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EXPLANATION: REPORTING AND INVESTIGATING CHILD ABUSE/NEGLECT

MSBA has updated this policy to help districts understand the mandated reporting requirements for school personnel and to indicate that student-on-student abuse must be reported.

Under Missouri law, all school personnel—from maintenance workers and bus drivers to the superintendent—are mandated reporters and have a legal duty to report any instances of child abuse or neglect to the Children's Division. Failure to do so is a crime.

The law specifically states that abuse or neglect is a crime if it is inflicted by someone with "care, custody and control" of the child. Usually, this means someone like a parent, guardian, grandparent, etc. The law also defines someone exercising "care, custody and control" as "those exercising supervision over a child for any part of a 24-hour day." Thus, the definition expands to teachers, daycare workers, babysitters, etc.—anyone who has any type of supervision over the child during the day.

Usually, these definitions and parameters are easy to figure out for school districts. The more difficult question arises when a student is suspected of being "abused" by another student. Under the above definition, another student does not exercise "care, custody or control" of the victim. So, as mandated reporters, if district personnel know or suspect that one student has sexually (or otherwise) abused another student, is that technically child abuse that must be reported under Missouri law?

The answer is yes.

Under § 210.115.1, RSMo. (the "mandated reporter" statute), the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control. The term abuse also includes any abuse inflicted by "any other person." Thus, if a student is suspected of abusing another student, even though the alleged perpetrator does not have care, custody or control of the victim, it is still considered child abuse under Missouri law and must be reported.

This means that all district personnel (who are all mandated reporters) must report all suspected incidents of student-on-student abuse as well as any abuse perpetrated by someone with care, custody and control of the child.

MSBA has added relevant definitions to this policy. The new definition of "abuse" includes language requiring school personnel to report suspected instances of student-on-student abuse.

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MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.

	Board Secretary		Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
X	Human Resources	X	Principals		Library/Media Center
X	Health Services	X	Counselor		Special Education
	Transportation		Public Info/Communications		Technology

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REPORTING AND INVESTIGATING CHILD ABUSE/NEGLECT

The Camdenton R-III School District and its employees will take action to protect students and other children from harm including, but not limited to, abuse and neglect, and will respond immediately when discovering evidence of harm to a child. Employees must cooperate fully with investigations of child abuse and neglect. The district prohibits discrimination, negative job action or retaliation against any district employee who, in good faith, reports alleged child abuse or neglect, including alleged misconduct by another district employee.

Employees failing to follow the directives of this policy or state or federal law will be subject to discipline including, but not limited to, termination, and may be subject to criminal prosecution.

Definitions

Abuse – Any physical injury, sexual abuse or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody and control or by any other person, except that discipline including spanking, administered in a reasonable manner, shall not be construed as abuse. Physical injury, sexual abuse and emotional abuse are defined by the Children's Division (CD) of the Department of Social Services in 13 C.S.R. 35-31.010.

Child – Any person under 18 years of age.

Neglect – The failure to provide, by those responsible for the care, custody and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical or any other care necessary for the child's well-being.

Those Responsible for the Care, Custody and Control of the Child – Includes, but is not limited to, any person exercising supervision over a child for any part of a 24-hour day as well as any adult who has access to the child.

Public School District Liaison

The superintendent shall designate a specific person or persons to serve as the public school district liaison(s) and forward that information to the local division office of the ~~Children's Division (CD)~~ of the Department of Social Services **CD**. The liaison(s) shall develop protocols in conjunction with the chief investigator of the local division office to ensure information regarding the status of a child abuse or neglect investigation is shared with appropriate school personnel.

The liaison(s) will also serve on multidisciplinary teams used in providing protective or preventive social services along with law enforcement, the juvenile officer, the juvenile court and other agencies, both public and private.

Training

The superintendent or designee shall implement annual training necessary to assist staff members in identifying possible instances of child abuse and neglect, including annual updates regarding any changes in the law. Such training shall:

1. Provide current and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults.
2. Emphasize how to establish an atmosphere of trust so that students feel that their school has concerned adults with whom they feel comfortable discussing matters related to abuse.
3. Emphasize that all mandatory reporters shall, upon finding reasonable cause, directly and immediately report suspected child abuse or neglect. These reports must be made even if the person suspected of abusing the child is another mandated reporter, such as another school employee.
4. Emphasize that no supervisor or administrator may impede or inhibit any reporting under state law.
5. Emphasize that no person making a report in accordance with law shall be subject to any sanction, including any adverse employment action, for making such a report.

Reporting Child Abuse/Neglect

The Board of Education requires its staff members to comply with the state child abuse and neglect laws and the mandatory reporting of suspected neglect and/or abuse. Any school official or employee acting in his or her official capacity who knows or has reasonable cause to suspect that a child has been subjected to abuse or neglect, or who observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall directly and immediately make a report to the CD, including any report of excessive absences that may indicate educational neglect. No internal investigation shall be initiated until such a report has been made, and even then the investigation may be limited if the report involves sexual misconduct by a school employee. Employees who make such reports to the CD must notify the school administrator or designee that a report has been made. The administrator or designee will notify the superintendent or designee and the district liaison(s) about the report.

The school administrator or designee may also notify law enforcement or the juvenile office when appropriate. If an employee has reason to believe that a victim of such abuse or neglect is a resident of another state or was injured as a result of an act that occurred in another state, then, in addition

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to notifying the Missouri CD pursuant to this policy, he or she may also make a report to the child protection agency with the authority to receive such reports, pursuant to law, in the other state.

~~In accordance with law, if a student reports alleged sexual misconduct on the part of a school district employee to an employee of this district, the employee who receives the report and the superintendent shall immediately report the allegation to the CD as set forth in law. For the purposes of this policy, the term "sexual misconduct" is defined as engaging in any conduct with a student, on or off district property, that constitutes the crime of sexual misconduct; illegal sexual harassment as defined in policy AC, as determined by the district; or child abuse involving sexual behavior, as determined by the CD.~~

The reporting requirements ~~in this section~~ are individual, and no supervisor or administrator may impede or inhibit any reporting under this section. No employee making a report in accordance with law shall be subject to any sanction, including any adverse employment action, for making such a report. Further, the superintendent and other district administrators shall ensure that any employee mandated by law to make a report shall have immediate and unrestricted access to the communication technology necessary to make an immediate report. Employees shall also be temporarily relieved of other work duties for such time as is required to make any mandated report.

Reporting Allegations of Sexual Misconduct by a School Employee

The district takes all allegations of sexual misconduct seriously, regardless of the source. However, an allegation of sexual misconduct by a school employee is particularly serious. In accordance with law, if a student reports alleged sexual misconduct on the part of a school district employee to an employee of this district, the employee who receives the report and the superintendent shall immediately report the allegation to the CD as set forth in law, regardless of whether the employee or superintendent has reasonable cause to suspect abuse. For the purposes of this policy, the term "sexual misconduct" is defined as engaging in any conduct with a student, on or off district property, that constitutes 1) the crime of sexual misconduct; 2) illegal sexual harassment as defined in policy AC, as determined by the district; or 3) child abuse involving sexual behavior, as determined by the CD.

The CD will investigate all allegations of sexual misconduct involving district employees. The district may investigate the allegations for the purpose of making employment decisions.

Investigating Child Abuse/Neglect

In general, the CD investigates reports of child abuse and neglect. However, state statute requires the district to initially investigate allegations of child abuse by district employees in situations other than sexual misconduct to ensure that the allegations are not made for the purpose of harassing district staff.

~~Except in situations involving sexual misconduct, w~~ When the CD receives a child abuse report alleging that an employee of the district has abused a student **in situations other than those involving sexual misconduct**, the report shall be immediately referred to the superintendent (or the president of the School Board in situations concerning the superintendent), who will conduct an initial investigation. If the initial investigation determines that the report relates to a spanking by a certificated district employee or the use of reasonable physical force against a student for the protection of persons or property by any district personnel administered pursuant to district policy, or if it is determined that the sole purpose of the report is to harass a district employee, the report will be investigated as detailed below in accordance with law. All other reports of any nature will be immediately returned to the CD for investigation.

Harassment, Spanking or Protection of Persons or Property by District Staff

If a report to the CD relates to a spanking by a certificated district employee or the use of reasonable physical force against a student for the protection of persons or property by any district personnel administered pursuant to district policy, or if it is determined that the sole purpose of the report is to harass a district employee, the superintendent, Board president or a designee of either will notify law enforcement of the county in which the alleged incident occurred. The district will jointly investigate the matter with the law enforcement officer. The superintendent, Board president and their designees are authorized to contact and utilize the district's attorney to assist in the investigation.

Once the investigation is concluded, the law enforcement officer and the investigating district personnel will issue separate reports of their findings, no later than seven days after the district receives notice of the allegation from the CD. The reports must contain a statement of conclusion as to whether the preponderance of evidence supports a finding that the alleged incident of child abuse is substantiated or unsubstantiated. The Board will consider the separate reports and will issue its findings and conclusions, if any, within seven days after receiving the last of the two reports. The findings and conclusions will be made as required by state law and will be sent to the CD.

Sexual Misconduct Involving an Employee

~~The district takes all allegations of sexual misconduct seriously, regardless of the source. When an allegation is made, district employees will immediately take appropriate action to protect students and other children, which will include reporting to the CD in accordance with Board policy and notifying the superintendent. The superintendent or designee will contact law enforcement and begin an investigation.~~

~~In accordance with law, if a student reports alleged sexual misconduct on the part of a teacher or other employee of a school district to a district employee, the employee who receives the report shall notify the superintendent immediately and report the allegation to the CD. The CD will investigate~~

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~~all allegations of sexual misconduct involving district employees. The district may investigate the allegations for the purpose of making employment decisions.~~

Referral to the Office of Child Advocate for Children's Protection and Services

If the CD determines that a report of child abuse or neglect is unsubstantiated, the district or a district employee may request that the report be referred to the Office of Child Advocate for Children's Protection and Services for additional review.

Information from the Children's Division

In accordance with law, as mandated reporters district employees reporting child abuse and neglect are entitled upon request to information on the general disposition of a report of child abuse or neglect and may receive findings and information concerning the case at the discretion of the CD. The CD will also notify the district when a student is under judicial custody or when a case is active regarding a student.

Any information received from the CD will be kept strictly confidential in accordance with law and will only be shared with district employees who need to know the information to appropriately supervise the student or for intervention and counseling purposes. All written information received by any public school district liaison or the district shall be subject to the provisions of the Family Educational Rights and Privacy Act (FERPA). Information received from the CD will not be included in the student's permanent record.

Immunity

In accordance with law, any person who in good faith reports child abuse or neglect; cooperates with the CD or any law enforcement agency, juvenile office, court, or child-protective service agency of this or any other state in reporting or investigating child abuse or neglect; or participates in any judicial proceeding resulting from the report will be immune from civil or criminal liability.

Any person who is not an employee of the district and who in good faith reports to a district employee a case of alleged child abuse by any district employee will be immune from civil or criminal liability for making such a report or for participating in any judicial proceedings resulting from the report.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 08/08/1994

Revised: 08/11/2003; 09/13/2004; 07/10/2006; 05/09/2011; 06/11/2012; 04/08/2013;
12/09/2013;

Cross Refs: AC, Prohibition against Discrimination, Harassment and Retaliation
GBH, Staff/Student Relations
GBLB, References
GCPD, Suspension of Professional Staff Members
GCPE, Termination of Professional Staff Members
GCPF, Non-Renewal of Professional Staff Members
GDPD, Nonrenewal, Suspension and Termination of Support Staff Members

Legal Refs: §§ 160.261, 162.069, 167.122 - .123, 210.110 - .165, .865, RSMo.
13 C.S.R. 35-31.010
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g

Camdenton R-III School District, Camdenton, Missouri