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**CHILD ABUSE REPORTING
&
UNIFORM MEMORANDUM
OF AGREEMENT WITH
LOCAL LAW ENFORCEMENT**

**State-Operated School District of Paterson
New Teacher Orientation
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I. CHILD ABUSE REPORTING PROCEDURES FOR ALL SCHOOL PERSONNEL

A. Abuse/Neglect

Child abuse means the infliction of harm, physical, mental or emotional harm, on a child **under the age of eighteen** by a person who has control over the child, even temporarily, **and an opportunity to repeat the abusive acts.**

Neglect includes negligence and the failure to respond to a child's basic needs as well as deliberate, willfully abusive acts.

An abused and/or neglected child is a child under the age of eighteen whose **parents or legal guardian, or other person having his/her custody or control:**

1. Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes serious physical injury;
2. Creates or allows to be created a substantial or ongoing risk of physical injury to the child by other than accidental means which causes serious physical injury;
3. Commits or allows to be committed an act of sexual abuse against the child;
4. The impairment or threat of impairment of the child's physical, mental, or emotional condition by the failure to provide food, clothing, shelter, education, or medical care or by the infliction of harm, including corporal punishment; or
5. Willful abandonment.

B. Institutional Abuse

May occur in facilities that are intended to provide care, education, supervision, and/or maintenance for children. The key to recognizing such **institutional abuse** is the **caretaker status of the relationship between the child and the offender.** The caretaker relationship is one in which the offender directly provides or assists in providing the care, supervisions, or maintenance of a child under

the age of 18 for any period of time in an out of home setting (*i.e.* school teacher, day care worker, school nurse).

C. **Conditions That Should Cause One to Suspect Abuse**

1. There is evidence of physical injury to a pupil not likely to have been caused by an accident, regardless of the pupil's explanation of the injury;
2. A pupil complains of having been injured or having been sexually molested, with or without external signs of physical injury;
3. A pupil appears to be malnourished;
4. A pupil's general condition indicates a persistent want of care, such as inadequate clothing for the weather, inadequate hygiene, lack of sleep, decayed and broken teeth, and the like;
5. A pupil complains of or indicates by other means that he or she has been subjected to threats or emotional abuse;
6. A pupil is excessively apprehensive, fearful, withdrawn, or aggressive;
7. A parent or the caretaker of a child admits to having abused the child;
8. The removal from school by the parent or legal guardian, or other person having custody and control of the child, that may be an indicator of additional grievous abuses; or
9. Any other reasonable cause to believe that a child has been subject to the child abuse and/or neglect or acts of child abuse and/or neglect.

D. **Individual Responsibility**

1. All school district personnel, including teaching staff members, support staff members and volunteers, are charged by law with the responsibility to report suspected cases of child abuse and/or neglect. The suspicion of child abuse and/or neglect may be based on the complaints of

the child or on the direct observations of the employee over a period of time or both. (See N.J.A.C. 6A:16-11.1 et seq., Reporting Allegations of Child Abuse and Neglect and N.J.S.A. 18A:36-24 and 25).

2. Upon having **reasonable cause to believe** that a child has been subjected to abuse or neglect, you **must immediately** make a report to the appropriate agency (see below).

Only **after** you have made an immediate report to DYFS or IAIU should you **then** inform the school principal or his or her designee of the report to DYFS or IAIU.

You need **not** notify the principal or his or her designee if you believe that such notice would be likely to endanger you or the child(ren) involved, or when you believe that such disclosure would be likely to result in retaliation against the child or in discrimination against you with respect to your employment.

3. Failure to make a report is a violation of law, and you could be subject to \$1,000 fine and up to six months in jail; you may also suffer adverse employment consequences, including but not limited to reprimand or loss of employment.

E. DYFS or Institutional Abuse Investigation Unit of DYFS

Depending upon the nature of the abuse or neglect, you should make a report to either the **Division of Youth and Family Services (“DYFS”)** or the **Institutional Abuse Investigation Unit (“IAIU”)** of DYFS.

1. If you suspect abuse or neglect has taken place in the **home** or **community** by a parent, guardian, or any other person having custody or control of the child, you should make a report to **DYFS** as follows:

In person or by telephone to the local **DYFS** office weekdays between 9 a.m. and 5 p.m. at **201.342.4397** or the **Hotline** at **1.877.652.2873**, 24 hours a day, 7 days a week.

2. If you suspect child abuse or neglect has taken place in a **school** or other **institutional setting** by school personnel, compensated or uncompensated (volunteer), you should make the report as follows:

In person or by telephone to the local **IAIU** office weekdays between 9 a.m. and 5 p.m. at **973.977.4060** or the **Hotline** at **1.877.652.2873**, 24 hours a day, 7 days a week.

F. Information to be Reported

1. The name of the child;
2. The age and grade of the child;
3. The name and address of the child's parents or guardian or other person having custody and control;
4. The nature and possible extent of the child's injuries, abuse, or maltreatment; and
5. A description of the child's condition, including any available information concerning current or previous injuries, abuse, or maltreatment and including any evidence of previous injuries;
6. Any other pertinent information that you believe may be relevant with respect to the child abuse and/or to the identity of the alleged perpetrator.

G. Report to Law Enforcement

The school district, not the individual staff member, has the responsibility to report suspected abuse to local law enforcement.

H. DYFS Investigation

1. DYFS investigators must be permitted to interview children in the presence of a school principal or designee unless the student requests another employee. The school employee is not to participate in the investigation.
2. DYFS investigators must be given access to school personnel and student records of the child under investigation deemed relevant to the assessment or treatment of child abuse.
3. DYFS may remove students from school with appropriate authorization to be presented to the principal or designee.

4. Records of DYFS investigations must remain confidential and may only be disclosed as permitted by DYFS investigations. Records may be accessible to only the Superintendent or designee.

I. **Immunity/Retaliation**

Anyone who makes a report of suspected child abuse **in good faith** is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. (N.J.S.A. 18A:6-7a).

II. MEMORANDUM OF AGREEMENT WITH LOCAL LAW ENFORCEMENT

- All public schools in the State required to comply
- Requires multiple reports to multiple entities and individuals

A. CONTROLLED SUBSTANCES

A controlled substance means a drug, substance or immediate precursor and controlled substance analogs, anabolic steroids, Jimson Weed (stramonium preparation), gamma hydroxybutyrate, Roofies (Rohypnol and flunitrazepam).

A school official **will promptly notify** the police department and/or prosecutor when a school employee has **reason to believe** a student or employee has violated the Comprehensive Drug Reform Act ("Act") (possessed or in any way been involved in the distribution of a CDS, including steroids, or drug paraphernalia, on or within 1000 feet of the outermost boundary of the school property).

School officials are **not required** to refer the matter to law enforcement when a student voluntarily seeks treatment for a substance abuse problem, ***provided*** that the student was not involved in drug distribution ***and*** agrees to participate in counseling/treatment program. Admission by a student of a violation of the Act does not constitute a ***voluntary request for counseling/treatment***.

School officials ***may disclose*** information regarding substance abuse to DYFS or to a law enforcement agency if it would cause a person to reasonably suspect that the pupil or another child may be abused or neglected.

A school official **will immediately advise** the local law enforcement agency having patrol jurisdiction **and will secure the substance or item pending the response by law enforcement agency** when a school employee ***seizes or comes upon*** any substance believed to be a controlled dangerous substance or drug paraphernalia.

School employees having custody of the substance or item **will take reasonable precautions** to prevent its theft, destruction or use by anyone and will not destroy or otherwise dispose of such substance or item.

B. FIREARM INCIDENTS & DANGEROUS WEAPONS

A firearm includes handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, BB and air guns, regardless of whether they are loaded or operable.

A dangerous weapon includes any device readily capable of lethal use or of inflicting serious bodily injury, including gravity knives, switchblades, daggers, dirks, stilettos, other dangerous knives, blackjacks, bludgeons, metal knuckles, cesti or other leather bands studded with metal filings or razor blades embedded in wood and any other weapon or device which projects, releases or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury.

A school official **will immediately notify** the designated law enforcement official when a school employee, in the course of employment, has *reason to believe*:

- a. that a firearm has *unlawfully* been **brought onto school property**, or
- b. that **any student or other person is in unlawful possession of a firearm on or off school property**, or
- c. that **any student or other person has committed an offense with or while in possession of a firearm, whether or not such offense was committed on school property or during operating school hours**.

1. Seizing Firearms or Dangerous Weapons

- a. **In case of a Dangerous Weapon Other than a Firearm:**

A School official **should immediately advise** the designated law enforcement official **and secure the weapon.**

A school official **will notify** the law enforcement official of the seizure of any switchblade, gravity or ballistic knife, stun gun, metal knuckles or any destructive device, utility or box cutter knife *where the unlawful use of such knives as weapons is a serious problem in the*

school and where the student has no explainable lawful purpose of possessing such an instrument.

A school employee with custody of a weapon will take reasonable precautions to prevent theft, destruction and unlawful use.

b. In case of a Firearm or Non-firearm Weapon that was Used or Threatened to be Used in Committing an Offense:

A school official shall immediately advise the designated law enforcement official **and secure the firearm** pending response by law enforcement.

A school employee with custody of a weapon will take reasonable precautions to prevent theft, destruction and unlawful use.

C. INCIDENTS OF PLANNED OR THREATENED VIOLENCE

A school official will immediately notify the law enforcement agency when a school employee, in the course of employment, develops *reason to believe* that a student **has threatened**, is **planning**, or otherwise **intends** to cause:

1. death,
2. serious bodily injury, or
3. significant bodily injury

to another person under circumstances in which a reasonable person would believe that the student genuinely intends at some time in the future to commit the violent act or to carry out the threat.

Reporting is REQUIRED regardless of whether:

1. The threatened or planned act of violence is imminent;
2. The intended victim is aware of the threat;
3. The intended victim is a student or member of the school community; or
4. The violent act is not intended to be committed on school property or during regular school hours.

D. SEXUAL OFFENSES

A school official **will immediately notify** the law enforcement official when a school employee, in the course of employment, develops *reason to believe* that a **crime involving sexual penetration or criminal sexual contact has been committed on school property, or by or against a student during operating hours or during school-related functions or activities.**

“Sexual contact” is an intentional touching by the victim or actor, either directly or through clothing, of the victim’s or actor’s intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. N.J.S.A. 2C:14-1. “Sexual Contact” also occurs when the actor touches himself in view of the victim whom the actor knows to be present, even where there is no physical contact between the actor and the victim.

“Sexual assault” occurs when one commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim. N.J.S.A. 2C:14-2(b).

“Sexual Penetration” is vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons. N.J.S.A. 2C:14-1. “Sexual penetration” includes the insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor’s instruction. The depth of insertion is not relevant. Physical contact between the actor and the victim’s intimate part may constitute “sexual penetration” even without penile or bodily penetration.

1. Where the **victim is less than 13 years old**, the actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration. N.J.S.A. 2C:14-2(a)(1).
2. Where the **victim is at least 13 but less than 16 years old**, aggravated sexual assault occurs when there is a sexual penetration and the actor:
 - a. is related to the victim by blood or affinity to the third degree, or
 - b. has supervisory or disciplinary power over the victim by virtue of the actor’s legal, professional or occupational status, or
 - c. is a resource family parent, a guardian, or stands *in loco parentis* within the household (N.J.S.A. 2C:14-2(a))

3. Where the victim is at least 16 but less than 18 years old, a sexual assault occurs when there is sexual penetration and the actor:
 - a. is related to the victim by blood or affinity to the third degree, or
 - b. has supervisory or disciplinary power of any nature or in any capacity over the victim, or
 - c. is a resource family parent, a guardian, or stands *in loco parentis* within the victim's household
(N.J.S.A. 2C:14-3 and 2c(1) – (4))

Where the victim of any school age is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated, the actor is guilty of aggravated sexual assault if he commits an act of sexual penetration. (N.J.S.A. 2C:14-2(a)(7))

E. REPORTING REQUIREMENTS INVOLVING OTHER OFFENSES

A school official should notify the designated law enforcement official when a school employee develops *reason to believe* that a **criminal offense has been committed**:

1. on or against school property,
2. during operating hours or
3. during school-related functions or activities.

In deciding whether to refer the matter to the law enforcement agency, the following should be considered:

1. Nature and seriousness of offense
2. Risk that the offense posed to health or safety of other students, school employees or general public

F. HATE CRIMES AND BIAS-RELATED ACTS

1. Hate Crimes

Any criminal offense where the person or persons committing the offense acted with a purpose to intimidate an individual or group of individuals because of race, color, gender, disability, religion, sexual orientation or ethnicity.

A school employee **shall immediately notify** the building principal and superintendent when, in the course of employment, he develops *reason to believe* that:

- a. A hate crime has been committed or is about to be committed on school property, or
- b. A hate crime has been or is about to be committed by any student, whether on or off school property, and whether or not such offense was or is to be committed during school hours, or
- c. A student enrolled in the school has been or is about to become the victim of a hate crime, whether on or off school property, or whether or not such offense was or is to be committed during operating school hours.

The building principal or superintendent **shall promptly notify** the local police department and the bias investigation officer of the county prosecutor's office

The building principal or superintendent **will immediately notify** the local police department or bias officer where there is *reason to believe* that:

- a. a hate crime that involves an act of violence has been or is about to be physically committed against a student, or
- b. reason to believe that a life has been or will be threatened.

2. **Bias-Related Act**

An act that is directed at a person, group of persons, private property or public property that is **motivated** in whole or in part by **racial, gender, disability, religious, sexual orientation, or ethnic prejudice.**

A school employee **should immediately notify** the building principal and superintendent when in the course of employment, he develops *reason to believe* that:

- a. a bias related act **has been committed**, or
- b. is **about to be committed** on school property, or
- c. **has been or is about to be committed** by any student, whether on or off school property, regardless whether

such offense was or is to be committed during operating school hours.

The building principal or superintendent **should promptly notify** the local police department.

In determining whether to refer the matter to the police department or county prosecutor's office, the following should be considered:

- a. Nature and seriousness of the conduct
- b. Risk to health, safety or well-being of student, employees or general public
- c. The fact that police department or prosecutor may have access to other information relative to the bias-related act
- d. The possibility that the act could escalate within or outside of school property.