

CHILD ABUSE OR NEGLECT PREVENTION

Child abuse or neglect, including exploitation, are violations of children's human rights and an obstacle to their educational development. The Board directs that staff will be alert for any evidence of child abuse or neglect, including exploitation. The Board further directs that each employee will fulfill the personal duty imposed by RCW 26.44.030 to report suspected child abuse or neglect at the first opportunity, but in no case later than 48 hours after forming reasonable cause to believe that a child has suffered abuse or neglect.

I. Definitions

State law in RCW 26.44.020, as well as regulations of the Washington Department of Children, Youth, and Families (DCYF) in WAC 110-30-0030, define what constitutes child abuse or neglect that must be reported. Consistent with those legal authorities, the following definitions apply to this policy and the accompanying administrative procedure.

Child means anyone under the age of 18.

Child abuse or neglect means:

- Sexual abuse;
- Sexual exploitation;
- Female genital mutilation as defined in RCW 18.130.460;
- Trafficking as described in RCW 9A.40.100;
- Sex trafficking or severe forms of trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. § 7101 *et seq.*;
- Injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or
- Negligent treatment or maltreatment of a child by a person responsible for or providing care to the child.

Physical abuse means the nonaccidental infliction of physical injury or physical mistreatment that harms the child's health, welfare, or safety. It includes, but is not limited to:

- Throwing, kicking, burning, or cutting a child.
- Striking a child with a closed fist.
- Shaking a child under age three.
- Interfering with a child's breathing.
- Threatening a child with a deadly weapon.
- Performing female genital mutilation as defined in RCW 18.130.460.
- Doing any other act that is likely to cause and that does cause bodily harm greater than transient pain or minor temporary marks or that is injurious to the child's health, welfare, or safety.

Physical discipline of a child, including the reasonable use of corporal punishment, is not considered abuse when it is reasonable and moderate and is inflicted by a parent or guardian for the purposes of restraining or correcting the child.

Sexual abuse means one or more of the following:

- Committing or allowing any sexual offense to be committed against a child as defined in the criminal code.
- Intentionally touching, either directly or over the clothing, of the sexual or other intimate parts of a child. Exceptions include the following who may touch a child in the sexual or other intimate parts for the purposes of providing hygienic care or medical treatment and diagnosis: parents or guardians of a child; individuals authorized by the parents or guardians to provide care for the child; or individuals providing medically recognized services for the child.
- Intentionally allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the individual touching the child, the child, or a third party.

Trafficking means the same as defined in RCW 9A.40.100 and includes the following as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101 *et seq.*:

- Sex trafficking includes harboring, transporting, provision, obtaining, patronizing, or soliciting an individual for the purpose of a commercial sex act; and
- Severe forms of trafficking in persons includes: recruiting, harboring, transporting, provision, or obtaining individuals for labor or services using force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery, commonly known as labor trafficking; or sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or the individual persuaded to perform the act is under 18 years old.

Sexual exploitation means actions including, but not limited to, allowing, compelling, encouraging, aiding, or otherwise causing a child to participate in one or more of the following:

- Any sex act that includes giving or receiving anything of value to any individual for the sex act.
- Sexually explicit, obscene, or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted.
- Sexually explicit, obscene, or pornographic activity as part of a live performance or for the benefit or sexual gratification of another individual.

Negligent treatment or maltreatment means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety. Negligent treatment or maltreatment may include, but is not limited to:

- Failure to provide adequate food, shelter, clothing, supervision, or health care.
- Actions, failures to act, or omissions that result in injury or risk of injury to the physical, emotional, or cognitive development of a child including, but not limited to, allowing,

permitting, compelling, encouraging, or aiding in female genital mutilation as defined in RCW 18.130.460.

- The cumulative effects of a pattern of conduct, behavior, or inaction by a parent or guardian in providing for the physical, emotional, or developmental needs of the child.
- The effects of chronic failure on the part of a parent or guardian to perform basic parental functions, obligations, or duties that causes injury or substantial risk of injury to the physical, emotional, or cognitive development of the child.
- Conduct prohibited under RCW 9A.42.100, such as knowingly or intentionally permitting a child to be exposed to, ingest, inhale, or have contact with methamphetamine, ephedrine, or certain other substances.

The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Additionally, poverty, experiencing homelessness, or exposure to domestic violence as defined in RCW 7.105.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

Sexual misconduct includes sexual abuse (as defined above) and any conduct proscribed by Policy 3205 (“Sexual Harassment and Sex-Based Harassment of Students Prohibited”), Policy 5253 (“Maintaining Professional Staff/Student Boundaries”), or Policy 5011 (“Sexual Harassment of District Staff Prohibited”).

II. Who Can Commit Abuse or Neglect

Children (including other students), family members, and any other adult can engage in child abuse or neglect. This may include incidents of student-on-student misconduct. Staff must report all incidents of suspected child abuse or neglect regardless of the age of the person who is alleged to have engaged in it.

Staff should not focus on a person’s mental status to determine if they have committed child abuse or neglect. The law governing mandated reporting does not allow for exceptions for people with medical conditions that may mitigate the intent for committing child abuse or neglect.

III. Reporting Suspected Child Abuse or Neglect to Legal Authorities

All staff are responsible for reporting all suspected cases of child abuse or neglect to DCYF Child Protective Services and/or to the appropriate law enforcement agency. Reporting to a District administrator does not satisfy this duty. Under state law, staff are free from liability for reporting a reasonable suspicion of child abuse or neglect under RCW 26.44.060, and the identity of the reporter is confidential under RCW 26.44.031. However, failing to report the incident may result in criminal liability regardless of whether the authorities determine the incident is provable in a subsequent legal proceeding.

Staff need not verify a report that a child has been abused or neglected. Legal authorities have the responsibility for investigating each case and taking appropriate action under the circumstances.

Each employee’s duty to report to DCYF Child Protective Services and/or to the appropriate law enforcement agency is personal and non-delegable. Notifying the building principal, a supervisor, the superintendent, or any other District employee does not satisfy, and is not a substitute for, the employee’s individual statutory obligation to report directly to DCYF, to law enforcement, or to both.

Failure to make a required report is a gross misdemeanor under RCW 26.44.080 and may also result in District disciplinary action up to and including dismissal, regardless of whether the underlying allegation is ultimately proven.

The superintendent will develop reporting procedures and provide them to all staff on an annual basis. The purpose is to identify and timely report evidence of child abuse or neglect to the proper authorities.

IV. Reporting Suspected Child Abuse or Neglect to District Administration

In addition to, but not in lieu of, reporting suspected child abuse or neglect to DCYF Child Protective Services and/or to the appropriate law enforcement agency as described above, employees will report all suspected child abuse or neglect involving District students to their immediate supervisor or the superintendent or their designee as soon as reasonably practicable after making the external report, and in all events within 48 hours. If the immediate supervisor is the alleged actor, or is otherwise unavailable, the employee will report to the next-higher administrator or directly to the superintendent or designee. If the superintendent is the alleged actor, the employee will report to the Board President or, if unavailable, the Vice President.

V. Reporting Conduct of District Employees or Contractors

A certificated or classified school employee or school contractor who has knowledge or reasonable cause to believe that a District student has been a victim, target, or recipient of physical or sexual abuse, sexual misconduct, or assault by another school employee or contractor must report such abuse, misconduct, or assault to the appropriate school administrator as required by RCW 28A.400.317. Such report to school administration does not satisfy the separate duty to report suspected child abuse or neglect to legal authorities as described above; the employee must also report directly to DCYF and/or law enforcement as required by Section III of this policy.

When the District receives a report of an allegation that a student is a victim, target, or recipient of physical or sexual abuse, sexual misconduct, or assault by a school employee or school contractor, the District will immediately notify the parents or guardians of the alleged victim, as required by RCW 28A.320.160. The notice will include information regarding the parents' or guardians' rights under the Public Records Act, Chapter 42.56 RCW, to request public records regarding school employee discipline.

VI. Reporting Sexual Harassment to Title IX Coordinator

When there is reasonable cause to believe that a student or District employee has engaged in sexual abuse, sexual exploitation, or sexual misconduct (as defined in Section I) toward a student, the reporting employee will also notify the District's Title IX Coordinator, in addition to performing all other reporting obligations under this policy. Notification to the Title IX Coordinator does not satisfy or discharge the employee's reporting duties described in Sections III or IV of this policy.

VII. OSPI Notification for Certificated Employees

When the alleged conduct involves a certificated school employee, the superintendent or designee will, in addition to any DCYF and law-enforcement reporting, make the reports required by RCW 28A.410.090 and Chapter 181-87 WAC to the Washington State Office of Superintendent of Public Instruction (OSPI), Office of Professional Practices (OPP), within the timelines specified in those provisions.

VIII. Staff Training

Staff will receive training regarding reporting obligations during their initial orientation and every three years after initial employment, as required by RCW 28A.400.317. In addition to the statutorily required training, the District will provide annual training opportunity on child abuse reporting available to all staff at least once per school year.

All employees will also receive an annual written reminder of their personal mandatory reporting duty under RCW 26.44.030, the prohibition on interference with reporting, and the District's non-retaliation commitment.

The District will maintain records documenting completion of all trainings and notifications required by this policy.

IX. Prohibition on Interference with Reporting

No District employee may direct, instruct, request, suggest, encourage, or pressure any other employee to refrain from, delay, omit, modify, or limit a report required by RCW 26.44.030 or by this policy. Any such direction is contrary to District policy and must be disregarded. An employee who receives such a direction will (1) make the required report directly to DCYF and/or law enforcement at the first opportunity, and (2) promptly notify the superintendent of the direction received—or, if the direction came from the superintendent, the Board President or, if unavailable, the Vice President.

X. Non-Retaliation

The District prohibits retaliation against any employee who in good faith makes a report under this policy, cooperates in an investigation, or refuses to comply with a direction that would violate this policy. Reports of retaliation will be handled under Policy 5241 ("Reporting Governmental Misconduct").

Legal References:

Washington Revised Code (RCW)

RCW 7.105.010 — Civil protection orders — Definitions

RCW 9A.16.100 — Use of force on children — Policy — Actions presumed unreasonable

RCW 9A.40.100 — Trafficking

RCW 9A.42.100 — Endangerment with a controlled substance

RCW 13.34.300 — Relevance of failure to cause juvenile to attend school to neglect petition

RCW 18.130.460 — Female genital mutilation — Minors — Prohibition on procedure

RCW 26.44.020 — Definitions

RCW 26.44.030 — Reports — Duty and authority to make

RCW 26.44.031 — Records — Maintenance and disclosure — Destruction of screened-out, unfounded, or inconclusive reports — Rules — Proceedings for enforcement

RCW 26.44.040 — Reports — Oral, written — Contents

RCW 26.44.060 — Immunity from civil or criminal liability — Confidential communications not violated — Actions against state not affected — False report, penalty

RCW 26.44.080 — Violation — Penalty

RCW 28A.320.160 — Alleged physical or sexual abuse, sexual misconduct, or assault by school employee or contractor — Parental notification — Information on public records act

RCW 28A.400.317 — Physical or sexual abuse, sexual misconduct, or assault by school employee or contractor — Duty to report — Training

RCW 28A.400.320 — Crimes against children — Mandatory termination of classified employees

RCW 28A.405.470 — Crimes against children — Mandatory termination of certificated employees — Appeal — Recovery of salary or compensation by district

RCW 28A.410.090 — Revocation or suspension of certificate or permit to teach — Reprimand — Criminal basis — Complaints — Investigation — Process

RCW 28A.620.010 — Purposes

RCW 28A.620.020 — Restrictions — Classes on parenting skills and child abuse prevention encouraged

Chapter 28A.640 RCW — Sexual Equality

RCW 43.43.830 — Background checks — Access to children or vulnerable persons — Definitions

United States Code (federal)

22 U.S.C. § 7101 *et seq.* — Trafficking Victims Protection Act of 2000

20 U.S.C. § 1681 — Title IX of the Education Amendments of 1972

Washington Administrative Code (WAC)

WAC 110-30-0030 — Definition of child abuse, neglect, or exploitation

Chapter 181-86 WAC — Professional certification — Policies and procedures for administration of certification proceedings

Chapter 181-87 WAC — Professional certification — Acts of unprofessional conduct

Attorney General Opinions

AGO 1987, No. 9 — Children — Child Abuse — Reporting by School Officials — Alleged Abuse by Student

Cross References:

Board Policy 3205 — Sexual Harassment of Students Prohibited

Board Policy 3207 — Prohibition of Harassment, Intimidation, or Bullying of Students

Board Policy 3225 — School-Based Threat Assessment

Board Policy 3226 — Interviews and Interrogations of Students on School Premises

Board Policy 3240 — Student Conduct, Expectations, and Reasonable Sanctions

Board Policy 3241 — Student Discipline

Board Policy 3245 — Students and Telecommunication Devices

Board Policy 4310 — Relations with Law Enforcement and Other Government Agencies

Board Policy 5011 — Sexual Harassment of District Staff Prohibited

Board Policy 5241 — Reporting Governmental Misconduct

Board Policy 5253 — Maintaining Professional Staff/Student Boundaries

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