

POLICY

SOMERSET COUNTY
BOARD OF EDUCATION

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Subject: Child Abuse and Neglect Reporting Policy	Date Approved: October 17, 2000 February 21, 2006 May 26, 2009 Date Revised: March 17, 2009 Date Effective: October 17, 2000 February 21, 2006 May 26, 2009

1. PURPOSE

To inform all employees of the Board of Education of Somerset County of their obligation and immunity from civil liability in reporting cases of suspected child physical abuse, sexual abuse or neglect. To establish procedures to be used by all employees of the Board of Education of Somerset County in making oral and written reports to the Somerset County Department of Social Services for suspected cases of child physical abuse, sexual abuse or neglect. The procedures identified in this policy are in accord with Article-Family Law Section 5 Subtitle 7 Child Abuse and Neglect and the Annotated Code of Maryland.

2. GUIDELINES

A Authority - Maryland child abuse and neglect law requires that every health practitioner, educator, human service worker or law enforcement officer (acting in a professional capacity) who has reasonable cause to know or suspect that a child has been subjected to physical abuse, sexual abuse or neglect as defined by statute, will immediately report to the local department of social services. The reports, both oral and written form, shall be made as soon as reasonably possible, but in any case, the written report must be made within forty-eight (48) hours of suspicion of possible abuse or neglect. Any person other than a health practitioner, educator, human service worker, or law enforcement officer including any other employee of the Board of Education of Somerset County or volunteer who observes or suspects physical or sexual abuse or neglect is **required** to directly and personally report such observation or suspicion to the Somerset County Department of Social Services.

B Definitions

- (1) An educator or human service worker: any professional employee of any correctional, public, parochial or private educational, health, juvenile service, social or social service agency, institution or licensed facility. Educator or human service worker includes:
- a) Any teacher
 - b) Any counselor
 - c) Any other school employee
 - d) Any social worker
 - e) Any caseworker

f) Any probation or parole officer

(2) Child:

- (a) Any person under the age of eighteen (18) years.
- (b) Persons eighteen (18) years of age or older who are believed to lack the capacity to care for their daily needs (vulnerable adults) are protected by the Adult

Protective Services Program. A health practitioner, police officer or human service worker who suspects that a vulnerable adult has been subject to abuse, neglect, self-neglect or exploitation is required to report such a situation orally and in writing to the adult protective services division of the local department of social services. Any person may make a report. Any person who makes a report under these provisions is entitled to confidentiality and immunity from civil liability.

- Abuse - The physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by an household or family member, under circumstances that indicate that the child's health or welfare is harmed or at a substantial risk of being harmed; or
 - Sexual abuse of a child, whether physical injuries are sustained or not.
- (c) Sexual Abuse: Any act or acts involving sexual molestation or exploitation, including but not limited to incest, rape, or sexual offense in any degree, sodomy, or unnatural or perverted sexual practices, on a child by any family or household member or by any other person who has the permanent or temporary care or custody or responsibility for supervision of a minor child. Sexual molestation or exploitation includes, but is not limited to contact or conduct with a child for the purpose of sexual gratification, and may range from sexual advances, kissing or fondling to sexual crime in any degree, rape, sodomy, prostitution, or allowing, permitting, encouraging or engaging in the obscene or pornographic display, photographing, filming, or depicting of a child as prohibited by law.
 - (d) Mental Injury: the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.
 - (e) Neglect: Child neglect means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for the supervision of the child under circumstances that indicate:
 - 1) that a child's health and welfare is harmed or placed at substantial risk of harm; or
 - 2) mental injury to the child or a substantial risk of mental injury.

5. Possible Abuser: Under certain circumstances, persons who are non-members of a child's family or household, including educators and other school employees, may be considered abusers under the statute. Any parent, guardian, adoptive parent or other person who has the permanent or temporary care or custody or responsibility for the supervision of a child or any household or family member, may be responsible for abuse under the statute. Educators and other school employees having temporary care or custody or responsibility or the supervision of a child during the school day may also be deemed abusers under the statute and, when suspected of child abuse, must be reported immediately to the local social services agency or the appropriate

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law enforcement agency, orally and in writing as prescribed by law, by the person who has reason to believe that abuse has occurred.

6. Possible Neglector: Any parent or other person who has permanent or temporary care or temporary care or custody or responsibility for supervision may be responsible for neglect under the statute. (Family Law Article 5-701 et.seq).
 7. Household Member: A person who lives with, or is a regular presence in, a home of a child at the time of the alleged abuse or neglect.
- C.** Immunity - Any person who in good faith makes or participates in making a report of abuse or neglect or participates in an investigation or a resulting judicial proceeding is immune from any civil liability or criminal penalty that would otherwise result from making or participating in a report of abuse or neglect or participating in an investigation or a resulting judicial proceeding.
- D. Reporting Procedures**
- (1) Oral Report: Any employee of the Somerset County Board of Education or volunteer who suspects that a case of child abuse has occurred shall make a prompt oral report to the Somerset County Department of Social Services or the appropriate law enforcement agency. In the case of suspected neglect, the oral report should only be made to the local department of social services. It is mandatory that an employee or volunteer of the local school system report suspected cases of child abuse or neglect. The employee or volunteer is personally responsible for insuring that the report is made. The oral report must be made as soon as possible, notwithstanding any other provision of law, including any law or privileged communications. In addition to making an oral report, the school employee or volunteers shall also inform the local principal that a case of suspected abuse and/or neglect has been reported to the department of social services or the appropriate law enforcement agency. It is the obligation of the principal to insure that cases of suspected child abuse or neglect brought to his/her attention by any school employee or volunteer are duly reported by the employee or volunteer if this has not already been done. Any doubt about reporting a suspected situation is to be resolved in favor of the child and the report made immediately.
 - (2) Written Report: The person making the oral report to the Department of Social Services is also responsible for submitting a written report. DHR/SSA Form 180 is available in each school office for this purpose. The written report must follow the oral report and be made within forty-eight (48) hours of the contact which disclosed the existence of suspected abuse and/or neglect. Two copies of the written report are to be sent to Somerset County Department of Social Services, one copy to Somerset County State's Attorney's office, and one copy to the Student Services office.
- E. Confidentiality** - Department of Human Resources (DHR) COMAR requires that the identity of the person reporting a case of suspected child abuse and/or neglect shall not be revealed. Protective Services staff will protect the identity of the reporter unless:

(1) Required by court order to reveal the source, or

The reporter gives written permission to Department of Social Services to reveal the source.

Educators who report possible child abuse or neglect should limit their discussions of the possible abuse or neglect to those persons who have a genuine right or need to know. All records and reports concerning investigations of a child abuse and/or neglect and their outcomes are protected by the confidentiality statute Article 88A, Section 6(b). Unauthorized disclosure of such records is a criminal offense subject to a fine up to \$500 or imprisonment for up to 90 days, or both. Under this statute, information contained in reports or records concerning child abuse and/or neglect may be disclosed only:

- (a) Under a court order;
- (b) To personnel of local or state departments of social services, law enforcement personnel, and members of multi-disciplinary case consultation teams who are investigating a report of known or suspected child abuse or neglect or who are providing services to a child or family that is the subject of the report;
- (c) To local or state official responsible for the administration of the child protective services as necessary to carry out their official functions;
- (d) To a person who is the alleged child abuser or to the person who is suspected of child neglect if that person is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;
- (e) To a licensed practitioner who or an agency, institution, or program which is providing treatment or care to a child who is the subject of a report of child abuse or neglect;
- (f) To a parent or other person who has permanent or temporary care and custody of a child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information; or
- (g) To the appropriate public school superintendent for the purpose of caring out appropriate personnel actions following a report of suspected child abuse involving a student committed by a public school employee in that school system.

F. Parent Notification - The school principal or the principal's designee is not required to notify parents or guardians of investigations on school premises involving suspected child abuse or neglect. It may be determined that premature disclosure of the investigative questioning to the parents may create a threat to the well-being of the child. School employees or officials shall not contact the child's family or any other person to determine the cause of abuse or neglect. It is not the responsibility or role of the school official or employee to prove that the child has been abused or neglected.

G. School Procedure -A school employee may briefly question a child to determine if there is reason to believe that the child's injuries resulted from physical or sexual abuse, or by the child's caretaker and/or household member (ie., What happened to you? How did this happen?) However, in no case should the child be subjected to

undue pressure in order to validate the suspicion of abuse and/or neglect. Any doubt about reporting a suspected situation is to be resolved in favor of protecting the child and the report made immediately.

- H. Questioning on School Premises** - Whether the child is the alleged victim or a non victim witness, Protective Services Staff Worker and/or Police Officer has the authority to question on school premises.
- I. Removal of a Child from the School Premises** - The child may be removed from the school premises if:
- 1) Somerset County Department of Social Services has a shelter care authorization or a court order to remove the child. The principal or the principal's designee shall assure prompt notification of the child's parent or guardian.
 - 2) Somerset County Department of Social Services has guardianship or custody of the child.
- J. Emergency Medical Treatment** - Access to Medical Records: In the event that a child is in need of emergency medical treatment as a result of suspected abuse or neglect, the school principal in collaboration with the school nurse or other health professional when available, shall arrange for the child to be taken immediately to the nearest hospital. The protective services worker or law enforcement officer shall be consulted before taking the child to the hospital when feasible; in cases where the emergency conditions prevent such consultation, the protective services worker should be notified as soon thereafter as possible. In all other instances, it is the role of the protective services worker and/or law enforcement officer to seek medical treatment for the child. Information contained in school health records needed during the existence of a health and safety emergency may be disclosed without parental consent and without violating the provision of the Federal Education Rights and Privacy Act (FERPA) of 1974. Educators are required to provide copies of a child's medical/health records information, upon request of the local department of social services, as needed as part of a child abuse/neglect investigation or to provide appropriate services in the best interest of a child who is the subject of a report of child abuse or neglect.
- K. Investigations by School Personnel of Allegations of Employee Child Abuse**
- 1) Child abuse investigation is statutorily under the provisions of the Family Law Article outside a school system's concern. However, an investigation for personnel purposes of charges of abuse or an actual case of abuse related to the suspected employee is not. The school system is limited in its personnel inquiry as to ensure that primary responsibility of the child abuse investigation is with the Department of Social Service or other designated law enforcement agencies.
 - 2) The school system may conduct its own internal personnel investigation of alleged child abuse by an employee if it complies with the following points of limitation:
 - a) The school system may not take any investigatory action prior to the submission of a report about the incident to Social Services or other

appropriate law enforcement agency (the same including State, County, or municipal police department, bureau, or agency, sheriff's department, State's Attorney and Attorney General's office.)

- b) The school system should provide notification to the local social services or other agencies of the school system's intention to conduct a personnel investigation.
 - c) The school system should not interview the alleged victim, alleged abuser, or any potential witnesses without the prior consent of the local social services office or other investigating law enforcement agency.
 - d) The school system must keep confidential any information about the alleged abuse that it learns during the course of its personnel investigation.
 - e) To avoid conflict with the ability of the other investigating agency to obtain a criminal conviction, the school system should avoid a final disposition of the personnel action against an alleged child abuser, where the charges are based on the alleged abuse, without the prior consent of the State's Attorney.
- 3) During the investigation of school employee(s) suspected of abuse, only with court approval should school staff, who may be members of a multi-disciplinary team, disclose information obtained by social services or law enforcement agencies in a personnel hearing.
- 4) In cases where the suspected abuser is an employee of the agency charged with the responsibility of investigation of such child abuse allegations, the investigation must be conducted by another responsible investigative agency in order to overcome any conflicts or arguments.

L. Sanctions for Failure to Report - (Education Article 6-202, Education COMAR 13A.01.01.10) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent or other professional assistant for misconduct in office, including knowingly failing to report suspected child abuse in violation of Family Law Article, Title 5, Subtitle 7 (Child Abuse/Neglect), Annotated Code of Maryland.

M. Administrative Procedures - Further information on the following can be found in the Administrative Procedures.

- (1) Indicators of Physical Abuse
- (2) Indicators of Sexual Abuse
- (3) Indicators of Neglect
- (4) Screening for Mental Injury
- (5) Mental Injury Categorized

See Administrative Procedures