

CHILD ABUSE, MALTREATMENT OR NEGLECT IN A DOMESTIC SETTING

New York State Law (Child Protective Service Act of 1973, as amended) provides for reporting of suspected cases of child abuse by school officials. These regulations are designed to implement this law within the District and to help protect students from the harmful effects of child abuse.

Definitions

The definition of child abuse and maltreatment is established by law.

A. *Abused Child*

According to Social Services Law and the Family Court Act, an abused child is a person less than 18 years of age whose parent or other person legally responsible for his or her care:

1. inflicts or allows to be inflicted upon such child physical injury by other than accidental means that 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
2. creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means that 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
3. 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.

B. *Neglected or maltreated child*

According to the Family Court Act, a neglected or maltreated child is a person less than 18 years of age:

1. whose physical, mental, or emotional condition has been impaired or is in danger of becoming impaired as a result of the failure of his or her parents or other person legally responsible for his or her care to exercise a minimum degree of care:
 - a. in supplying the child with adequate food, clothing, shelter, or education in accordance with provisions of Part One, Article 65 of the Education 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
 - b. in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he/she loses self-control of his/her actions; or by any other acts of a similarly serious nature requiring the aid of the court; or
2. who has been abandoned by his/her parent(s) or other person legally responsible for his/her care.

C. *Impairment of emotional health and impairment of mental or emotional condition*

Impairment of emotional health and impairment of mental or emotional condition includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such

factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, or acting out of misbehavior, including incorrigibility, ungovernability, or habitual truancy. This is provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the parent, guardian, or custodian to exercise a minimum degree of care toward the child.

D. *Educational Neglect*

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

1. Excessive absence from school by the child;
2. 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
3. Reasonable cause to suspect educational impairment or harm to the child or imminent danger of such impairment or harm.

E. *Person Legally Responsible*

A person legally responsible for any of the above 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.

Reporting Procedures and Related Information:

- A. All school officials must, when they have reasonable cause to suspect that a child is abused or maltreated, report it to the New York State Central Register for Child Abuse and Maltreatment (800-342-3720). A school official, under state law, is defined as:
 1. Teacher
 2. Guidance Counselor
 3. Psychologist
 4. Nurse
 5. Social worker
 6. Full- or Part-Time Athletic Coach
 7. Administrator
 8. Any School Personnel Required to Hold a Teaching or Administrative License or Certificate.
- B. Personnel have the right to request that information that would identify the individual making the report be withheld if furnishing such data might prove detrimental to the safety or interest of that individual.
- C. The school official must also report the matter to the building principal who will determine if any additional steps need to be taken by the school District (for instance, contacting the school physician, social worker or other support services).
- D. In the event that a school employee, who is not required to report under the law (such as a bus driver, custodian, cafeteria monitor, etc.), has reasonable cause to suspect that a child is abused or neglected, he/she is encouraged to make a report to the Central Register. The employee must, by District policy, report the matter to the building principal.

- E. If the building principal is informed of a case of suspected child abuse or maltreatment that has not yet been reported to the Central Register, the building principal is required to:
1. phone the New York State Central Register for Child Abuse and Maltreatment (800-342-3720) and inform them verbally of the problem;
 2. contact the above agency by telephone facsimile machine on a form supplied by the commissioner of Social Services; and
 3. file a written report with the local child protective services agency and the Central Register within 48 hours after the above report; and
 4. determine if additional steps need to be taken by the school District, as outlined in step 2 above.
- F. The building principal may take color photographs or cause photographs to be taken of the areas of visible trauma on the child, and/or, if medically indicated, cause an examination to be performed. Such actions may be performed at public expense if they will provide appropriate documentation when filing the report. Photographic equipment shall be kept at the school and be available for this purpose.
- G. The written report that must be filed shall include all information that the commissioner of Social Services may require
1. If it should be necessary for Child Protective Services to interview a child at school to ascertain whether he/she has been abused or maltreated, or to obtain documentation of such acts, the interview should be conducted in the presence of a school official, unless circumstances require otherwise. The school official shall examine and verify the credentials of Child Protective Services worker(s) before allowing such worker(s) to either interview the child or to examine the child's records.
 2. If sexual abuse is indicated, the presence of a same-sex staff member during the interview is appropriate.
- H. The building principal shall request a summary report of the investigation of a case referred to Child Protective Services so the District can take appropriate next steps.
- I. The school District shall maintain an ongoing training program that will address the identification and reporting of child abuse and maltreatment, including the legal implications of reporting and not reporting. Attendance at sessions of this training program shall be required of all school officials. Attendance records shall be kept, and notations will be made in personnel files as to the dates of attendance.
- J. Only one report of any suspected abuse is required.
- K. School personnel who, in good faith, make a report or take photographs of injuries and bruises have immunity from any liability, civil or criminal. The good faith of any person required to report cases of child abuse or maltreatment is presumed.
- L. School employees or officials may not contact the child's family or any other person to determine the cause of the suspected abuse or maltreatment. It is not the responsibility of the school official or employee to prove that the child has been abused or maltreated.
- M. School personnel who have reasonable cause to suspect that a child has died as a result of child abuse or maltreatment shall report that fact to the appropriate medical examiner or coroner.

- N. Any person required to report suspected cases of child abuse or maltreatment and who fails to do so may be found guilty of a class A misdemeanor and may be held civilly liable for the damages caused by this failure.
- O. Any school employee who fails to comply with this policy is subject to discipline in accordance with collective bargaining agreements and/or policy.
- P. The District shall maintain an ongoing training program that will address identification and reporting of child abuse and maltreatment. Attendance at sessions of this training program shall be required of all school officials.
- Q. Employee handbooks shall include a copy of these regulations and the related Board policy concerning child abuse and reporting requirements.

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