LENAPE AREA VOCATIONAL TECHNICAL SCHOOL

SECTION: OPERATIONS

TITLE: CHILD ABUSE

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806. CHILD ABUSE

Authority

The Joint Operating Committee requires center (school) employees, independent contractors and volunteers to comply with identification and reporting requirements for suspected child abuse, as well as the training requirement for recognition and reporting of child abuse in order to comply with the Child Protective Services Law and the School Code.[1][2][3][4]

Definition

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

Adult – an individual eighteen (18) years of age or older.[5]

Bodily injury - impairment of physical condition or substantial pain.[5]

Certifications – refers to the child abuse history clearance statement and state and federal criminal history background checks required by the Child Protective Services Law and/or the School Code.[6][7]

Child - an individual under eighteen (18) years of age.[5]

Child Abuse - intentionally, knowingly or recklessly doing any of the following:[5]

1. Causing bodily injury to a child through any recent act or failure to act.
2. Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
3. Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
4. Causing sexual abuse or exploitation of a child through any act or failure to act.
5. Creating a reasonable likelihood or 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 during the operation of methamphetamine laboratory, provided that the violation is being investigated by law enforcement.[8]
    g. Leaving a child unsupervised with an individual, other than the child's parent who the actor knows or reasonably should have known was required to register as a Tier II or Tier III sexual offender, has to register for life, or has been determined to be a sexually violent predator or sexually violent delinquent.[9][10][11][12]

9. Causing the death of a 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 in the law.[13]

The term **child abuse** does not include physical contact with a child that is involved in normal participation in physical education, athletic, extracurricular or recreational activities. Also excluded from the meaning of the term **child abuse** is the use of reasonable force by a person responsible for the welfare of a child for purposes of supervision, control or safety, provided that the use of force:[14]

1. Constitutes incidental, minor or reasonable physical contact in order to maintain order and control;

2. Is necessary to quell a disturbance or remove a child from the scene of a disturbance that threatens property damage or injury to persons;

3. Is necessary for self-defense or defense of another;

4. Is necessary to prevent the child from self-inflicted physical harm; or

5. Is necessary to gain possession of weapons, controlled substances or other dangerous objects that are on the person of the child or in the child's control.

Direct contact with children - the possibility of care, supervision, guidance or control of children or routine interaction with children.[1]

Independent contractor – an individual other than a school employee who provides a program, activity or service who is otherwise responsible for the care, supervision, guidance or control of children pursuant to a contract. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.[5][15]

Perpetrator – a person who has committed child abuse and is a parent/ guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; an individual fourteen (14) years of age or older who is responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program activity or service; an individual fourteen (14) years of age or older who resides in the same home as the child; or an adult who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child; or an adult who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined in the law. Only the following may be considered a perpetrator solely based upon a failure to act; a parent/guardian of the child; a spouse or former spouse of the child's parent/guardian; a paramour or former paramour of the child's parent/guardian; an adult responsible for the child's welfare; or an adult who resides in the same home as the child.[5][13]

Person responsible for the child's welfare - a person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.[5]

Program, activity or service – any of the following in which children participate and which is sponsored by a school or a public or private organization.[5]

a. A youth camp or program.
b. A recreational camp or program
c. A sports or athletic program.
d. A community or social outreach program.
e. An enrichment or educational program.
f. A troop, club or similar organization.

Recent act or failure to act – any act or failure to act committed within two (2) years of the date of the report to the Department of Human Services of the Commonwealth or county agency.[5]

Routine interaction – regular and repeated contact that is integral to a person's employment or volunteer responsibilities.[5]

School employee – an individual who is employed by a school or who provides a

program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.[5]

Serious Mental Injury - a psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:[5]

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 Injury – any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning.[5]

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:[5]

1. The employment, use, persuasion, inducement, enticement, or coercion of any 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.

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

2. Any of the following offenses committed against a child:‑rape, statutory sexual

	assault, involuntary deviate sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, indecent exposure, incest, prostitution, sexual abuse; unlawful contact with a minor; or sexual exploitation. **Student –** an individual enrolled in the school under eighteen (18) years of age.[5] **Volunteer** – an unpaid adult individual, who, on the basis of the individual's role as integral part of a regularly scheduled program, activity or service is a person responsible for the child's welfare or has direct contact with children.[15]
Delegation of Responsibility	The Administrative Director or designee shall: 1. Require each candidate for employment to submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law.[6][7][16][17][18] 2. Require each applicant for transfer or reassignment to submit the required certifications unless the applicant is applying for a transfer from one position as an employee to another position as an employee of this school and the applicant's official child abuse certifications are current.[19][20][21] School employees and independent contractors shall obtain and submit new certifications every sixty (60) months.[20] Certification requirements for volunteers are addressed separately in Joint Operating Committee Policy 916.[22] The Administrative Director or designee shall annually notify school staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Joint Operating Committee policy and administrative regulations. The Administrative Director or designee shall ensure that the poster, developed by the PA Department of Education, displaying statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues be posted in high-traffic, public area of each school building. The designated area shall be readily accessible and widely used by students.[23] The Administrative Director or designee shall annually inform students, parents/guardians, independent contractors, volunteers, and staff regarding the contents of this Joint Operating Committee policy.
Guidelines	<u>Aiding and Abetting Sexual Abuse</u> School employees, acting in an official capacity for this school, are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the school employee knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student. [16][17][18][21][24][25][26][27]

This prohibition applies only to assistance that extends beyond performance of normal processing of personnel matters including routine transmission of files or other information. This prohibition shall not apply if:[25]

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

Training

The school, independent contractors of the school and volunteers, shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, the following topics:[1][3][4][26]

1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.
2. Provisions of the Educator Discipline Act, including mandatory reporting requirements.[26][28]
3. Joint Operating Committee policy related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.[27]

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

The school shall provide each volunteer with training on child abuse recognition and reporting.

Duty To Report

School employees, independent contractors and volunteers shall make a. report of suspected child abuse if they have reasonable cause to suspect that a child is the victim of child abuse under any of the following circumstances:[15]

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

2. The school employee, independent contractor or volunteer is directly responsible for the care, supervision, guidance or training of the child.
3. A person makes a specific disclosure to a school employee, independent contractor or volunteer that an identifiable child is the victim of child abuse.
4. An individual fourteen (14) years of age or older makes a specific disclosure to a school employee, independent contractor or volunteer that **the individual** has committed child abuse.

A child is not required to come before the school employee, independent contractor or volunteer in order for that individual to make a report of suspected child abuse.[15]

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.[15]

Any person who, in good faith, makes a report of suspected child abuse, regardless of whether the report is required, cooperates with an investigation, testifies in a proceeding, or engages in other action authorized by law shall have immunity from civil and criminal liability related to those actions.[29]

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

A person who intentionally or knowingly makes a false report of child abuse or intentionally or knowingly induces a child to make a false claim of child abuse may be subject to disciplinary action and criminal prosecution.[31]

Any person who engages in intimidation, retaliation, or obstruction in the making of a child abuse report or the conducting of an investigation into suspected child abuse may be subject to disciplinary action and criminal prosecution.[32]

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

Reporting Procedures

School employees, independent contractors or volunteers who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies (www.compass.state.pa.us/cwis) or an oral report via the statewide toll free telephone number (1-800-932-0313). A person making an initial oral report of suspected child abuse must also submit a written electronic report within forty-eight (48) hours after the oral report. Upon receipt of an electronic report, the electronic reporting system will automatically respond with a confirmation; providing the school with a written record of the report.[15][34][35]

A school employee, independent contractor or volunteer who makes a report of suspected child abuse shall immediately, after making the initial report, notify the school administrator and if the initial report was made electronically, also provide

the administrator with a copy of the report confirmation. The school administrator shall then immediately notify the Administrative Director 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.[15][34][35]

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

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

If the Administrative Director or designee reasonably suspects that conduct being reported involves **a school safety and security** incident required to be reported under law, the Administrative Director or designee shall inform the law enforcement **agency that has jurisdiction over the school's property**, in accordance with applicable law, regulations and Joint Operating Committee policy. [37][38][39]**[40][41]**[42]

Investigation

The school administrator shall facilitate the cooperation with the Department of Human Services of the Commonwealth **and/**or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school.[15][43]

Upon notification that an investigation involves suspected child abuse by a school employee, the administrator shall immediately implement a plan of supervision or alternative arrangements that has been approved by the Administrative Director for the school employee under investigation. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval.[44]

PSBA Revision 6/24 © 2024 PSBA

Legal References

1. 24 P.S. 1205.6

	2. 23 Pa. C.S.A. 6301 et seq 3. Pol. 333 4. Pol. 818 5. 23 Pa. C.S.A. 6303 6. 24 P.S. 111 7. 23 Pa. C.S.A. 6344 8. 18 Pa. C.S.A. 7508.2 9. 42 Pa. C.S.A. 9799.12 10. 42 Pa. C.S.A. 9799.24 11. 42 Pa. C.S.A. 9799.55 12. 42 Pa. C.S.A. 9799.58 13. 22 U.S.C. 7102 14. 23 Pa. C.S.A. 6304 15. 23 Pa. C.S.A. 6311 16. Pol. 302 17. Pol. 304 18. Pol. 305 19. 23 Pa. C.S.A. 6344.3 20. 23 Pa. C.S.A. 6344.4 21. Pol. 309 22. Pol. 916 23. 23 Pa. C.S.A. 6332 24. 24 P.S. 111.1 25. 20 U.S.C. 7926 26. Pol. 317.1 27. Pol. 824 28. 24 P.S. 2070.1a 29. 23 Pa. C.S.A. 6318 30. 23 Pa. C.S.A. 6319 31. 18 Pa. C.S.A. 4906.1 32. 18 Pa. C.S.A. 4958 33. 23 Pa. C.S.A. 6320 34. 23 Pa. C.S.A. 6305 35. 23 Pa. C.S.A. 6313 36. 23 Pa. C.S.A. 6314 37. 22 PA Code 10.2 38. 22 PA Code 10.21 39. 22 PA Code 10.22 40. 24 P.S. 1306.2-B 41. 24 P.S. 1319-B 42. Pol. 805.1 43. 23 Pa. C.S.A. 6346 44. 23 Pa. C.S.A. 6368 22 PA Code 10.1 et seq 24 P.S. 1527

	~~24 P.S. 2070.1a et seq~~ ~~18 Pa. C.S.A. 4304~~ ~~Pol. 317~~