

**SUSPECTED CHILD ABUSE AND MALTREATMENT****J. Definitions****A. Child Abuse**

Section 412 of Title 6 of the Social Services Law defines an abused child as a child under 18 years of age who is defined as an abused child by the Family Court Act. Section 1012 of the Family Court Act defines an abused child as a child less than eighteen years of age whose parents or other person legally responsible for care:

1. inflicts or allow to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss of or impairment of the function of any bodily organ, or
2. creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
3. commits, or allows to be committed, a sex offense against such child, as defined in the penal law, provided, however, that the corroboration requirements contained therein shall not apply to proceedings under this article.

**B. Maltreatment**

Section 412 of Title 6 of the Social Services Law defines a maltreated child as a child under 18 years of age defined as a neglected child by the Family Court Act or one who has had serious physical injury inflicted upon him/her by other than accidental means. Section 1012 of the Family Court Act defines a neglected child as a child less than 18 years of age

1. whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the parent or other person legally responsible for care to exercise a minimum degree of care
  - a. in supplying the child with adequate food, clothing, shelter or education in accordance with provisions of part one of article sixty-five of the education law, or medical, dental, optometrical, or surgical care though financially able to do so or offered financial or other reasonable means to do so.
  - b. in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excess corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that the child loses self-control of her/his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or

2. who has been abandoned by the parents or other person legally responsible for his/her care.
  - a. "Person legally responsible: includes the child's custodian, guardian, or any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child."
  - b. "Impairment of emotional health" and "impairment of mental or emotional condition: includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to such factors as a failure to thrive, control of aggression or self-destructive impulses, ability to think and reason, or acting out behavior, including incorrigibility, ungovernability or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child.

II. Procedures

A. Responsibilities:

Title 6 of the Social Services Law requires all school personnel to report suspected cases of child abuse and maltreatment as defined in Section I. Specific responsibilities for North Colonie Schools personnel are as follows:

1. Staff  
All staff shall report suspected cases of abuse and maltreatment to the designated administrator (hall Principal in secondary schools, Building Principal in elementary schools). The school nurse teacher or school nurse will be advised of all reported cases.
2. Administrators  
The hall Principal in the secondary schools and the Building Principal in the elementary schools will have the responsibility for insuring that specific procedures are implemented in respect to reporting, documenting, disseminating of information and follow-up for all cases of suspected child abuse and maltreatment.
3. The Director of Pupil Services shall be notified of all reported cases of child abuse.
4. The Chairperson of the Committee on Special Education shall be notified if the reported case involves a child receiving special services.

B. Dissemination of Information

In each school a central file shall be maintained by the Building Administrator or designee. Contained in this file shall be:

1. the memo "Child Abuse and Maltreatment: Suggestions for School Personnel"; and
2. Social Services Forms 2221A, "Report of Suspected Child Abuse or Maltreatment."

During September of each school year the Building or hall Principal shall insure that the faculty is made aware of the existence of this file and the definition, responsibilities, and procedures related to child abuse and maltreatment.

C. Reporting

The State Central Registry has provided the following guidelines designed to improve reporting by mandated school staff:

1. Upon receipt and review of information concerning a case of suspected abuse and maltreatment, the designated Building Administrator shall contact the Director of Pupil Services prior to or after reporting orally all required information to the New York State Child Abuse and Maltreatment Registry, phone number 1-800-635-1522. At the time of the oral report the following information, if known, should be given:
  - a. The names and ages of all children in the family; parents or legally responsible guardian.
  - b. The name of the person suspected of causing the injury, abuse, or maltreatment; also source of the report.
  - c. Any information about the child's history, such as previous abuse and neglect reports; also child's age, sex, and race.
  - d. The exact number of days missed from school when reporting educational neglect.
  - e. The actions taken by school personnel prior to calling the Registry and the parent's response to such action should be described. This type of information is particularly important when reporting educational neglect because child protective services must establish "reasonable cause to suspect" and if the parent is not aware of the child's behavior they cannot be held culpable.
  - f. Observations of the effects of the child's home situation. For example, if their academic performance has decreased, vital in situations where the parent is drug/alcohol dependent or mentally ill; and

It is important to note that school officials have the right to request the findings of the investigation when making a report.

The State Central Registry emphasizes the importance of phoning in reports as early in the workday as feasible, since it usually takes one to two hours to mobilize an investigation. Also, school officials are mandated reporters and,

therefore, may not ask to remain anonymous. Anonymity is viewed by the Registry as an impediment to the investigation process. The good faith of any person required to report cases of suspected abuse or maltreatment is presumed. Mandated reporters are immune from any liability.

2. By the end of the next school day following the initial oral report, the Principal or hall Principal shall send DSS 2221A, "Report of Suspected Child Abuse and Maltreatment" to the Albany County Department of Social Services, Child Protective Services, 40 Howard Street, Albany, NY 12207.
3. A copy of the "Report of Suspected Child Abuse and Maltreatment" (DSS 2221A), if founded, shall be maintained in the child's health record.

D. Documentation

1. The elementary Building or secondary hall Principal shall effect the documentation of child abuse. Documentation should include a description of the injury. Color photographs and examination by the school nurse-teacher or physician may also be utilized.
2. Protective Service Staff members may, with consent of the Building Administrator, interview students in school during the school day. Such interviews shall be conducted in the presence of a School Principal or designee.
3. In those cases when the Child Protective Service determines that the child is in imminent danger, they have the authority to take the child into protective custody without the consent of the child's parent or guardian.
4. Other persons having authority and responsibility to take a child into protective custody are: peace officers, police officers, law enforcement officials and agents of the Society for the Prevention of Cruelty to Children, persons in charge of a hospital. Only a Building Administrator has the authority to release a child to one of these officers.

E. Legal-Implications For Mandated Reporters

1. Immunity:  
Mandated reporters (school personnel) who, in good faith, make a report or take photographs of injury and bruises are immune from any liability, either civil or criminal that might otherwise result from such action. The good faith of any person required to report cases of suspected abuse or maltreatment is presumed.
2. Liability:  
Any person required to report who willfully fails to do so is guilty of a Class A misdemeanor; and, civilly liable for the proximate damages caused by the failures to report. Any certified or licensed personnel is required to report. It is the responsibility of the "head of the school" to either make a direct report or see that a report is made whether or not he or she agrees that the facts indicate possible abuse of maltreatment.

F. Follow-up

1. The administrator shall request from the Social Services Department a summary report of the investigation carried out as a result of the report. (A special request is necessary since summary reports are not routinely made.)
  - a. Should the investigation prove the suspicion to be unfounded, the Administrator is responsible for insuring that all school records are immediately expunged of any reference to the matter. The school nurse should also be informed.
  - b. Should the investigation determine the case to have basis, the summary report shall be filed in the cumulative health record. The Administrator or his/her designee shall expedite the efforts of the Social Services Department in ameliorating the situation and serve as liaison concerning the specific case.

**Cross-ref:** 5314, Corporal Punishment Complaints  
5430, Student Psychological Services  
5500, Student Records  
9135, Suspected Child Abuse by District Personnel

**Ref:** Child Protective Services Act of 1973, Social Services Law §§411 et seq.

Family Court Act §1012  
Family Educational Rights and Privacy Act,  
20 U.S.C. §1232g, 45 CFR §99.36  
Education Law §3209-a  
Report of Suspected Child Abuse or Maltreatment - Form DSS 2221A, State of N.Y., Dept. of Social Services, 10/74  
Soucy, Leo A., Child Abuse and Maltreatment, Suggestions for School Personnel (Revised 12/77).

**Note:** Prior regulation, Child Abuse and Maltreatment, 5146(a)-(e)

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