

Child Abuse, Neglect and Sexual Misconduct Reporting Protocol for Staff For All Personnel in Dealing with Inappropriate Behavior by Adults with Students

The purpose of this board procedure is to provide all district staff members and volunteers with a comprehensive explanation of their roles in protecting children from sexual abuse and inappropriate conduct. State law and Board Policy 3421 require school personnel report to Department of Children and Family Services or law enforcement when they have reasonable cause to believe that a child has suffered abuse or neglect. (RCW 26.44.030.) While staff members are protected from liability for reporting child abuse in good faith, if they fail to report child abuse they may be liable for a misdemeanor under state law. (RCW 26.44.060.) In addition, state law and this Board Policy mandate that all staff members who have knowledge or reasonable cause to believe that a student has been a victim of physical abuse or sexual misconduct by another school employee shall, in addition to any reporting requirements under RCW 26.44.030, report such abuse or misconduct to the appropriate school administrator. (RCW 28A.400.317.) Staff members who fail to meet either of these reporting duties may be subject to civil and criminal liability, as well as appropriate disciplinary action by the District.

General Child Abuse Reporting Duty

- A. Staff members or the principal shall contact the nearest office of the Department of Children and Family Services (DCFS) of the Department of Social and Health Services (DSHS) at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. If this agency cannot be reached, the report shall be submitted to the police, sheriff, or prosecutor's office at the first opportunity, but in no case longer than forty-eight hours after there is a reasonable cause to believe that the child has suffered abuse or neglect. Staff members shall also advise the principal regarding instances of suspected abuse or neglect and reports of suspected abuse that have been made to state authorities or law enforcement. In his/her absence the report shall be made to the nurse or counselor.

A staff member may wish to discuss the circumstances with an employee of DCFS for assistance in determining if a report should be made. Department of Children and Family Services has the responsibility of determining the fact of child abuse or neglect. Any doubt about the child's condition shall be resolved in favor of making the report. If the accusation is against a primary care provider in the student's home, law enforcement should be called first in order to determine if it's safe for the student to go home.

In any event, a written report should be made to the appropriate administrator. Such reports must contain the following information, if known:

1. The name, address, and age of the child;
2. The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
3. The nature and extent of the alleged injury or injuries;
4. The nature and extent of the alleged neglect;
5. The nature and extent of the alleged sexual abuse;
6. Any evidence of previous injuries, including their nature and extent; and

7. Any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators. (RCW 26.44.040.) **Interviews of Suspected Abused or Neglected Child**

- A. If a DCFS investigator, unaccompanied by law enforcement, requests to interview the suspected abused or neglected child at school, the principal or designee shall obtain the child's consent before making the student available for an interview. The principal shall ask the child if he or she has a school person who he or she would like to be present during the interview. The principal or designee shall document the questions asked and the student's answers regarding consent. The principal or designee shall notify the parent unless DCFS directs the school not to do so.
- B. If a law enforcement official, without a warrant or court order and without exigent circumstance, requests to interview the suspected abused or neglected student under twelve (12) years of age, the principal or designees shall contact the parent and notify them of the request. Absent a warrant, court order or exigent circumstances, law enforcement officers must obtain parental consent before the student will be made available for an interview. A child twelve (12) years of age or older may give consent. The principal or designee shall document the questions asked and the answers given regarding consent.

Definition of Child Abuse or Neglect

RCW 26.44.020(12) defines abuse and neglect as injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and/or safety is harmed. Abuse and neglect does NOT include the physical discipline of a child as defined in RCW 9A.16.100.¹ The Department of Social and Health Services' website is useful in identifying common indicators of abuse or neglect.²

Special Duty to Report Abuse and Sexual Misconduct of another School Employee - RCW 28A.400.317 (1)

School district employees have two child abuse reporting duties:

1. a general duty to report to law enforcement or DCFS discussed above pursuant to RCW 26.44.030, and
2. a special duty to report directly to administration when the person committing the misconduct is a school employee. This second, special reporting duty is set forth in RCW 28A.400.317(1):

A certificated or classified school employee who has knowledge or reasonable cause to believe that a student has been a victim of physical abuse or sexual misconduct by another school employee, shall report such abuse or misconduct to the appropriate school administrator. (RCW 28A.400.317 (1).)

For purposes of this reporting, "the appropriate school administrator" is the site principal, the program director, the Title IX Officer, or the Superintendent. It is preferred that employees go through the chain of command unless circumstances warrant otherwise.

School administrators have the following duty when they receive an RCW 28A.400.317 report:

¹ See Appendix 1.

² See Appendix 1 for information taken from the DSHS Website as well as further information on determining what constitutes child abuse or neglect.

The school administrator shall cause a report to be made to the proper law enforcement agency if he or she has reasonable cause to believe that the misconduct or abuse has occurred as required under RCW 26.44.030. During the process of making a reasonable cause determination, the school administrator shall contact all parties involved in the complaint. (RCW 28A.400.317 (1).)

“Sexual Misconduct” May Be Less than “Child Abuse”

The special reporting duty requires the employee to report incidents of sexual misconduct. The general reporting duty requires the employee to report incidents of child abuse and neglect. Many situations will trigger both reporting duties. However, some situations may only trigger the special reporting duty though. If an employee is engaging in “boundary invasion behaviors” with a student which does not constitute child abuse, child neglect, or sexual abuse, there may still be a special duty for other employees observing such behavior to report the conduct to the appropriate administrator. The boundary invasions may constitute inappropriate behavior which may later be characterized as “sexual grooming.” The problem is that it may not be possible to determine whether boundary invasion behaviors are sexual grooming or innocent conduct until a molestation occurs. Therefore, in order to protect children, employees are required to report instances of other employees engaging in boundary invasion behaviors with students. Such reports are to be made to the appropriate administrator for handling.

If a school employee becomes aware of another employee engaging in boundary invasion behavior with children at school, that employee *must* report the matter immediately to the appropriate administrator (usually the principal) or the District Title IX Officer.

Boundary Invasion Behaviors

Sexual abusers often target children who are suitably passive or needy and then engage in personal boundary invasion behaviors which become increasingly invasive of the child’s boundaries. These actions, termed *sexual grooming*, involve the progressive breaking down of normal boundaries, such as physical contact that seems harmless or verbal comments that are designed to flatter and ingratiate the child. Since it may not be possible to determine whether boundary invasion behaviors are in fact sexual grooming until it is too late, employees are required to report boundary invasion behaviors by other employees to the appropriate administrator.

The following are boundary invasion behaviors which must be reported:

- Touching children when there is no educational or medical reason to do so.
- Flirting with students or sharing personal information.
- A staff member making comments about a student’s body.
- Off color remarks or telling of inappropriate jokes to student(s).
- Having a “special” relationship or giving more than normal individual attention to a particular student.
- A staff member working consistently with an individual student alone or behind a closed door.
- Giving a student rides alone in a non-emergency situation.
- Sending notes, emails, letters, or making phone calls to a student instead of communicating through the parent(s).
- Giving gifts to a student.
- Frequent socializing with a student at school and/or away from school.
- Getting a student out of other classes to see the staff member without educational purposes.

- Inviting students to the staff member's home.
- A combination of any of the above.

This list is not an exhaustive list. If a staff member engages in such behaviors, there may be great cause for concern based on the profiles of individuals who became sexual abusers. The bottom line is that such behaviors can cross the line from professional and caring into personal and dangerous and with rare exceptions are not acceptable. Staff members who observe such conduct must understand that such behaviors are inappropriate and should take action. By reporting, they protect children, the staff member, themselves, and the profession.

Staff Member Duties

The staff member's role in preventing sexual abuse of students is two-fold: first, to avoid engaging in behaviors which could be mistaken for boundary invasion or grooming behaviors; and second, to report situations where such behaviors by other employees take place.

1. *Do not engage in the boundary invasion behaviors* described above or behaviors like them. Keep your interactions with students on a professional level. Refer students who need emotional or other support to appropriately trained staff such as counselors. Staff can be caring while maintaining an appropriate level of professional decorum.
2. *Report the Concern:* If a staff member observes any adult engaging in the behaviors described above with students, or other behaviors which raise concerns, the staff member must:
 - a. Inform your principal or the appropriate person at the District Office at your earliest opportunity.³ Do not wait or mull things over or attempt to determine for yourself whether the behavior you have observed has a plausible, innocent explanation. You may not be aware of or understand the entire situation, and allowing the conduct to continue could be bad for both the staff member and students.
 - b. Do not confront or discuss the matter with the adult. Do not inform the person of your concern, unless it is a situation where immediate intervention is necessary to protect a child.
 - c. Maintain confidentiality. Failure to do so may impede official investigations, foster untrue rumors or violate privacy. You owe a legal duty of confidentiality to students on matters which a reasonable person would want to remain confidential. Therefore, you are directed not to tell your concerns to anyone other than the appropriate administrator, Department of Children and Family Services or the police. If approached by anyone other than the appropriate administrator, DCFS, the police or parent of the child, or a person conducting an official investigation on behalf of the District, you may not discuss the matter unless otherwise permitted in writing by the administrator in charge of the matter.
 - d. Document who you notified, where and when and what you reported for your own records. Note that all staff must also report the situation to an appropriate administrator and document action which has been taken to the Title IX office.⁴

³ Make your report to the appropriate administrator, but do not make the report to an administrator who may be involved in the conduct in question.

⁴ Again, an appropriate administrator would be your site principal. If for some reason that would seem inappropriate in a given situation, then report to the Title IX Officer at the District Office.

3. If you observe misconduct between students, you must take appropriate action to intervene. “They are not my students,” “It’s my lunch time,” “It is the duty monitor’s or principal’s job,” or “I am in a hurry” are unacceptable excuses for not intervening.

What if the Person Is a Friend?

If the person engaging in the boundary invasion or misconduct is a friend, it is still necessary to report the conduct to protect students, yourself and your friend.

Questions

Any questions about anything related to this process may be referred to your site principal or the District’s Title IX Officer, Mary Hebert (360-457-8575, ext. 12).

Cross References:	Board Policy 3124	Removal of Student
	3231	Student Records
	3421	Mandatory child abuse, neglect and sexual misconduct reporting duties
	3421P9(b)	Child abuse and sexual misconduct reporting protocol for administrators
Legal References:	RCW 26.44	Abuse of children
	26.44.030	Reports — Duty and authority to make — Duty of receiving agency
	28A.400.317	Physical abuse or sexual misconduct by school employee – Duty to report – Training
	28A.600.475	Exchange of information with law enforcement and juvenile court officials – Notification of parents and students
	28A.300.150	Information on child abuse and neglect prevention curriculum
	28A.300.160	Development of coordinated primary prevention program for child abuse and neglect
	28A.230.080	Prevention of child abuse and neglect policy
	9.68.11	Sexual exploitation of children
	9.16.100	Use of force on children

Resources: Washington Department of Social and Health Services Website:
<http://www1.dshs.wa.gov/ca/safety/abuseWhat.asp?2>

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Appendix 1

Definition of Neglect

RCW 26.44.020(12) defines neglect as follows:

(12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

* * *

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety, including but not limited to conduct prohibited under RCW 9A.42.100. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

RCW 9A.16.100 allows the use of force on children as follows:

It is the policy of this state to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. However, the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

DSHS WEBPAGE DEFINITION AND GUIDANCE

The Department of Social and Health Services provides the following guidance in determining whether child abuse or neglect has occurred:⁵

What is Child Abuse and Neglect?

[RCW 26-44-020 \(12\)](#) defines abuse and neglect as injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed. Abuse and neglect does not include the physical discipline of a child as defined in [RCW 9A.16.100](#).

Recognizing Child Abuse and Neglect: Signs and Symptoms

The first step in helping abused or neglected children is learning to recognize the signs of child abuse and neglect. The presence of a single sign does not prove child abuse is occurring in a family; however, when these signs appear repeatedly or in combination you should take a closer look at the situation and consider the possibility of child abuse.

The following signs may signal the presence of child abuse or neglect.

The Child:

- Shows sudden changes in behavior or school performance.
- Has not received help for physical or medical problems brought to the parents' attention.
- Has learning problems (or difficulty concentrating) that cannot be attributed to specific physical or psychological causes.
- Is always watchful, as though preparing for something bad to happen.
- Lacks adult supervision.
- Is overly compliant, passive, or withdrawn.
- Comes to school or other activities early, stays late, and does not want to go home.

The Parent:

- Shows little concern for the child.
- Denies the existence of or blames the child for the child's problems in school or at home.
- Asks teachers or other caretakers to use harsh physical discipline if the child misbehaves.
- Sees the child as entirely bad, worthless, or burdensome.
- Demands a level of physical or academic performance the child cannot achieve.
- Looks primarily to the child for care, attention, and satisfaction of emotional needs.

The Parent and Child:

- Rarely touch or look at each other.
- Consider their relationship entirely negative.
- State that they do not like each other.

⁵ Quoted directly from: <http://www1.dshs.wa.gov/ca/safety/abuseWhat.asp?2>

Common Indicators of Abuse⁶

1. Physical Abuse

Common Indicators of Physical Abuse

Consider the possibility of physical abuse when the **child**:

- Has unexplained burns, bites, bruises, broken bones, or black eyes.
- Has fading bruises or other marks noticeable after an absence from school.
- Frightened of the parents and protests or cries when it is time to go home.
- Shrinks at the approach of adults.
- Reports injury by a parent or another adult caregiver.
- Lacerations, welts, abrasions.
- Injuries inconsistent with information offered by the child.
- Injuries inconsistent with the child's age.
- Injuries that regularly appear after absence or vacation.

Consider the possibility of physical abuse when the parent or other adult caregiver:

- Offers conflicting, unconvincing, or no explanation for the child's injury.
- Describes the child as "evil," or in some other very negative way.
- Uses harsh physical discipline with the child.
- Has a history of abuse as a child.
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2. Neglect

Common Indicators of Neglect

Consider the possibility of neglect when the child:

- Lack of basic needs (food, clothing, and shelter).
- Is frequently absent from school.
- Begs or steals food or money.
- Lacks needed medical or dental care, immunizations, or glasses.
- Is consistently dirty and has severe body odor.
- Lacks sufficient clothing for the weather.
- Abuses alcohol or other drugs.
- States that there is no one at home to provide care.
- Abandonment

Consider the possibility of neglect when the parent or other adult caregiver:

- Appears to be indifferent to the child.
- Seems apathetic or depressed.
- Behaves irrationally or in a bizarre manner.
- Is abusing alcohol or other drugs.

⁶ Author: National Clearinghouse on Child Abuse and Neglect Information (DHHS)

3. Behavioral Abuse

Common Behavioral Indicators of Abuse:

- Wary of adult contact. Frightened of parents.
- Afraid to go home.
- Habitually truant or late to school.
- Arrives at school early and remains after school later than other students.
- Wary of physical contact by adults.
- Shows evidence of overall poor care.
- Parents describe child as “difficult” or “bad.”
- Inappropriately dressed for the weather — no coat or shoes in cold weather or long sleeves and high necklines in hot weather (possibly hiding marks of abuse).
- Exhibit behavioral extremes: crying often or never, unusually aggressive or withdrawn and fearful.

4. Sexual Abuse

Common Indicators of Sexual Abuse

Consider the possibility of sexual abuse when the child:

- Has difficulty walking or sitting.
- Suddenly refuses to change for gym or to participate in physical activities.
- Reports nightmares or bedwetting.
- Experiences a sudden change in appetite.
- Demonstrates bizarre, sophisticated, or unusual sexual knowledge or behavior.
- Becomes pregnant or contracts a venereal disease, particularly if under age 14.
- Runs away.
- Reports sexual abuse by a parent or another adult caregiver.

Consider the possibility of sexual abuse when the parent or other adult caregiver:

- Is unduly protective of the child or severely limits the child's contact with other children, especially of the opposite sex.
- Is secretive and isolated.
- Is jealous or controlling with family members.

5. Emotional Abuse

Common Indicators of Emotional Abuse

Consider the possibility of emotional maltreatment when the child:

- Shows extremes in behavior, such as overly compliant or demanding behavior, extreme passivity, or aggression.
- Is either inappropriately adult (parenting other children, for example) or inappropriately infantile (frequently rocking or head-banging, for example).
- Is delayed in physical or emotional development.
- Has attempted suicide.
- Reports a lack of attachment to the parent.

Consider the possibility of emotional maltreatment when the parent or other adult caregiver:

- Constantly blames, belittles, or berates the child.
- Is unconcerned about the child and refuses to consider offers of help for the child's problems.
- Overtly rejects the child.

Interviews of Suspected Abused or Neglected Child

- B. If a DCFS investigator, unaccompanied by law enforcement, requests to interview the suspected abused or neglected child at school, the principal or designee shall obtain the child's consent before making the student available for an interview. The principal shall ask the child if he or she has a school person who he or she would like to be present during the interview. The principal or designee shall document the questions asked and the student's answers regarding consent. The principal or designee shall notify the parent unless DCFS directs the school not to do so.
- C. If a law enforcement official, without a warrant or court order and without exigent circumstance, requests to interview the suspected abused or neglected student under twelve (12) years of age, the principal or designees shall contact the parent and notify them of the request. Absent a warrant, court order or exigent circumstances, law enforcement officers must obtain parental consent before the student will be made available for an interview. A child twelve (12) years of age or older may give consent. The principal or designee shall document the questions asked and the answers given regarding consent.