

CHILD ABUSE, MALTREATMENT OR NEGLECT
OUTSIDE THE EDUCATIONAL SETTING

Policy 5200

Mandated Reporting

New York State Social Services Law §413 et seq., sets forth the requirements for reporting suspected cases of child abuse or maltreatment. School officials include: teachers, school nurses, school guidance counselors, school psychologists, school social workers, administrators, coaches or other school personnel required to hold a teaching or administrative license or certificate. In connection therewith, the School District will implement a school district central reporting procedure, consistent with the applicable laws, for the reporting of child abuse or maltreatment to the appropriate agencies.

General Definitions

1. Abused Child: According to Social Services Law and the Family Court Act, an abused child is a child less than eighteen (18) years of age whose parent or other person legally responsible for his or her care:
 - a. inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
 - b. creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ; or
 - c. commits, or allows to be committed, a sex offense against such child, as defined in the penal law, provided, however, that the corroboration requirements contained therein shall not apply to proceedings under this article.

2. Neglected or Maltreated Child: According to the Family Court Act, a neglected or maltreated child is one who is under the age of eighteen (18) years of age:
 - a. whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure to exercise a minimum degree of care:
 - i. in supplying food, shelter, clothing or education, in accordance with the educational law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
 - ii. in providing the child with proper supervision or guardianship; by unreasonably inflicting harm, or a substantial risk thereof, or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he

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loses self-control of his actions; or by any other acts of a similarly serious nature.

- b. who has been abandoned by his/her parent(s) or other person legally responsible for his/her care.

In order for a report of educational neglect to be accepted, three (3) elements need to be established:

- a. Excessive absence from school by the child;
 - b. Reasonable cause to suspect that the parent is aware or should have been aware of the excessive absenteeism and the parent has contributed to the problem or is failing to take steps to effectively address the problem; and
 - c. Reasonable cause to suspect educational impairment or harm to the child or imminent danger of such impairment or harm.
3. Person legally responsible includes the child's custodian, guardian, or any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

Establishing Written Procedure

The School District shall prepare written instruction for members of the staff regarding oral and written reporting procedures, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failing to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child. All oral reports must be followed by a written report within forty-eight (48) hours. The School District shall provide all current and new employees with written information explaining the School District's reporting requirements, the current definitions of abuse and maltreatment, and a list of the information necessary to complete the report.

School District Relationship with Local Social Service Agency

The School District will cooperate to the extent possible with authorized child protective services workers in investigations of alleged child abuse. The Superintendent of Schools or his/her designee will represent the School District when collaborating with local social service agencies to address instances of abuse or maltreatment, and in the development of policy and procedures regarding abuse or maltreatment (including educational neglect). In addition, the Superintendent of Schools or his/her designee will share a copy of the School District's attendance policy with the local social service district.

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Staff Members to Report to Administration

New York State Law permits any person to report suspected child abuse or maltreatment directly to the appropriate agency. It shall be the policy of the School District that all members of the staff shall report suspected child abuse or maltreatment to a School District administrator of the school where the child is enrolled or participating in any activity, and must either make an independent report to Child Protective Services, or verify specifically that the School District administrator has notified Child Protective Services on behalf of the School District.

Confidentiality

The School District shall maintain the confidentiality of all reports and shall provide that no copy of any report be released to any person except the State or local Child Protective Services, or other such agency required by law.

1. Request for copy of report: If a request is made by any other person for a copy of any report, the School District shall deny that request upon the basis that disclosure could be detrimental to the child named in the report and that a duplicate copy of any report has been filed with the appropriate agency from which the person requesting copy may request a copy. If the School District is required by law to release any report, then the School District, consistent with New York State Social Services Law §422, shall prohibit the release of information that would identify the person who made the report or who cooperated in any investigation, or the name of the place of employment of such person or persons.
2. Designated record keeper: To maintain confidentiality, the School District shall designate one person at each school who shall maintain all reports made pursuant to this policy in one location. The School District shall provide for no more than one copy of any report being held at the central location designated at each school and one copy in a centralized location at central administration. At no time shall copies of any report made under this section be filed in a child's academic folder, nor shall any notation be made in a child's academic folder that such a report has been made.
3. Destruction of reports: If Child Protective Services or other such appropriate agency determines the allegations of child abuse or maltreatment are unfounded, then the School District shall expunge immediately from both the building and central administration records all information identifying the child's name or names of other persons in the report. In all other cases, the report of any child shall be expunged no less than twelve (12) months after the report is made by the School District to the appropriate agency.

Immunity

The School District shall emphasize to the members of the staff that New York Social Services Law provides immunity, both civil and criminal, to all persons who in good faith make a report

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pursuant to its guidelines as set forth in this policy and School District procedures. School District employees will not be subject to retaliatory action, as defined in state law, as a result of making a report when they reasonably suspect that a child has been abused or maltreated.

The Board of Education recognizes that knowingly reporting a false claim of child abuse is a violation of state law and this policy acknowledges that it is a crime to do so. The School District will make every reasonable effort to maintain the integrity of the School District's child abuse reporting process and procedure.

Liability

The School District shall emphasize that a person identified as a mandated reporter who fails to report a case of suspected child abuse or maltreatment can be found guilty of a class A misdemeanor, and may be personally liable for civil damages caused by such failure.

Continuing Education

The School District shall establish an annual mandatory training program for all current and new school officials regarding the policies and procedures established under this policy and the New York State Social Services Law. The training program will address the identification and reporting of child abuse and maltreatment, including the legal implications of reporting and not reporting. Attendance records shall be kept, and notations will be made in personnel files as to the dates of attendance. At least once per year the School District shall make available to all employees a speaker or such other program to increase awareness of child abuse and maltreatment.

The Superintendent of Schools or his/her designee shall develop, with input from appropriate personnel, a plan for implementation of such a training program. In addition, the policy and regulations will be distributed annually to all school employees who are not covered under existing handbooks. The Superintendent of Schools or his/her designee will prepare and implement all regulations as are necessary to accomplish the intent of this policy.

Cross-ref:

Ref: Child Protective Services Act of 1973, Social Services Law §§411 et seq.
Social Services Law §34-a; Family Court Act §1012
Family Educational Rights and Privacy Act, 20 USC §1232g, 45 CFR §99.36
Education Law §3209-a; Penal Law §240.50

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