home or congregate care setting in which DCF has placed the child.

**6. Will the name of the school staff member who reports the suspected abuse or neglect be released to the child's parent or guardian?**

DCF regulations prohibit DCF staff from releasing the reporter's name to the family or alleged perpetrator of abuse or neglect. DCF will, however, provide the reporter's name to the District Attorney (DA), police, or other state agencies, if DCF refers the report to them as required under [G.L. c. 119, § 51B](#). DCF can be required to release the name of a reporter in response to a court order. In addition, the child's situation may make it readily apparent to a parent or guardian who is the most likely person to have made the report. For this reason, in many instances reporters or the principal or other appropriate school staff member may consider notifying the parent or guardian that a mandatory report has been made.

**7. May a school or school district establish a protocol for school staff members to report suspected child abuse or neglect to a school administrator rather than directly to DCF?**

Yes. [Section 51A](#) permits a mandated reporter who is a staff member in a school to make the report either directly to DCF or to the person in charge of the school (or that person's designee), in which case that individual becomes responsible for making the oral and written report to DCF. We encourage schools and school districts to develop child abuse and neglect reporting protocols, both for efficiency and so that the school administration is informed about children who may be at risk. Having reporting protocols may also help facilitate careful decision-making as to whether there is reasonable cause to believe that a child under 18 is suffering from abuse or neglect in situations that may be complicated and would benefit from a team approach. Once a protocol is developed, the school or school district administration is responsible for ensuring (1) that the protocol is known to and understood by school staff (for example, by including it in staff handbooks and providing reminders to staff at the beginning of each school year), and (2) that it is followed.

**8. What if the mandated reporter who reports to the person in charge of the school or under a school protocol is uncertain whether the report has reached DCF?**

A mandated reporter who has followed the school protocol and reported suspected child abuse or neglect to a school administrator, but is uncertain that the report has reached DCF, may also make the report directly to DCF. [G.L. c.119, §51A](#) prohibits any employer of a mandated reporter from discharging, discriminating, or retaliating against the employee for making a report to DCF in good faith.

**9. Should mandated reporters receive training about their mandatory reporting duties?**

Yes, a mandated reporter who is professionally licensed in Massachusetts must receive training on recognizing and reporting suspected child abuse and neglect. This requirement applies to teachers and administrators licensed by DESE, as well as school psychologists, nurses, and other clinicians licensed by the Commonwealth. It is recommended that such training is completed annually. Additionally, school districts continue to have the obligation under [G.L. c. 71, §37L](#) to provide information about child abuse and neglect reporting requirements to teachers, administrators, and other staff.

DESE-approved private day and residential special education schools must meet their obligation to draft written procedures and train staff regarding their reporting obligations, as required by the *Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs* ([603 CMR 18.05\(9\)\(i\)](#)). As part of the information and training provided to staff, we recommend that school districts and DESE-approved day and residential special education schools provide this advisory, or a link to it, to all staff members. The advisory is posted on DESE's website.

**10. What happens when a report is filed with DCF?**

Initially, the DCF social worker who takes the report of abuse or neglect screens it. If there is reasonable cause to believe that a child is being abused or neglected by a

“caregiver,” or is a sexually exploited child or a human trafficking victim as defined by [section 20M of chapter 233](#), the report will be “screened-in” for response.<sup>6</sup> A report that is screened-out because it does not involve a caregiver will be referred to the DA and local police if it involves abuse or neglect that has resulted in serious injury to a child, sexual assault, or sexual exploitation by a non-caregiver. DCF may also provide the reporter with contact information for other authorities such as law enforcement, the DA’s office, or licensing agencies.

If there is reasonable cause to believe that the child’s health or safety is in immediate danger from abuse or neglect, DCF must begin its emergency response within 2 hours of receiving a report and complete an interim report within 24 hours. The final report must be completed within 5 business days of initial contact. Otherwise, the DCF response must begin within 2 business days of the initial contact and be completed within 15 business days, unless a waiver has been approved by DCF or requested by law enforcement.

**11. When are reports of abuse or neglect referred by DCF to the District Attorney or police?**

[G.L. c. 119, §51B](#) requires DCF to notify and provide a copy of its substantiated 51A report and written evaluation to the DA and the police in the town where the suspected abuse or neglect occurred and in the town where the child resides when it has reasonable cause to believe that the abuse or neglect caused one or more of the following conditions to the child: 1) death; 2) brain damage; 3) loss or substantial impairment of a bodily function or organ; 4) substantial disfigurement; 5) serious physical injury; 6) sexual assault; 7) sexual exploitation or victim of human trafficking; or 8) physical abuse involving physical evidence which may be destroyed.

**12. If DCF does not support a report of suspected child abuse or neglect, is the school staff person who made the report liable?**

The statute provides for immunity from civil liability or criminal penalties for any report made in good faith, provided the report was not frivolous and the reporter was not the cause of the abuse or neglect.

**13. When a 51A report is filed, how does DCF inform the reporter of its response and the outcome of the case?**

Mandated reporters will receive a letter notifying them that a report has been screened out or screened in. After DCF completes the response, the mandated reporter will receive another letter notifying them of the outcome of the response.

DCF policy is to notify the family within 48 hours of a decision and generally mandated reporters are notified at the same time. If mandated reporters do not hear from DCF, they should contact the DCF Area Office and ask to speak with the Area Program Manager or Area Director.

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<sup>6</sup> DCF will implement either an emergency or a non-emergency response based on the severity of the situation.

**14. Who can a school or district contact if they have continuing concerns about a student who is involved with DCF?**

Schools and districts should first contact the DCF social worker or supervisor assigned to the case. If after speaking to those individuals, the district's concerns remain unresolved, they should contact the DCF Area Office and ask to speak with the Area Program Manager or Area Director.<sup>7</sup> If necessary, schools and districts may also escalate the matter to the [DCF Office of the Ombudsman](#). School and districts may also contact the Office of the [Child Advocate Complaint Line](#) if they do not believe DCF is being responsive to the concerns about the child and family.

**15. If the alleged abuser of a student is a school employee, should the matter be reported to DCF under G.L. c.119, § 51A? Should it be reported to the police or to anyone else? What other steps may the school take?**

Yes, the matter must be reported **immediately** to DCF if the student is under the age of 18. DCF will refer allegations of criminal abuse to the DA and police.

Note also that [G.L. c. 19C](#) requires that suspected abuse or neglect of a person with a disability aged 18 and over be reported to the Disabled Persons Protection Commission (DPPC). The DPPC Abuse Reporting Hotline is at 800-426-9009. Additional information on DPPC and the duty to report abuse or neglect of disabled adults may be found at [Disabled Persons Protection Commission website](#).

If school officials believe that criminal laws may have been violated, they should report those matters to the police, particularly if the incident may involve criminal violations not included under §51A.

In addition, school authorities have a general duty to take reasonable measures to protect the safety of their students, and under federal and state civil rights laws a school or school district may be liable for sexual abuse or sexual harassment of students by school employees. For these reasons, besides reporting to DCF, school officials must take prompt and effective steps to address any allegation that a school employee has sexually abused or sexually harassed a student. School districts should consult with their legal counsel when such situations arise to discuss the appropriate response and coordinate with other entities that may be involved.

If for any reason listed in [603 CMR 7.15\(8\)\(a\)](#), a teacher or other licensed educator is dismissed, is asked to resign, or his or her contract is not renewed, a school administrator must report the matter within 30 days to the Commissioner of Elementary and Secondary Education pursuant to the Massachusetts Educator Licensure Regulations. More information on the requirement for school administrators to report educator misconduct to DESE can be found in the [Commissioner's September 14, 2020 memorandum](#).

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<sup>7</sup> For more information on DCF Area Offices, click here: [https://www.mass.gov/orgs/massachusetts-department-of-children-families/locations?\\_page=1](https://www.mass.gov/orgs/massachusetts-department-of-children-families/locations?_page=1).

**16. May a school release student record information to DCF in cases where DCF is investigating suspected child abuse or neglect under G.L. c. 119, §51B?**

Yes. G.L. c. 119, §51B requires all mandated reporters to disclose to DCF any information that DCF determines is relevant to its ongoing investigation of a case of suspected abuse or neglect, including student record information. The release of this information is specifically authorized in the [Massachusetts Student Records Regulations 603 CMR 23.07\(4\)\(c\) and \(e\)](#).

**17. May DCF social workers who are responding to a case of suspected child abuse or neglect interview staff or children at school?**

[G.L. c.119, §51B](#) requires school staff to cooperate with a DCF response to an allegation of abuse or neglect involving a student at their school. Information provided by school staff is often vital to determining if a child has in fact suffered abuse or neglect.

[Section 51B](#) does not address interviewing of the child who is the subject of the report or their sibling at school, but rather provides that the child shall be seen at home. Depending upon the circumstances of the specific case, it may be appropriate for the student to be interviewed by DCF staff at school. Similarly, depending upon the situation, a student may want to have someone from the school present with them to help them feel more comfortable. Schools and districts should consult with their legal counsel about any questions they may have about interviewing of staff or students at school.

**18. How should a school respond if a student alleges to a teacher or other school staff member, or a teacher or staff member suspects, that the student is being sexually harassed, assaulted, or abused by another student?**

The school's response will vary depending upon the specific allegations raised, as well as the applicable laws, regulations, and policies. If a mandated reporter suspects abuse or neglect of a student under 18, such matters should be reported to DCF in accordance with the mandatory reporting law. Based on the details of the allegations, DCF will screen in or screen out the case per their regulations. School personnel should consult with the school's legal counsel if they have questions about whether specific allegations trigger their mandatory duty to report or which laws, regulations, or policies may govern their response to the specific allegations.

Generally, school authorities have a legal obligation to protect the safety and civil rights of students. For example, under the federal law prohibiting sex discrimination in schools that receive federal funds ([Title IX](#)), schools must take steps to prevent and respond to allegations that a student has sexually harassed or sexually assaulted another student. Similarly, certain types of allegations may trigger a school's legal obligations under the Massachusetts [anti-bullying law](#) and [regulations](#), as well as the school's bullying prevention and intervention plan.

The school's legal counsel will be able to assist the school in complying with all applicable laws, regulations, and policies, as well as coordinating the timing of the school's investigation with any investigations into the same allegations being conducted by the police, DCF, or other governmental entities.

**19. Does [Section 51A](#) discuss potential penalties if a mandated reporter fails to report suspected abuse or neglect, or if a mandated reporter knowingly and willfully files a frivolous 51A report?**

Yes, Section 51A addresses the potential penalties that may apply in such cases.

A mandated reporter may be subject to a criminal fine of up to \$1,000 for failure to report suspected abuse or neglect of a child under 18. A mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to, or death of, a child and who willfully fails to report such abuse or neglect may be fined up to \$5,000 or imprisoned in the house of correction for up to 2½ years or both.

Whoever knowingly and willfully files a frivolous report of child abuse or neglect shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 21/2 years and a fine of not more than \$2,000 for the third and subsequent offenses.

School officials who are uncertain of their obligations under [Section 51A](#), including whether filing a 51A report is appropriate in particular circumstances, should consult with the school's or district's legal counsel.

**20. Where can school employees find more information about mandatory reporting?**

More information about mandated reporting is available on DESE's website at: <https://www.doe.mass.edu/covid19/mental-health.html> and DCF's website at: <https://www.mass.gov/how-to/report-child-abuse-or-neglect-as-a-mandated-reporter>. Schools and districts may also request legal advice from their legal counsel about mandatory reporting duties and related topics.