

FERNDALE AREA SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: CHILD/STUDENT ABUSE

ADOPTED: FEBRAURY 19, 1997

REVISED: FEBRUARY 21, 2007

<p>1. Authority 23 Pa. C.S.A. 6301</p> <p>2. Definitions</p>	<p style="text-align: center;">806. CHILD/STUDENT ABUSE</p> <p>The Board adopts this policy 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 1990 and its amendments.</p> <p>The following definitions are for purposes of this policy.</p> <p>Child Abuse – shall mean any of the following:</p> <ol style="list-style-type: none"> 1. Any recent act or failure to act by a perpetrator which causes non-accidental serious physical injury to a child under eighteen (18) years of age. 2. Any act or failure to act by a perpetrator which causes non-accidental serious mental injury to or sexual abuse or sexual exploitation of a child under eighteen (18) years of age. 3. 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 or sexual abuse or sexual exploitation of a child under eighteen (18) years of age. 4. 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 endangers a child's life or development or impairs the child's functioning. <p>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.</p>
--	--

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 Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious Physical Injury – an injury that causes a child severe pain, or significantly impairs a child's physical functioning, either temporarily or permanently.

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 of any sexually explicit conduct, for the purpose of producing any visual depiction **including photographing, videotaping, computer depicting or filming** of any sexually explicit conduct, or the rape, **sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault**, molestation, incest, **indecent exposure**, prostitution, **statutory sexual assault** or other forms of sexual exploitation of children.

Perpetrator – a person who has committed child abuse and is a parent/**guardian** of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child, or a paramour of a child's parent/**guardian**. An **individual residing in the same home as a child** is a person who is fourteen (14) years of age or older and who resides in the same home as the child. A **person responsible for the child's welfare** is an individual 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 does not include a person who is employed by or provides services or programs in any public or private school, intermediate unit, or area vocational technical school.

County Agency – the county children and youth services agency supervised by the Department of Public Welfare under the Public Welfare Code.

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.

Administrator – the person responsible for the administration of a public or private school, intermediate unit, or area vocational technical school. The term includes a person responsible for employment decisions in a school and an independent contractor. The **principal** of the school where the abused student is enrolled will serve as the administrator under this policy.

School Employee – an individual employed in 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.

Student – an individual enrolled in a public or private school, intermediate unit, or area vocational technical school who is under eighteen (18) years of age.

Subject Of The Report – any child, parent/guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator or school employee named in a report made to the Department of Public Welfare or a county agency.

Founded Report – a child abuse report resulting from any judicial adjudication based on a finding that a child who is a subject of the report has been abused, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of child abuse.

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 or sexual abuse or **sexual** exploitation, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegations of the report.

Indicated Report – a child abuse report resulting from an investigation by the county agency or the Department of Public Welfare with a determination that substantial evidence of the alleged abuse exists based on any of the following:

1. Available medical evidence.
2. The child protective service investigation.
3. An admission of the acts of abuse by the school employee.

<p>3. Guidelines</p> <p>23 Pa. C.S.A. 6311 42 Pa. C.S.A. 5945</p>	<p>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 or sexual abuse or sexual exploitation exists based on any of the following:</p> <ol style="list-style-type: none"> 1. Available medical evidence. 2. The county agency’s investigation. 3. An admission of the acts of abuse by the school employee. <p>Applicant - an individual who applies for a position as a school employee. The term includes an individual who transfers from one classification of employment to another classification of employment within the school district.</p> <p style="text-align: center;">CHILD ABUSE BY PERPETRATOR</p> <p><u>Duty To Report</u></p> <p>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.</p> <p>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.</p> <p>School employees required to report suspected child abuse shall include but are not limited to a school administrator, school teacher, and/or school nurse.</p> <p>Any person required to report child abuse who, in good faith, reports or causes the report to be made shall have immunity from civil and criminal liability related to those actions.</p> <p>A person or official required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.</p>
---	--

Reporting Procedures

School employees who suspect child abuse shall immediately notify the school principal or his/her designee. Upon notification, the principal or designee shall report the suspected child abuse.

Reports of child abuse shall immediately be made by telephone **to the Childline Abuse Registry** and in writing **to the county Children and Youth Agency** within forty-eight (48) hours after the oral report.

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.

The **school** official required to report cases of suspected child abuse 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.

Upon receipt of a complaint of suspected child abuse, the Department of Public Welfare shall maintain a record of the complaint of suspected child abuse in the pending complaint file.

STUDENT ABUSE BY SCHOOL EMPLOYEE

Duty To Report

A school employee shall immediately contact the **principal** 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.

If the accused school employee is the **principal**, the school employee shall immediately report to law enforcement officials and the district attorney.

The **principal** who receives a report from a school employee or who has independent cause to suspect injury or abuse shall immediately report to law enforcement officials and the appropriate district attorney. The **principal** shall exercise no discretion but has an absolute duty to report when receiving notice from a school employee.

A school employee or **principal** who refers a student abuse report shall be immune from civil and criminal liability arising out of the report.

A school employee who willfully fails to report suspected student abuse or who willfully violates the confidentiality of such a report commits a summary offense.

A school employee who, after being sentenced for such violation, does so again, commits a misdemeanor of the third degree.

An administrator who willfully fails to report immediately to law enforcement officials and the appropriate district attorney any report of serious bodily injury or sexual abuse or sexual exploitation alleged to have been committed by a school employee against a student commits a misdemeanor of the third degree.

Reporting Procedures

The **principal's** report to law enforcement officials and the district attorney shall include: name, age, address, and school of the student; name and address of the student's parent/guardian; name and address of the **principal**; name, work, and home address of the school employee; nature of the alleged offense; and any specific comments or observations directly related to the alleged incident and the individuals involved.

The school employee making a report of student abuse or injury by another employee shall not reveal the existence or content of the report to any person other than those to whom reporting is required under this policy.

Investigation

Upon receipt of a report of suspected student abuse, an investigation shall be conducted by law enforcement officials, in cooperation with the district attorney.

If law enforcement officials have reasonable cause to suspect, on the basis of initial review, that there is evidence of serious bodily injury, sexual abuse or sexual exploitation committed by a school employee against a student, the officials shall notify the county agency in the county where the alleged abuse or injury occurred for the purpose of the agency conducting an investigation.

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

Law enforcement officials and the county agency shall coordinate their respective investigations. They shall conduct joint interviews with students, but law enforcement officials shall interview school employees prior to the county agency.

Prior to interviewing a subject of the report, the county agency shall orally notify the subject of the report of the existence of the report and the subject's rights with regard to amendment or expungement.

The county agency shall complete its investigation within sixty (60) days.

The **principal** 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 **principal'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.

Immediately after receiving a report of suspected student abuse by a school employee, the county agency shall notify the Department of Public Welfare of the report, which is to be filed in the pending complaint file.

Statewide Central Register

When a report of suspected child abuse or of suspected student abuse by a school employee is determined by the appropriate county agency to be a founded report or an indicated report, the information concerning that report shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide Central Register maintained by the Department of Public Welfare.

Notice of the determination must be given to the subjects of the report, other than the abused child or student, and to the parent/guardian of the affected child or student along with an explanation of the implications of the determination. Notice given to perpetrators of child abuse and to school employees who are subjects of indicated reports for school employees or founded reports for school employees shall include notice that their ability to obtain employment in a child care facility or public or private school may be adversely affected by entry of the report in the Statewide Central Register. The notice shall also inform the recipient of his/her right, within forty-five (45) days after being notified of the status of the report, to appeal an indicated report, and his/her right to a hearing if the request is denied.

<p>Pol. 302, 303, 404, 405, 504, 505</p> <p>PA Statute 23 Pa. C.S.A. 6301</p> <p>PA Statute 42 Pa. C.S.A. 5945</p> <p>Board Policy 302, 303, 404, 405, 504, 505</p>	<p style="text-align: center;">CLEARANCE STATEMENT/EMPLOYMENT</p> <p>In accordance with Board policy, the Superintendent shall require each applicant for employment, including each covered employee being transferred, to submit an official clearance statement issued within the preceding year by the Department of Public Welfare, except for those exempted by law.</p> <p>Such clearance statements shall include information as to whether the applicant, including covered employee, is named as: the perpetrator of an indicated or a founded report related to child abuse; or as the individual responsible for injury or abuse to a student(s) in an indicated report for school employee or a founded report for school employee.</p> <p>No applicant may be hired who is named as the perpetrator in a founded report or is named as an individual responsible for injury or abuse in a founded report for a school employee. The school district has discretion whether to hire someone who has been named on an indicated report.</p> <p>The requirement to submit an official clearance statement does not apply to a school employee under twenty-one (21) years of age participating in a job development or training program who is employed for not more than ninety (90) days or to a school employee from Pennsylvania hired on a provisional basis for thirty (30) days, or from another state on a provisional basis for ninety (90) days, who demonstrates s/he applied for an official clearance statement, attests in writing under oath s/he 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.</p>
--	---