

CHESTER COUNTY INTERMEDIATE UNIT 24

SECTION: OPERATIONS

TITLE: CHILD/STUDENT ABUSE

ADOPTED: January 19, 2011

REVISED: March 20, 2019

<p>1. Authority</p>	<p>The Board requires Intermediate Unit employees, independent contractors and volunteers to comply with identification and reporting requirements for suspected child abuse, as well as the training requirement for recognition and reporting of child abuse in order to comply with the Child Protective Services Law and the School Code. [1][2][3][4]</p>
<p>2. Definitions</p>	<p>Adult - an individual eighteen (18) years of age or older.[5]</p> <p>Bodily injury - impairment of physical condition or substantial pain.[5]</p> <p>Certifications - refers to the child abuse history clearance statement and state and federal criminal history background checks required by the Child Protective Services Law and/or the School Code.[6][7]</p> <p>Child - an individual under eighteen (18) years of age.[5]</p> <p>Child abuse defined. The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:</p> <ul style="list-style-type: none">(1) Causing bodily injury to a child through any recent act or failure to act;(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act;(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act;(4) Causing sexual abuse or exploitation of a child through any act or failure to act;(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act;(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act;(7) Causing serious physical neglect of a child;(8) Engaging in any of the following recent acts:

- (a) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child;
- (b) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement;
- (c) Forcefully shaking a child under one year of age;
- (d) Forcefully slapping or otherwise striking a child under one year of age;
- (e) Interfering with the breathing of a child;
- (f) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement;
- (g) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (i) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed;
 - (ii) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors;
 - (iii) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions);
- (9) Causing the death of the child through any act or failure to act.
- (10) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined in the law.[\[13\]](#)

Acts not constituting "Child Abuse."

(1) *Environmental factors.* No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides.

(2) *Use of force for supervision, control and safety purposes.* The use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions

apply:

(a) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control;

(b) The use of reasonable force is necessary:

(i) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;

(ii) to prevent the child from self-inflicted physical harm;

(iii) for self-defense or the defense of another individual; or

(iv) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

(3) *Participation in events that involve physical contact with child.* An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

(4) *Child-on-child contact.*

(a) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.

(b) Notwithstanding subparagraph (a), the following shall apply:

(i) Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:

(A) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);

(B) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

(C) sexual assault as defined in 18 Pa.C.S. §3124.1 (relating to sexual assault);

(D) aggravated indecent assault as defined in 18 Pa.C.S. §

3125 (relating to aggravated indecent assault);

(E) indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and

(F) indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure);

(ii) No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent;

(iii) A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.

(5) *Defensive force.* Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

Other definitions.

“Administrator.” The person responsible for the administration of the Intermediate Unit. The term includes a person responsible for employment decisions in a school and an independent contractor.

“Bodily injury.” Impairment of physical condition or substantial pain.

“Child.” An individual under 18 years of age.

“Cooperation with an investigation or assessment.” Includes, but is not limited to, a school or school district which permits authorized personnel from the Department of Public Welfare or county agency to interview a student while the student is in attendance at school.

“Direct contact with children.” The care, supervision, guidance or control of children or routine interaction with children.

“Electronic technologies.” The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

“Family members.” Spouses, parents and children or other persons related by consanguinity or affinity.

“Parent.” A biological parent, adoptive parent or legal guardian.

“Perpetrator.” A person who has committed child abuse as defined in this section. The following shall apply:

(1) The term includes only the following:

- (a) A parent of the child;
- (b) A spouse or former spouse of the child's parent;
- (c) A paramour or former paramour of the child's parent;
- (d) A person 14 years of age or older and responsible for the child's welfare, including a school employee or independent contractor;
- (e) An individual 14 years of age or older who resides in the same home as the child;
- (f) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:

- (a) A parent of the child;
- (b) A spouse or former spouse of the child's parent;
- (c) A paramour or former paramour of the child's parent;
- (d) A person 18 years of age or older and responsible for the child's welfare;
- (e) A person 18 years of age or older who resides in the same home as the child.

“Person responsible for the child's welfare.” A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term includes any such person, including a school employee or independent contractor, who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.

“Recent act.” Any act committed within two years of the date of the report to the

Department of Public Welfare or county agency.

“Recent act or failure to act.” Any act or failure to act committed within two years of the date of the report to the Department of Public Welfare or county agency.

“Recklessly.” The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

“School employee.” An individual who is employed by the school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children.

“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.

“Serious mental injury.” A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or

(2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

“Serious physical neglect.” Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

“Sexual abuse or exploitation.” Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(a) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual;

(b) Participating in sexually explicit conversation either in person, by

telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual;

(c) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual;

(d) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This definition does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

(a) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape);

(b) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);

(c) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

(d) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);

(e) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault);

(f) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);

(g) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);

(h) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure);

(i) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest);

(j) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses);

(k) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children);

(l) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor);

(m) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

Student - an individual enrolled in a school under eighteen (18) years of age.[\[5\]](#)

Volunteer - an unpaid adult individual, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service is a person responsible for the child's welfare or has direct contact with children.[\[14\]](#)

(Authority for this section: 23 Pa.C.S. §§ 6303 and 6304).

3. Mandatory Reporting

23 Pa. C.S. §§ 6311 and 6313

Mandatory Reporting.

(1) A school employee, independent contractor, or volunteer including any professional or paraprofessional staff, shall immediately make an oral report of suspected child abuse or cause a report to be made, in accordance with administrative procedures developed by the Executive Director or his or her designee, if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(a) The employee or contractor comes into contact with the child in the course of employment, occupation, and practice of a profession or through a regularly scheduled program, activity, or service;

(b) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with a school or other entity that is directly responsible for the care, supervision, guidance or training of the child;

(c) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse;

(d) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(4) The school employee or independent contractor making the oral report in accordance with subsection (1) shall file a written report, in person or electronically, within 48 hours of making the oral report, in accordance with administrative procedures developed by the Executive Director or his or her designee.

(5) Immediately following or in conjunction with the filing of an oral report, in

accordance with administrative procedures developed by the Executive Director or his or her designee, the reporting employee or independent contractor shall notify the building administrator and, if the building administrator is not an IU employee, the IU supervisor of the program in which the employee or independent contractor works. Upon notification, the IU supervisor shall facilitate the cooperation of the IU with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases) and is strictly prohibited. Nothing in this policy shall limit the authority of the IU to conduct its own investigation of suspected child abuse or neglect as long as such investigation does not obstruct or interfere with the investigation of a child protective services agency or a law enforcement agency.

(6) The administrator to whom a report is made of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report.

4. Delegation of Responsibility

Delegation of Responsibility

24 P.S. § 12-1205.6

The Executive Director or designee shall:

1. Require each candidate for employment to submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law. [6][7][15][16][17]
2. Require each applicant for transfer or reassignment to submit the required certifications unless the applicant is applying for a transfer from one position as a school employee to another position as a school employee of this Intermediate Unit and the applicant's certifications are current. [18][19][20]

School employees and independent contractors shall obtain and submit new certifications every sixty (60) months or as required by law. [19]

Certification requirements for volunteers are addressed separately in Board Policy 916. [21]

The Executive Director or designee shall annually notify staff, independent contractors, and volunteers of their responsibility for reporting child abuse in accordance with Board policy and administrative regulations.

The Executive Director or designee shall ensure that the poster, developed by the PA Department of Education, displaying the statewide toll-free telephone numbers for reporting suspected child abuse, neglect and school safety issues be posted in a high-traffic, public area of each Intermediate Unit building. The designated area shall be readily accessible and widely used by students. [22]

The Executive Director or designee shall annually inform students,

<p>5. Guidelines</p>	<p>parents/guardians, independent contractors, volunteers and staff regarding the contents of this Board policy.</p> <p><u>Aiding and Abetting Sexual Abuse</u></p> <p>School employees, acting in an official capacity for this Intermediate Unit, are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the school employee knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student.[15][16][17][20][23][24][25][26]</p> <p>This prohibition applies only to assistance that extends beyond performance of normal processing of personnel matters including routine transmission of files or other information. This prohibition shall not apply if:[24]</p> <ol style="list-style-type: none"> 1. The relevant information has been properly reported to law enforcement officials and any other authority required by federal, state or local law and the matter has been officially closed or the prosecutor or law enforcement officials notified school officials that there is insufficient information to establish probable cause. 2. The school employee, contractor or agent has been acquitted or otherwise exonerated of the alleged misconduct. 3. The case or investigation remains open and no charges have been filed against, or indictment of, the school employee, contractor or agent within four (4) years of the date on which the information was reported to the law enforcement agency. <p><u>Training</u></p> <p>The Executive Director or his or her designee shall ensure that all new employees and contractors whose duties involve contact with children receive training in child abuse detection and reporting and that such training is repeated at a minimum of three hours every five years as required by law.</p> <p><u>References:</u></p> <p>School Code – 24 P.S. Sec. 111, 1301-A et seq.</p> <p>State Board of Education Regulations – 22 PA Code Sec. 10.1 et seq.</p> <p>Child Abuse Recognition and Reporting Training – 24 P.S. Sec. 1205.6</p> <p>Child Exploitation Awareness Education - 24 P.S. Sec. 1527</p> <p>Educator Discipline Act – 24 P.S. Sec. 2070.1a et seq.</p>
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Endangering Welfare of Children – 18 Pa. C.S.A. Sec. 4304

False Reports of Child Abuse – 18 Pa. C.S.A. Sec. 4906.1

Intimidation, Retaliation or Obstruction in Child Abuse Cases –
18 Pa. C.S.A. Sec. 4958

Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq.

Board Policy – 302, 304, 305, 309, 317, 317.1, 333, 805.1, 818

