

NORTHERN WESTMORELAND CAREER AND TECHNOLOGY CENTER

No. 806

SECTION: OPERATIONS
TITLE: CHILD ABUSE
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REVISED:

Authority

The Joint Operating Committee requires school (center) 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.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)

~~The Joint Operating Committee adopts this policy to affirm center employees' obligation to assist in identifying possible child abuse as well as victimization of students by other center employees, and to establish procedures for reporting such in compliance with law~~

Definitions

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

~~Administrator – the person responsible for the administration of a school. The term includes a person responsible for employment decisions in a school and an independent contractor. The principal of the school where the abused student is enrolled can serve as the administrator under this policy.~~

~~Applicant – an individual who applies for a position as a school employee. The term includes an individual who transfers from one classification of employment to another classification of employment within the school.~~

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.[\[5\]](#)

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Child abuse - intentionally, knowingly or recklessly doing any of the following:[\[5\]](#)

~~Any recent act or failure to act by a perpetrator which causes non-accidental serious physical injury to a child under eighteen (18) years of age.~~

~~Any act or failure to act by a perpetrator which causes non-accidental serious — mental injury to or sexual abuse or sexual exploitation of a child under eighteen (18) years of age.~~

~~Any recent act, failure to act, or series of such acts or failures to act by a — perpetrator which creates an imminent risk of serious physical injury to or — sexual abuse or sexual exploitation of a child under eighteen (18) years of age.~~

~~Serious physical neglect by a perpetrator constituting prolonged or repeated lack — of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child's life or development or impairs the — child's functioning.~~

~~No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors that are beyond the control of the parent or person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing, and medical care.~~

~~Perpetrator — a person who has committed child abuse and is a parent/guardian of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child, or a paramour of a child's parent/guardian. The term does not include a person who is employed by or provides services or vocational programs in the center.~~

~~School Employee — an individual employed in the center. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.~~

~~Serious Bodily Injury — bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.~~

~~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~~

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~~2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.~~

~~Serious Physical Injury—an injury that causes a child severe pain, or significantly impairs a child's physical functioning, either temporarily or permanently~~

~~Sexual Abuse or Exploitation—includes any of the following: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in or assist another individual to engage in any sexually explicit conduct, or simulation of sexually explicit conduct, for the purpose of producing visual depiction including photographing, videotaping, computer depicting and filming of any sexually explicit conduct, or any of the following offenses committed against a child: rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, sexual abuse or sexual exploitation.~~

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.
 - e. Interfering with the breathing of a child.

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- 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 **or** has been determined to be a sexually violent predator **or** sexually violent delinquent.[\[9\]](#)[\[10\]](#)
9. Causing the death of the child through any act or failure to act.

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:

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 (center) 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**.[\[5\]](#)[\[11\]](#)

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. **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**.[\[5\]](#)

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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:[\[5\]](#)

1. A youth camp or program.
2. A recreational camp or program.
3. A sports or athletic program.
4. A **community or social** outreach program.
5. An enrichment or **educational** program.
6. 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.
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:[\[5\]](#)

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.

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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 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.

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 center under eighteen (18) years of age.[\[5\]](#)

Volunteer - an **unpaid adult** individual, **who, on the basis of the individual's role as an 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.[\[11\]](#)

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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 **state and federal criminal history background checks (certifications)** as required by law.[\[6\]](#)[\[7\]](#)[\[12\]](#)[\[13\]](#)[\[14\]](#)
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 center and the applicant's official child abuse **certifications are current**.[\[15\]](#)[\[16\]](#)[\[17\]](#)
3. Require each volunteer to submit an official child abuse clearance statement and other background checks as required by law.[\[16\]](#)

School employees **and** independent contractors shall obtain and submit new **certifications** every **sixty** (60) months.[\[16\]](#)

Certification requirements for volunteers are addressed separately in Joint Operating Committee Policy 916.[\[18\]](#)

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 center staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Joint Operating Committee policy and administrative regulations.

Guidelines

Training

The center, and independent contractors of the center, 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:[\[1\]](#)[\[19\]](#)[\[3\]](#)[\[4\]](#)

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.[\[20\]](#)[\[19\]](#)
3. Joint Operating Committee policy related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.[\[21\]](#)

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

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Duty to Report

~~Center employees who in the course of their employment come into contact with children shall report or cause a report to be made when they have reasonable cause to suspect, on the basis of their medical, professional, or other training and experience, that a child under the care, supervision, guidance or training of center employees is a victim of child abuse including child abuse by an individual who is not a perpetrator.~~

~~Except as stated in law, privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report.~~

~~Center employees required to report suspected child abuse shall include but are not limited to a building administrator, teacher, and/or school nurse.~~

~~Any person required to report child abuse who, in good faith, makes or causes the report to be made shall have immunity from civil and criminal liability related to those actions.~~

~~A person or official required to report a case of suspected child abuse who, acting in an official capacity, prevents or interferes with the making of a report of suspected child abuse commits a misdemeanor of the first degree.~~

~~A center employee or official required to report suspected child abuse or make a referral to the appropriate authorities who willfully fails to do so commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.~~

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:[\[11\]](#)

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.

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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.[\[11\]](#)

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.[\[11\]](#)

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.[\[22\]](#)

Any person required to report child abuse who willfully fails to do so may be subject to disciplinary action and criminal prosecution.[\[23\]](#)

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.[\[24\]](#)

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.[\[25\]](#)

The center shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse.[\[26\]](#)

Reporting Procedures

~~Center employees who suspect child abuse shall immediately notify the building administrator. Upon notification, the administrator shall report the suspected child abuse.~~

~~Reports of child abuse shall immediately be made by telephone to the Childline Abuse Registry and in writing to the county Children and Youth Agency within forty-eight (48) hours after the oral report.~~

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 center with a written record of the report.[\[27\]\[11\]\[28\]](#)

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.[\[27\]\[11\]\[28\]](#)

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When a report of suspected child abuse is made by a school employee, independent contractor or volunteer as required by law, the center 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.[\[27\]\[11\]\[28\]](#)

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.[\[29\]](#)

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 Joint Operating Committee policy.[\[30\]\[31\]\[32\]\[33\]\[34\]\[35\]](#)

Investigation

~~Center officials shall cooperate with the Department of Public Welfare or the county agency investigating a report of suspected child abuse, including permitting those authorized personnel to interview the child while s/he is in attendance at the center~~

~~The center official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child.~~

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 the school (center).[\[11\]\[36\]](#)

Upon notification that an investigation involves suspected child abuse by a school employee, the administrator shall immediately implement a plan of supervision or alternative arrangement **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.[\[37\]](#)

Duty To Report

~~A center employee shall immediately contact the building administrator when the center~~

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~~employee has reasonable cause to suspect, on the basis of his/her professional or other training and experience, that a student coming before the center employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation by a center employee.~~

~~If the accused center employee is the building administrator, the center employee shall immediately report to law enforcement officials and the district attorney.~~

~~The building administrator who receives a report from a center employee or who has independent cause to suspect injury or abuse shall immediately report to law enforcement officials and the appropriate district attorney. The building administrator shall exercise no discretion but has an absolute duty to report when receiving notice from a center employee.~~

~~A center employee or building administrator who refers a student abuse report shall be immune from civil and criminal liability arising out of the report.~~

~~A center employee who willfully fails to report suspected student abuse or who willfully violates the confidentiality of such a report commits a summary offense.~~

~~An administrator who willfully fails to report immediately to law enforcement officials and the appropriate district attorney any report of serious bodily injury or sexual abuse or sexual exploitation alleged to have been committed by a center employee against a student commits a misdemeanor of the third degree.~~

Reporting Procedures

~~The building administrator's report to law enforcement officials and district attorney shall include: name, age, address, and school of the student; name and address of the student's parent/guardian; name and address of the administrator; name, work, and home address of the center employee; nature of the alleged offense; and any specific comments or observations that are directly related to the alleged incident and the individuals involved.~~

~~The center employee making a report of student abuse or injury by another employee shall not reveal the existence or content of the report to any person other than those to whom reporting is required under this policy.~~

Investigation

~~Upon receipt of a report of suspected student abuse, an investigation shall be conducted by law enforcement officials, in cooperation with the district attorney.~~

~~If law enforcement officials have reasonable cause to suspect, on the basis of initial review, that there is evidence of serious bodily injury, sexual abuse or sexual exploitation committed by a~~

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~~center employee against a student, the officials shall notify the county agency in the county where the alleged abuse or injury occurred for the purpose of the agency conducting an investigation.~~

~~Center officials shall cooperate with the Department of Public Welfare or the county agency investigating a report of suspected student abuse, including permitting those authorized personnel to interview a student while in attendance at the center.~~

~~Law enforcement officials and the county agency shall coordinate their respective investigations. They shall conduct joint interviews with students, but law enforcement officials shall interview center employees prior to the county agency.~~

~~The building administrator has an independent duty to report to the Administrative Director or designee that an employee has allegedly abused or otherwise victimized a student. The requirement not to divulge the existence of the report or its content shall not limit the administrator's responsibility to use the information received to initiate and conduct an independent school investigation into the allegations. The independent center investigation shall be conducted in cooperation with the county agency and law enforcement officials, and shall be for the purpose of ascertaining appropriate employee discipline and taking action necessary to curtail wrongdoing.~~

Legal

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. 23 Pa. C.S.A. 6311
12. Pol. 302
13. Pol. 304
14. Pol. 305
15. 23 Pa. C.S.A. 6344.3
16. 23 Pa. C.S.A. 6344.4
17. Pol. 309
18. Pol. 916
19. Pol. 317.1
20. 24 P.S. 2070.1a
21. Pol. 824
22. 23 Pa. C.S.A. 6318
23. 23 Pa. C.S.A. 6319

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24. 18 Pa. C.S.A. 4906.1

25. 18 Pa. C.S.A. 4958

26. 23 Pa. C.S.A. 6320

27. 23 Pa. C.S.A. 6305

28. 23 Pa. C.S.A. 6313

29. 23 Pa. C.S.A. 6314

30. 24 P.S. 1302.1-A

31. 24 P.S. 1303-A

32. 22 PA Code 10.2

33. 22 PA Code 10.21

34. 22 PA Code 10.22

35. Pol. 805.1

36. 23 Pa. C.S.A. 6346

37. 23 Pa. C.S.A. 6368

24 P.S. 1301-A et seq

22 PA Code 10.1 et seq

24 P.S. 1527

24 P.S. 2070.1a et seq

18 Pa. C.S.A. 4304