

Child Abuse Policies & Procedures

I. MANDATORY CHILD ABUSE REPORTING

Definitions:

The following definitions are for purposes of this policy:

Bodily Injury – impairment of physical condition or substantial pain

Child – an individual under eighteen (18) years of age

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

1. Causing bodily injury to a child through any recent act or failure to act.
2. Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
3. Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
4. Causing sexual abuse or exploitation of a child through any act or failure to act.
5. Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
6. Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
7. Causing serious physical neglect of a child.
8. Engaging in any of the following recent acts:
 - a. (Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - b. (Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - c. (Forcefully shaking a child under one (1) year of age.
 - d. Forcefully slapping or otherwise striking a child under one (1) year of age.(v)
 - e. Interfering with the breathing of a child.
 - f. (Causing a child to be present at a location while a violation of 18 Pa. C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
9. Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - a. Is required to register on the Megan's List website as a sexually violent predator, lifetime registrant or other sexual offender.
 - b. Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors).
 - c. Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
10. Causing the death of the child through any act or failure to act.

The following are exclusions from child abuse:

(1) Environmental factors—No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors such as inadequate housing,

furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides.

(2) Practice of religious beliefs—If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused.

(3) Use of force for supervision, control and safety purposes—the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

(i) the use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.

(ii) the use of reasonable force is necessary:

(A) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to personal or damage to property

(B) to prevent the child from self-inflicted physical harm;

(C) for self-defense or the defense of another individual; or

(D) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

(4) Rights of Parents—Nothing in this definition shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

(5) Participation in events that involve physical contact with child—An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirement.

(6) Child-on-child contact—harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.

The following child-on-child acts constitute crimes against a child

which are subject to reporting requirements of this regulation:

- (i) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
- (ii) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
- (iii) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
- (iv) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
- (v) indecent assault, as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);
- (vi) indecent exposure, as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

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

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

Independent contractor - an individual who provides a program, activity or service 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.

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, a person responsible for the child's welfare, an individual residing in the same home as the child, an individual fourteen (14) years of age or older who is responsible for the child's welfare or who resides in the same home as the child, or 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. Only the following may be considered a perpetrator for failing to act, as provided in this section: a parent of the child; a spouse/former spouse of the child's parent; a paramour/former paramour of the child's parent; a person 18 years of age or older and responsible for the child's welfare; and a person 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 care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.

Program, activity or service - a public or private educational, athletic or other pursuit in which children participate.

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.

School employee - an individual who is employed by EASTERN or who provides a program, activity or service sponsored by EASTERN. The term excludes an individual who has no direct contact with children.

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

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

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

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

Sexual abuse or exploitation - any of the following:

1. The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
 - 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.

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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.

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- . 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(xiii) Sexual; or sexual exploitation.

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

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Student - an individual enrolled in EASTERN under eighteen (18) years of age.

Volunteer - an individual in an unpaid position with a program, activity or service who is individually responsible for the welfare of one or more children or has direct contact with children.

Delegation of Responsibility:

In accordance with Joint Operating Committee policy, the Administrative Director or designee shall:

1. Require each candidate for employment to submit an official child abuse clearance statement and other background checks as required by law.
2. Require each applicant for transfer or reassignment to submit an official child abuse clearance statement unless the applicant is applying for a transfer from one position as an employee to another position as an employee of EASTERN and the applicant's official child abuse clearance statement is current.
3. Require each volunteer to submit an official child abuse clearance statement and other background checks as required by law.

School employees, independent contractors and volunteers shall obtain and submit new background checks and clearances every thirty-six (36) months. No applicant may be hired who is named as the perpetrator in a founded report or is named as an individual responsible for injury or abuse in a founded report. EASTERN has discretion as to whether to hire someone who has been named on an indicated report.

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.

The Administrative Director or designee shall annually notify EASTERN staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Joint Operating Committee policy and administrative regulations.

Training:

ASTERN, and independent contractors of EASTERN, shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, the following topics:

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

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

Mandated Reporters

The following adults shall make a report of suspected child abuse, subject to subsection B.2 below, if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) An EASTERN employee.

- (3) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child.
- (4) An individual supervised or managed by a person listed under paragraphs (1), (2), and (3), who has direct contact with children in the course of employment.
- (5) An independent contractor or attorney for EASTERN.

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:

1. The school employee, independent contractor or volunteer comes into contact with the child in the course of employment, occupation and the practice of a profession or through a regularly scheduled program, activity or service.
2. The school employee, independent contractor or volunteer is directly responsible for the care, supervision, guidance or training of the child.
3. A person makes a specific disclosure to a school employee, independent contractor or volunteer that an identifiable child is the victim of child abuse.
4. An individual fourteen (14) years of age or older makes a specific disclosure to a school employee, independent contractor or volunteer that s/he has committed child abuse.

A child is not required to come before the school employee, independent contractor, or volunteer in order for those individuals to make a report of suspected child abuse.

A report of suspected child abuse (1) The names and addresses of the child, the child's parents and any other does not require the identification of the person responsible for the child abuse.

(4) The nature

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

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

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

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

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

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 or an oral report via the statewide toll-free telephone number known as ChildLine at 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 EASTERN with

a written record of the report.

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 school 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.

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, independent contractor or volunteer is not required to make an additional report. The person making an initial oral report is responsible for making the follow-up written electronic report within forty-eight (48) hours, and shall provide the school administrator with a copy of the report confirmation promptly after the written electronic report has been filed. The school 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 and at the direction of the Administrative Director, Assistant Director or Supervisor of Career-Technical Education, take or cause to be taken photographs of the child who is the subject of the report. Any such photographs shall be set to the county agency at the time the written report is sent or within forty-eight (48) hours after a report is made by electronic technologies or as soon thereafter as possible. The school administrator shall be notified whenever such photographs are taken.

If the Administrative Director or designee reasonably suspects that conduct being reported involves an incident required to be reported under the safe schools act, the Administrative Director or designee shall inform local law enforcement, in accordance with applicable law, regulations and EASTERN policy.

Report to the Department of Education. Within 15 days of notice or discovery, the Executive Director shall file with the Department of Education an Educator Misconduct Complaint with respect to:

- (1) Any educator who has been provided by EASTERN with notice of intent to dismiss or remove for cause;
- (2) Any educator who has been arrested or indicted for or convicted of any crime that is graded a misdemeanor or felony or any crime enumerated under Section 111(e) and (f.1) of the Public School Code.
- (3) Any educator against whom allegations have been made that the educator has:
 - (i) committed sexual abuse or exploitation involving a child or student; or
 - (ii) engaged in sexual misconduct with a child or student
- (4) Information which constitutes reasonable cause to suspect that an educator has caused physical injury to a child or student as a result of negligence or malice.
- (5) Any educator who has resigned, retired or otherwise separated from employment after EASTERN has received information of alleged misconduct under the Professional Educator Discipline Act;
- (6) Any educator who is the subject of a report filed by a mandated reporter under this regulation;
- (7) Any educator who EASTERN knows to have been named as the perpetrator of an indicated or founded report of child abuse or named as an individual responsible for injury or abuse in an indicated or founded report under the Child Protective Services Law.

Investigation:

The school administrator shall facilitate the cooperation with the department of human services of the commonwealth or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school.

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

References:

School Code – 24 P.S. Sec. 111, 1301-A et seq.
State Board of Education Regulations – 22 PA Code Sec. 10.1 et seq.
Child Abuse Recognition and Reporting Training – 24 P.S. Sec. 1205.6
Child Exploitation Awareness Education - 24 P.S. Sec. 1527
Educator Discipline Act – 24 P.S. Sec. 2070.1A et seq
Endangering Welfare of Children – 18 Pa. C.S.A. Sec. 4304
False Reports of Child Abuse – 18 Pa. C.S.A. Sec. 4906.1
Intimidation, Retaliation or Obstruction in Child Abuse Cases – 18 Pa. C.S.A. Sec. 4958
Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq.
Joint Operating Committee Policy – C122

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