



POLICY 201 -- CHILD PROTECTIVE SERVICES LAW

1. Purpose

The Child Protective Services Law (CPSL), Act 151 of 1994 has been amended effective the 1995-96 school year. The amendments have a direct impact on school employees because they can now themselves be the subject of reports under the CPSL for conduct related to their employment. School employees now have a duty not only to report suspected child abuse to the child protective services but any school employee who has reasonable cause to suspect another school employee is victimizing a student must also report. The board wishes to affirm the employees' obligation to assist in identifying possible child abuse or victimization by other school employees and through this policy to notify school employees of their reporting responsibilities under the CPSL.

2. Definitions

Administrator--The administrator shall mean the Superintendent of the West Jefferson Hills School District.

Applicant--An individual who applies for a position as a school employee. The term includes an individual who transfers from one position as a school employee to another position as a school employee. 23 Pa. C.S. Subsection 6354.

Child Abuse--The term "child abuse" shall mean any of the following:

- (i) Any recent act or failure to act by a perpetrator which causes non-accidental serious physical injury to a child under 15 years of age.
- (ii) An act or failure to act by a perpetrator which causes non-accidental serious mental injury to, sexual abuse, or sexual exploitation of a child under 18 years of age.
- (iii) 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, sexual abuse, or sexual exploitation of a child under 18 years of age.
- (iv) 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 endanger 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.

If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of seriously held religious beliefs of the child's parents, guardian, or person responsible for the child's welfare, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally

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abused. The county agency shall closely monitor the child and shall seek court ordered medical intervention when the lack of medical or surgical care threatens the child's long-term health. In cases involving religious circumstances, all correspondence with a subject of the report and the records of the Department of Public Welfare and the county agency shall not reference "child abuse" and shall acknowledge the religious basis for the child's condition; and the family shall be referred for general protective services, if appropriate. 12 PC.S. Subsection 6303(b).

County Agency--The county children and youth service agency supervised by the Department of Welfare under the Public Welfare Code. 23 Pa.C.S. Subsection 6303(a).

Founded Report for School Employee--A report made by the county agency regarding a school employee's conduct related to a student if there has been any judicial adjudication based on a finding that the victim has suffered serious bodily injury, sexual abuse, or exploitation, including the entry of a plea of guilty, nolo contendere, or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegations of the report. 23 Pa.C.S. Subsection 6303(a).

Indicated Report for School Employee--A report made by the county agency regarding a school employee's conduct related to a student if an investigation by the county agency determines that substantial evidence of serious bodily injury, sexual abuse, or exploitation exists based on any of the following:

- (1) Available medical evidence.
- (2) The county agency's investigation.
- (3) An admission of the acts of abuse by the school employee. 23 Pa.C.S. Subsection 6303(a).

School Employee--An individual employed by a public or private school, intermediate unit, or area vocational-technical school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students. 23 Pa.C.S. Subsection 6303(a).

School employees required to report suspected child abuse shall include, but are not limited to, school administrator, school teacher, and school nurse. 23 Pa.C.S. Subsection 6311(b).

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 or any bodily member or organ. 23 Pa.C.S. Subsection 6303(a).

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; or
- (2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks. 23 Pa.C.S. Subsection 6303(a).

Serious Physical Injury -- An injury that:

- (1) causes a child severe pain; or
- (2) significantly impairs a child's physical functioning, either temporarily or permanently. 23 Pa.C.S. Subsection 6303(a).

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Sexual Abuse or Exploitation--The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in or assist any other person to engage in any sexually explicit conduct, or any simulation or any sexually explicit conduct, for the purpose of producing any visual depiction or any sexually explicit conduct, or the rape, molestation, incest, prostitution, or other form of sexual exploitation of children. 23 Pa.C.S. Subsection 6303(a).

Student--An individual enrolled in a public or private school, intermediate unit, or area vocational-technical school who is under 18 years of age. 23 Pa.C.S. Subsection 630(a).

3. Duties

a. School Employees

- (1) A school employee shall immediately contact the administrator when the school employee has reasonable cause to suspect, on the basis of his/her professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation by a school employee. 23 Pa.C.S. Subsection 6352(a).
- (2) If the accused school employee is the administrator, then the school employee shall immediately report to law enforcement officials and the district attorney. 23 Pa.C.S. Subsection 6352(a), Subsection 6353(a).
- (3) School 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 coming before them in their professional or official capacity is an abused child. 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. 23 Pa.C.S. Subsection 6311(a).

b. Administrator

The administrator who receives a report from a school employee under Paragraph 3a(1) or who has independent reasonable cause to suspect said injury or abuse shall report immediately to law enforcement officials and the appropriate district attorney. The administrator shall exercise no discretion but has an absolute duty to report when he/she receives notice from a school employee under Paragraph 3a(1). 23 Pa.C.S. Subsection 6353(a).

c. Report of School Employee to Law Enforcement

The report to law enforcement officials and district attorney shall include: (1) name, age, address, and school of the student; (2) name and address of student's parent or guardian; (3) name and address of the administrator; (4) name and work and home address of the school employee; (5) nature of the alleged offense; and (6) any specific comments or observations that are directly related to the alleged incident and the individuals involved. 23 Pa.C.S. Subsection 6353(b).

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d. Report of Child Abuse

Reports of child abuse shall be made immediately by telephone and in writing within 48 hours after the oral report. Oral reports shall be made to the county agency and may be made to the appropriate county agency. Written reports shall be made on the form supplied by the county agency. 23 Pa.C.S. Subsection 6313.

e. Confidentiality

The school employee making a report shall not reveal the existence or content of the report to any person other than those to whom reporting is required under this policy. 23 Pa.C.S. Subsection 6352(a)(3).

f. Independent Investigation

The administrator has an independent duty to report the allegations to the Superintendent or his/her designee that an employee has allegedly abused or otherwise victimized a student or students. The requirement not to divulge the existence of the report or its content should not be read as limiting the administrator's responsibility to use the information he/she received to initiate and conduct an independent school investigation into the allegations.

g. Official Clearance Statement/Condition of Employment

Beginning July 1, 1996, the Superintendent shall require each applicant for employment to submit an official clearance statement issued within the preceding year by the Department of Public Welfare. No applicant may be hired who is named as the perpetrator of a founded report or is named as an individual responsible for injury or abuse in a founded report for school employee. Provided that this requirement does not apply to a school employee under 21 years of age participating in a job development or training program who is employed for not more than 90 days or to a school employee from Pennsylvania hired on a provisional basis for 30 days or, from another state on a provisional basis for 90 days, who demonstrates he/she applied for an official clearance statement, attests in writing under oath he/she is not disqualified under this requirement, when the administrator has no knowledge to the contrary, and the hiring does not take place during an authorized strike. 23 Pa.C.S. Subsection 6355(a), Subsection 6356.

h. Continued Employment

No school employee as of July 1, 1996, shall be required to obtain an official clearance statement as a condition of continued employment.

4. Delegation of Responsibility

The Superintendent shall develop procedures for investigating allegations of a school employee injuring or abusing a student which shall include:

- a. Written notice of this policy and of district procedures for reporting and investigating such allegations against school employee to parents and district staff. A copy of this policy shall be provided to each employee required to report.
- b. A system of communication with local law enforcement to coordinate, among other things, the interviews of the victimized student and accused school employee.
- c. A process to coordinate the collection of evidence with the county agency and law enforcement so that necessary physical evidence, photographs, and medical records are identified and shared, if legally permissible.

- d. Procedures for suspending, with or without pay, any school employee identified under this policy after an informal hearing when necessary to protect the health and safety of other students.
- e. A requirement to request from the county agency the disposition of their investigation with an indication of whether the report was unfounded, indicated, or founded.
- f. A final written report which is a summary of the independent investigation, including a brief summary of the number of persons questioned, their statements, and a conclusion regarding whether substantial evidence exists to discipline the employee or exonerate the employee. The final report should also include the disposition received from the county agency. A copy of this report shall be provided to the employee with notice of its retention in a central file.
- g. Where permissible under law, a provision for the taking of photographs of the child who is subject to a report.
- h. If a certified employee is dismissed for cause for facts underlying the report or law enforcement charges or the court convicts for a crime of moral turpitude, then the Superintendent shall report to the Department of Education.