

CARLISLE AREA SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: CHILD/STUDENT ABUSE

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806. CHILD/STUDENT ABUSE

Authority

The Board requires district employees, volunteers, and independent contractor employees to comply with identification and reporting requirements for possible child abuse as well as victimization of students. The Board directs the district, and independent contractors of the district, to provide their employees with training for recognition and reporting of child abuse as required by law.

[1][2][3][4][6]

Definitions

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

Child - an individual enrolled in the school district. [5]

Child abuse – means 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 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:
 - i. Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - ii. Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - iii. Forcefully shaking a child under one (1) year of age.
 - iv. Forcefully slapping or otherwise striking a child under one (1) year of age.
 - v. Interfering with the breathing of a child.
 - vi. 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.
 - vii. 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 as a Tier II or Tier III sexual offender under 42 Pa. C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under eighteen (18) years of age when the crime was committed;
 - 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; or
 - c) has been determined to be a sexually violent delinquent child as defined in 42 Pa. C.S. § 9799.12 (relating to definitions).
9. Causing the death of the 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. [11]

Exclusions from Child Abuse – No child shall be deemed to be physically or mentally abused where the abuse results from: environmental factors; practice of religious beliefs; use of force for supervision, control and safety purposes; participation in events that involve physical contact; and child-on-child contact in certain situations. Such exclusions shall not relieve the mandated reporter from the duty to report suspected child abuse; rather, the application of exclusions will be determined after report and investigation.

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.

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

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

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. [5]

Recent Act - Any act committed within two years of the date of the report to the department of public welfare or county agency. [5]

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. [5]

Program, activity or service - a public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following: [5]

1. A youth camp or program.
2. A recreational camp or program.
3. A sports or athletic program.

4. An outreach program.
5. An enrichment program.
6. A troop, club or similar organization.

Perpetrator - The term includes only the following: [5]

- (i) A parent of the child;
- (ii) A spouse or former spouse of the child's parent;
- (iii) A paramour or former paramour of the child's parent;
- (iv) A person 14 years of age or older and responsible for the child's welfare;
- (v) An individual who is 14 years of age or older who resides in the same home as the child; or
- (vi) An individual 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:

- (i) A parent of the child;
- (ii) A spouse or former spouse of the child's parent;
- (iii) A paramour or former paramour of the child's parent;
- (iv) A person 18 years of age or older and responsible for the child's welfare; or
- (v) A person 18 years of age or older who resides in the same home as the child.

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. [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 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; or

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.

This paragraph 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: (i) rape; (2) statutory sexual assault; (iii) involuntary deviate sexual intercourse; (iv) sexual assault; (v) institutional sexual assault; (vi) aggravated indecent assault; (vii) indecent assault; (viii) indecent exposure; (ix) incest; (x) prostitution; (xi) sexual abuse; (xii) unlawful contact with a minor; or (xiii) sexual exploitation.

School employee - an individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children. [5]

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 volunteer contact with children. [8]

Delegation of Responsibility

In accordance with Board policy, the Superintendent 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, except for those applicants exempted by law. [7][13]

2. Require each applicant for transfer or reassignment to submit an official child abuse clearance statement unless: (1) the applicant is applying for a transfer from one position as a district employee to another position as a district employee, (2) the applicant has already obtained an official child abuse clearance statement, and (3) the applicant's clearance statement and criminal background checks are still current. [14][15][16]

School employees shall be required to obtain child abuse clearance statements and other criminal background checks required by law every sixty (60) months. [15]

3. Adult volunteers responsible for the welfare of a child or having direct contact with children shall obtain criminal background checks and child abuse clearance statements every sixty (60) months. Some volunteers may be exempt from the Federal Criminal History Record Information. See Policy 916, Volunteers, for more information.
4. The Superintendent or designee shall annually inform students, parent/guardians and staff regarding the contents of this Board policy. District staff shall annually receive notice of their responsibility for reporting child abuse and student abuse in accordance with Board policy and administrative regulations.
5. The Superintendent or designee shall ensure that the poster, developed by the PA Department of Education, displaying the statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues be posted in a high-traffic, public area of each school. The designated area shall be readily accessible and widely used by students. [17]

Guidelines

Aiding and Abetting Sexual Abuse

School employees, acting in an official capacity for this district, 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. [13][16][18][19]

This prohibition applies only to assistance that extends beyond performance of normal processing of personnel matters including routine transmission of files or other information.

Training

The school district, and independent contractors of the school district, 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]

1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.

2. Provisions of the Professional Educator Discipline Act, including mandatory reporting requirements. [20]
3. District policy related to reporting of suspected abuse and sexual misconduct.
4. Maintenance of professional and appropriate relationships with students.

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

CHILD ABUSE BY PERPETRATOR

Duty To Report

Individuals required to report suspected child abuse under this policy include but are not limited to: school administrator, school teacher, school counselor, school nurse, student teacher, volunteer, and independent contractor employee (collectively, “the mandated reporter”).

The mandated reporter shall make a report of suspected child abuse when they have reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances: [12][26]

- (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.
- (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
- (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse. Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse. [12]

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 relieve the mandated reporter of the duty to make a report of suspected child abuse. [9]

Any person required to report child abuse 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. [21]

A school employee required to report 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. [6]

A school 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 felony of the first degree or misdemeanor of the second degree depending on the circumstances. [22]

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. [23]

The district shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse. [24]

Reporting Procedures

Reports of child abuse shall immediately be made by the mandated reporter electronically or by telephone to the Childline Abuse Registry. If the initial report was made by telephone, the mandated reporter should follow up in writing (which may be submitted electronically) to the county Children and Youth Agency within forty-eight (48) hours after the oral report. [26]

The mandated reporter shall immediately notify the principal or designee after reporting suspected abuse.

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 principal and if the initial report was made electronically, also provide the principal with a copy of the report confirmation. The school principal shall then immediately notify the Superintendent 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. [25][12][26]

When a report of suspected child abuse is made by a school employee, independent contractor or volunteer as required by law, the school district 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 principal with a copy of the report confirmation promptly after the written electronic report has been filed. The principal shall in turn provide a copy of the report confirmation to the Superintendent or designee. [25][12][26]

If the Superintendent or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Safe Schools Act, the Superintendent or designee shall inform local law enforcement, in accordance with applicable law, regulations and Board policy.

[28][10][29][30][32][32]

Investigation

School officials shall cooperate with the Department of Public Welfare or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school. [33]

In consultation with the school nurse and principal, the mandated reporter 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. Such photographs or medical summaries may be made available to law enforcement. [27]

Upon notification that an investigation involves suspected child abuse by a school employee, the principal 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. [34]

Legal References

1. 24 P.S. 1205.6-2. 23 Pa. C.S.A. 6301 et seq
2. Pol. 333
3. Pol. 818
4. 23 Pa. C.S.A. 6303
5. 18 Pa C.S. Sec. 4304
6. 23 Pa. C.S.A. 6344
7. Pa. C.S.A. Sec. 6344.2
8. 23 Pa. C.S.A. Sec. 6311.1
9. Title 22
10. 22 U.S.C. 7102
11. 23 Pa. C.S.A. 6311
12. Pol. 302
13. 23 Pa. C.S.A. 6344.3
14. 23 Pa. C.S.A. 6344.4
15. Pol. 309
16. 23 Pa. C.S.A. 6332
17. 24 P.S. 111.1
18. 20 U.S.C. 7926
19. 24 P.S. 2070.1a
20. 23 Pa. C.S.A. 6318
21. 23 Pa. C.S.A. 6319

22. 18 Pa. C.S.A. 4958
23. 23 Pa. C.S.A. 6320
24. 23 Pa. C.S.A. 6305
25. 23 Pa. C.S.A. 6313
26. 23 Pa. C.S.A. 6314
27. 24 P.S. 1302.1-A
28. 22 PA Code 10.2
29. 22 PA Code 10.21
30. 22 PA Code 10.22
31. Pol. 805.1
32. 23 Pa. C.S.A. 6346
33. 23 Pa. C.S.A. 6368