

# POLICY

No. 5025

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## CHILD ABUSE, NEGLECT AND MALTREATMENT

The Albany-Schoharie-Schenectady-Saratoga Board of Cooperative Educational Services recognizes its responsibilities to comply with the New York State Child Protective Services Act of 1973 (Title VI Social Services Law) mandating that school officials who suspect that a child coming before them, in their professional or official capacity, is abused or neglected, must report to the New York State Central Register for Child Abuse and Maltreatment and cooperate in the investigatory process.

Sections 419 and 420 of the Social Services Law make the following provisions:

1. Any person, official or institution participating in good faith in the making of a report, the taking of photographs or the removal or keeping of a child pursuant to this title shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse or maltreatment shall be presumed.
2. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a Class A Misdemeanor.

Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

### What is Reportable - Definitions

The following definitions are taken from the Child Protective Services Act and the Family Court Act. They determine the conditions which constitute reportable circumstances and provide the framework for assessing whether a child is abused or neglected. Section 1012 of the Family Court Act defines an abused child as follows:

**Adopted:** November 20, 1978  
**Ratified:** December 11, 1978  
**Amended:** December 15, 1986  
**Amended:** March 17, 2008

“Abused child” means a child less than 18 years of age whose parent or other person legally responsible for his care

1. inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates substantial risk of 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
2. creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious 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 the article.

Section 102 of the Family Court Act defines a neglected child as follows:

“Neglected child” means 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 his parent or other person legally responsible for his 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 offering financial or other reasonable means to do so; or
  - b. in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that child’s physical, mental or emotional condition has been impaired as set forth in paragraph (1) of this subdivision; or
2. who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of Section 384-b of the Social Services Law, by his parents or other person legally responsible for his care.

### Reporting Procedures

In accordance with Section 413 of the New York State Social Services Law of July 3, 2007, a mandated reporter is anyone who works for a school, child care provider, foster care facility, hospital, medical institution or mental health facility and has direct contact with children in this capacity. Any mandated reporter who has direct knowledge of any allegation(s) of suspected child abuse or maltreatment, must personally make a report to the State Central Register (SCR) and then notify the person in charge of the institution/school or his/her designated agent that a report has been made. The person in charge, or the designated agent of such person, is then responsible for all subsequent internal administration necessitated by the report. This may include providing follow-up information (e.g. relevant information contained in the child's educational records) to CPS.

Notification to the person in charge or designated agent of the medical or other public or private institution, school, facility or agency does not absolve the original mandated reporter of his or her responsibility to personally make a report to the SCR.

Further, all initial or subsequent reports made to the SCR shall include the name, title and contact information for every staff person of an institution that is believed to have direct knowledge of the allegations contained in the report. Nothing in Chapter 193, however, is intended to require that more than one report from any such institution, school or agency be made to the SCR.

### Investigative Action

(The Child Protective Service is required to take action on every report of suspected abuse or maltreatment. The Protective Services worker must make a prompt and accurate determination to prevent injury to the child's welfare. Where dangerous or damaging conditions are found, help must also be offered to the parents. Court action will be initiated when it is in the best interest of the child.)

School officials are to cooperate fully with this Child Protective Service agency in connection with its investigations. In accordance with the Family Educational Rights and Privacy Act of 1974, it is permitted to give records "in an emergency, to appropriate persons, where the knowledge is necessary to protect the health and safety of the student or other persons."

In some instances, it may be necessary for caseworkers to interview and obtain affidavits from pupils in school without knowledge or permission of their parents.

This procedure is permissible in the following circumstances:

1. When it is suspected the pupil is being abused and/or neglected;
2. When the pupil's case is under official investigation;

It is recommended that the Supervisor or Principal, or his designee, be present during the interview.

**NOTE: A CHILD MAY BE TAKEN OUT OF A SCHOOL BUILDING ONLY WITH LEGAL AUTHORIZATION**

Follow-up

The Supervisor or Principal shall request from the Social Services Department a summary report of the investigation carried out as a result of the report. (A specific request is necessary since summary reports are not routinely made).

1. Should the investigation prove the suspicion to be unfounded, the Supervisor or Principal is responsible for insuring that all school records are immediately expunged of any reference to the matter
2. Should the investigation determine the case to have basis, the summary report shall be filed in the health record. The Supervisor or Principal or his designee (e.g., School Psychologist) shall expedite the efforts of the Social Services Department in ameliorating the situation and serve as liaison concerning the specific case.