

REPORTING STUDENT ABUSE BY SCHOOL EMPLOYEES

The Child Protective Services Law (CPSL) states that school employees have a duty to report suspected student abuse to the child protective services. Any school employee who has reasonable cause to suspect another school employee is abusing a student must also report. The Board wishes to affirm the employees' obligation to assist in identifying possible student abuse by other school employees and through this policy to notify school employees of their reporting responsibilities under the CPSL.

Policy: 3.37
Adopted: 7/17/96
Amended:

REPORTING STUDENT ABUSE BY SCHOOL EMPLOYEES

Act 151 of 1994 amends the Child Protective Services Law (CPSL) to include school employees. This amendment introduces a new but limited reporting requirement that is initiated when any school employee has "reasonable cause to suspect" that another school employee is abusing a student.

The reporting requirement applies only when a student is thought to be a victim of serious bodily injury or sexual abuse or sexual exploitation by a school employee.

Further, the act provides that those either applying for school employment or transferring from one school employee position to another or from one building to another must receive an official clearance statement from the Department of Public Welfare (DPW). Such statements verify that one does not have a founded or indicated report on the Department's Statewide Central Register.

I. Definitions

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. 23 P.C.S. 6354

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 P.C.S. 6354

County Agency. Berks County Children and Youth Services

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 student abuse, 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. 23 P.C.S. 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 the substantial evidence of student abuse exists based on any of the following:

- A. Available medical evidence.
- B. The county agency's investigation.
- C. An admission of the acts of abuse by the school employee. 23 P.C.S. 6303 (a)

School Employee. An individual employed by a public or private school, intermediate unit, or area vocational-technical employees. The terms excludes an individual who has no direct contact with students. 23 P.C.S. 6303 (a) All school employees are required to report suspected child abuse. 23 P.C.S. 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 of any bodily member or organ. 23 P.C.S. 6303 (a)

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.

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 P.C.S. 6303 (a)

Student Abuse. Serious bodily injury or sexual abuse/exploitation committed by a school employee.

II. Duties

A. School Employees

1. A school employee shall immediately contact the Assistant Superintendent when the school employee has reasonable cause to suspect, on the basis of his or 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 student abuse by a school employee. A good faith report provides immunity from civil and criminal liability. However, willful failure to report suspicion of student abuse carries criminal penalties. Purposeful reports of a fallacious nature not submitted in good faith may also involve certain penalties. 23 P.C.S. 6352 (a)
2. In the absence of the Assistant Superintendent, then the school employee shall immediately report directly to the Superintendent.
3. If the accused school employee is the Assistant Superintendent, then the school employee shall immediately report directly to the Superintendent and to the local law enforcement officials and district attorney.
4. Privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving student abuse and shall not constitute grounds for failure to report. 23 P.C.S. 6311 (a)

B. Administrator. The Administrator who receives a report from a school employee or who has independent reasonable cause to suspect student abuse shall immediately report to the local law enforcement officials and district attorney. The administrator shall exercise no discretion, but has an absolute duty to report when she/he receives notice from a school employee. 23 P.C.S. 6353 (a)

C. Report of School Employee to Law Enforcement. The report to the local 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, work, and home address of the accused 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 P.C.S. 6353 (b)

- D. Report of Student Abuse. Reports of student abuse shall be made immediately by telephone and in writing within 48 hours after the oral report. Oral reports shall be made to the Department of Welfare and Berks County Children and Youth Services. Written reports shall be made on the form supplied by the Department of Welfare. 23 P.C.S. 6352 (a) (3); 6335 (c)
- 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 P.C.S. 6352 (a) (3); 6335 (c)
- F. Independent Investigation. The Assistant Superintendent has an independent duty to report the allegations to the Superintendent or his/her designee that an employee has allegedly abused 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 she/he 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 employed who is named as the perpetrator of a founded report or is named as an individual responsible for student abuse in a founded report for school employee. 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 she/he applied for an official clearance statement, attests in writing under oath she/he is not disqualified under this requirements, when the administrator has no knowledge to the contrary, and the hiring does not take place during an authorized strike. 23 P.C.S. 6355 (a), 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. However, any transfers from one position to another or from one building to another will necessitate an official clearance statement. Upon receipt of a clearance statement with no incidents reported, the school district will reimburse the employee the fee for processing the statement. New employees will not receive reimbursement for clearance statements.

III. Delegation of Responsibility

- A. The superintendent shall develop procedures for investigating allegations of a school employee injuring or abusing a student which shall include:
 - 1. 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.
 - 2. A system of communication between the district and local law enforcement to coordinate, among other things, the interview of the victimized student and accused school employee.

3. 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.
4. Procedures with appropriate due process for suspending any school employee identified under this Policy necessary to protect the health and safety of other students.
5. 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.
6. A final written summary of the independent investigation which includes the number of persons questioned, their statements, and a conclusion regarding whether or not substantial evidence exists to discipline 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. Any report of an investigation decided not to involve a founded or indicated incident shall be destroyed after six months of the close of the investigation.
7. Where permissible under law, a provision for the taking of photographs of the child who is subject to a report.
8. The Superintendent shall report to the Department of Education 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.

Administrative Procedures: 3.37
Approved: 7/17/96
Amended: