

NORTHERN LEBANON SCHOOL DISTRICT

No. 806

SECTION: OPERATIONS

TITLE: CHILD/STUDENT ABUSE

ADOPTED: May 12, 1987

REVISED: April 8, 2014

November 11, 2014

806. CHILD/STUDENT ABUSE	
<p>1. Purpose 23 Pa. C.S.A. Sec. 6301 et seq SC 1205.6 18 Pa. C.S.A. Sec. 4304 Acts 105, 108, 117, 118, 119, 120, 123 of 2013. Acts 29, 31, 32, 33, 34, 44, 45 of 2014.</p> <p>2. Definitions 23 Pa. C.S.A. Sec. 6303 24 P.S. Sec. 2070.1b</p>	<p>The purpose of this policy is to affirm district employees' obligation to assist in identifying possible child abuse as well as victimization of students by other school employees, and to establish procedures for reporting such in compliance with the Child Protective Services Law of 1999 and its amendments ("CPSL") and the Educator Discipline Act, as amended effective February 16, 2014. 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.</p> <p>Administrator - The term "administrator" shall mean an educator who holds a letter of eligibility, a commission, an administrative certificate or a supervisory certificate or who serves in a school entity in a position that supervises the educational operations of a school building, a school program or a school system.</p> <p>Adult - an individual 18 years of age or older.</p> <p>Bodily Injury - The term "bodily injury" shall mean impairment of physical condition or substantial pain.</p> <p>Child - An individual under 18 years of age.</p> <p>Child Abuse - The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:</p> <ol style="list-style-type: none"> 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 year of age.
 - iv. Forcefully slapping or otherwise striking a child under one 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 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.
 - 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.

Cooperation with an investigation or assessment - Includes, but is not limited to, permitting authorized personnel from the Department or county agency to interview a student while the student is in attendance at school.

County Agency - The term "county agency" shall mean the Lebanon County Children and Youth Social Services Agency.

Department - The Department of Public Welfare of the Commonwealth.

Direct Contact with Children - The care, supervision, guidance or control of children, or routine interaction with children.

Educator - The term "educator" shall mean a person who holds a certificate, who is a charter or cyber charter school staff member or who is a contracted educational provider staff member.

Family Members - Spouses, parents and children or other persons related by consanguinity or affinity.

Founded Report - A child abuse report involving a perpetrator if any of the following applies: (1) there has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following: the entry of a plea of guilty or nolo contendere, a finding of guilt to a criminal charge, or a finding of dependency or delinquency if the court enters a finding that the child who is the subject of the report thereof has been abused; (2) there has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse; (3) there has been a consent decree entered in a juvenile proceeding that involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions thereof contain an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent; and (4) a final protection from abuse order has been granted when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and only one individual is charged with the abuse in the protection from abuse action, only that individual defends against the charge, the adjudication involves the same factual circumstances involved in the allegation of child abuse and the protection from abuse adjudication finds that the child abuse occurred.

Indicated Report - A child abuse report if an investigation by the county agency or the Department determines that substantial evidence of the alleged abuse by a perpetrator exists.

Mandated Reporter (Mandatory Reporter) - A person who is required by law to make a report of suspected child abuse.

Parent - A biological parent, adoptive parent or legal guardian.

Perpetrator - A person who has committed child abuse and is a parent of a child, a spouse or former spouse of a child's parent, a paramour or former paramour of a child's parent, a person 14 years of age or older and responsible for the welfare of a child, an individual 14 years of age or older who resides in the same home as the child, and 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. A person who has failed to act and is a parent of a child, a spouse or former spouse of a child's parent, a paramour or former paramour of a child's parent, a person 18 years of age or older and responsible for the welfare of the child, and a person 18 years of age or older who resides in the same home as the child.

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.

Program, Activity or Service - A public or private educational, athletic or other pursuit in which children participate, including, but not limited to, a youth camp or program, a recreational camp or program, a sports or athletic program, an outreach program, an enrichment program, or a troop, club or similar organization.

Recent act - Any act committed within two (2) years of the date of the report to the Department or county agency.

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 or county agency.

School - A facility providing elementary, secondary or postsecondary educational services, including any school of the School District and any associated area vocational-technical school, intermediate unit, charter school, cyber charter school, private academic school, private school, nonpublic school, community college or university.

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 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; 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: (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 - The term "sexual abuse or exploitation" means any of the following:

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:
 - i. 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.
 - ii. 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.
 - iii. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - iv. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
2. Any of the following offenses committed against a child, as defined by Title 18 of the Pennsylvania Consolidated Statutes: 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.

Sexual Misconduct - Any act, including, but not limited to, any verbal, nonverbal written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. Such prohibited acts include, but are not limited to, the following: sexual or romantic invitations; dating or soliciting dates; engaging in sexualized or romantic dialogue; making sexually suggestive comments; self-disclosure or physical exposure of a sexual, romantic or erotic nature; or any sexual, indecent, romantic or erotic contact with the child or student.

Student - An individual enrolled in a public or private school, intermediate unit, area vocational-technical school, charter school, cyber charter school or contracted educational provider who is under eighteen (18) years of age.

Substantial Evidence - Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

Unfounded Report - Any report unless the report is a "founded report" or an "indicated report".

3. Guidelines

23 Pa. C.S.A.
Sec. 6311(a)

Duty to Report

The following adults shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is a victim of child abuse: (1) a school employee, (2) an individual, paid or unpaid, who, on the basis of their role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child, and (3) any individual supervised or managed by a person listed in parts (1) and (2) of this paragraph who has direct contact with children.

<p>23 Pa. C.S.A. Sec. 6312</p>	<p>Any person not deemed a mandated reporter is nevertheless encouraged to make an oral or written report of suspected child abuse, or cause a report of suspected child abuse to be made to the Department, the county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.</p>
<p>23 Pa. C.S.A. Sec. 6311(b)</p>	<p><u>Basis to Report</u></p> <p>A mandated reporter shall make a report of suspected child abuse or cause a report to be made if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances: (1) the mandated reporter comes into contact with the child in the course of employment, occupation and practice of a professional or through a regularly scheduled program, activity or service; (2) 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; (3) a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of abuse; and (4) an individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed abuse.</p>
<p>23 Pa. C.S.A. Sec. 6311(b)(2)-(3)</p>	<p>There is no requirement that the child come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse. Likewise, there is no requirement that the mandated reporter be able to identify the person responsible for the child abuse prior to making a report of suspected child abuse.</p>
<p>23 Pa. C.S.A. Sec. 6311.1</p>	<p>Except for confidential communications made to a member of the clergy and confidential communications made to an attorney, the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not: (1) apply to a situation involving child abuse; or (2) relieve the mandated reporter of the duty to make a report of suspected child abuse.</p>
<p>18 Pa. C.S.A. Sec. 4304</p>	<p>An individual 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.</p>
<p>23 Pa. C.S.A. Sec. 6319</p>	<p>An individual required to report suspected child abuse or make a referral to the appropriate authorities commits a felony of the third degree if (1) they willfully fail to report, (2) the child abuse constitutes a felony of the first degree or higher, and (3) they have direct knowledge of the nature of the abuse; and such individual commits a misdemeanor of the second degree for any other offense arising from a failure to report.</p>
<p>18 Pa. C.S.A. Sec. 4906.1</p>	<p>An individual 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 commits a misdemeanor of the second degree.</p>

23 Pa. C.S.A.
Sec. 6368(i)

Upon notification that an investigation involves suspected child abuse by a school employee, school officials shall immediately implement a plan of supervision or alternative arrangement for the school employee under investigation to ensure the safety of all school students. School officials must have the plan of supervision or alternative arrangement approved by the county agency and kept on file with the agency until the investigation is completed.

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The administrator has an independent duty to report to the Superintendent 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 school 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.

REPORTING TO THE DEPARTMENT OF EDUCATION

Mandatory Reporting:

24 P.S. Sec.
2070.9a

The Superintendent or their designee shall file all of the following information with the Department of Education in writing on the form and within the time prescribed by the Department of Education:

1. Any educator who has been provided with notice of intent to dismiss or remove for cause, notice of nonrenewal for cause, notice of removal from eligibility lists for cause or notice of a determination not to reemploy for cause;
2. Any educator who has been arrested or indicted for or convicted of any crime that is graded a misdemeanor or felony. For purposes of this reporting requirement, the term conviction includes a plea of guilty or nolo contendere;
3. Any educator against whom allegations have been made that the educator has committed sexual abuse or exploitation involving a child or student, or engaged in sexual misconduct with a child or student;
4. Information which constitutes reasonable cause to suspect that an educator has caused physical injury to a child or student as a result of negligence or malice;
5. Any educator who has resigned, retired or otherwise separated from employment after a school entity has received information of alleged misconduct, notwithstanding any termination agreement to the contrary;
6. Any educator who is the subject of a report filed by the School District under the reporting requirements of 23 Pa. C.S. Chapter 63 (relating to child protective services); and
7. Any educator who the School District knows to have been named as the perpetrator of an indicated or founded report of child abuse or named as an individual responsible for injury or abuse in an indicated or founded report for a school employee under 23 Pa. C.S. Chapter 63.

<p>24 P.S. Sec. 2070.9a(e)</p>	<p>All reports submitted to the Department of Education shall include an inventory of all information and documentary and physical evidence in possession or control of the School District relating to the misconduct resulting in the report, along with the name and contact information for the custodian of those items.</p>
<p>24 P.S. Sec. 2070.11(e)</p>	<p>The School District may not enter into any agreements with an educator or educator association whereby the School District agrees not to comply with its mandatory reporting obligations or any other duties outlined in the Educator Discipline Act.</p>
<p>23 Pa. C.S.A. Sec. 6318</p>	<p><u>Immunity</u></p> <p>The School District and its employees shall have immunity from civil and criminal liability that might otherwise result from any of the following: (1) making a report of suspected child abuse or making a referral for general protective services; (2) cooperating or consulting with an investigation; (3) testifying in a proceeding arising out of an instance of suspected child abuse or general protective services; and (4) otherwise engaging in any activity authorized by the CPSL. In a civil or criminal proceeding, the good faith of the person required to report pursuant to the CPSL is presumed.</p>
<p>24 P.S. Sec. 2070.17a</p>	<p>The School District is immune from civil liability for the disclosure of information about the professional conduct of a former or current employee to a prospective employer of that employee.</p>
<p>23 Pa C.S.A. 6344(c)(1), 6344.2</p>	<p><u>Grounds for Denying Employment or Participation in Program, Activity or Service</u></p> <p>To the extent any School District employees are not governed by the provisions of the Public School Code of 1949, in no case shall the School District hire or approve an applicant where the Department of Public Welfare has verified that the applicant is named in the Statewide Database as the perpetrator of a Founded Report committed within the five-year period immediately preceding such verification.</p>
<p>4. Training</p> <p>23 Pa. C.S.A. Sec. 6383 24 P.S. Sec. 1205.6</p>	<p>Those employees of the School District required by law to complete training on child abuse recognition and reporting shall complete such training when and as prescribed by law, regulation or otherwise required by the Department of Public Welfare or the Department of Education.</p> <p>References:</p> <p>Child Abuse Recognition and Reporting Training -- 24 P.S. Sec. 1205.6</p> <p>Professional Educator Discipline Act -- 24 P.S. Sec. 2070.1a et seq.</p> <p>Department of Public Welfare Regulations -- 55 PA Code Sec. 3490.1 et seq.</p>

Endangering Welfare of Children -- 18 Pa. C.S.A. Sec. 4304

Child Protective Services Law -- 23 Pa. C.S.A. Sec. 6301 et seq.

Confidential Communications to School Personnel -- 42 Pa. C.S.A. Sec. 5945

Board Policy -- 302, 304, 309, 317, 333, 404, 405, 406, 407, 408, 409, 417, 433, 433.1, 440, 504, 505, 509, 517, 815, 818