

Policy JHG: REPORTING AND INVESTIGATING CHILD ABUSE AND NEGLECT

Status: DRAFT

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EXPLANATION

Senate Bill 681 made several changes to the statutes pertaining to school district investigations of child abuse. Now all allegations of child abuse must go through the Children's Division (CD), including allegations of use of corporal punishment. Previously, school districts could investigate corporal punishment complaints.

Previously, districts were required to make an immediate report to the CD if a student reported sexual misconduct by a district employee, even if reasonable cause to suspect abuse did not exist. Now the district will instead apply the same standard to all allegations of abuse and report the student's allegation of sexual misconduct by an employee in the same manner as other allegations of abuse. If there is reasonable cause to suspect child abuse of any kind, the district must immediately report the abuse. In most cases, if a student reports abuse there IS reasonable cause to suspect it, and it must be reported. Remember that the district does not need to be certain that abuse occurred. Child abuse investigations should be conducted by the professionally trained staff at the CD.

The term "sexual misconduct" is still not defined in state statute. MSBA has defined the term in this policy and policy GBLB and has decided to add a reference to the crime of sexual contact with a student under § 566.086, RSMo.

The district and its board members and 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. Board members and employees must cooperate fully with investigations of child abuse and neglect. The district prohibits discrimination, negative job action or retaliation against any person 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. Board members who fail to follow this policy and applicable law may be subject to adverse action by the board and 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 accordance with law, 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.

Mandated Reporter – Employees, officials, school board members and others with care, custody and control of children in the district.

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.

Sexual Misconduct – Engaging in any conduct with a student, on or off district property, that constitutes the crime of sexual misconduct involving a child under § 566.083, RSMo.; sexual contact with a student under § 566.086, RSMo.; illegal sexual harassment as defined in policy AC, as determined by the district; or child abuse involving sexual behavior, as determined by the Children's Division (CD) of the Department of Social Services.

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 and school personnel, contractors and volunteers who establish a relationship with a student through the school or through school-related activities, even if the alleged abuse or neglect occurred outside school hours or off school grounds.

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 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

For Board Members

Board members will participate in training on identifying signs of sexual abuse in children and danger signals of abusive relationships between children and adults as required by law.

For Employees

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.

For Students

In accordance with policy IGAEB, the district will provide trauma-informed, developmentally appropriate training to students in grades 6–12 on identifying and reporting sexual abuse.

Reporting Child Abuse and Neglect

The board of education requires mandated reporters to comply with the state child abuse and neglect laws. Mandated reporters acting in their official capacities who know or have reasonable cause to suspect that a child has been subjected to abuse or neglect or is being subjected to conditions or circumstances that would reasonably result in abuse or neglect must 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 by law if the report involves sexual misconduct by a school employee.

Mandated reporters who make such reports to the CD must notify the school principal or designee that a report has been made. The principal or designee will notify the superintendent or designee and the district liaison(s) about the report. The school principal or designee may also notify law enforcement or the juvenile office when appropriate. Mandated reporters who have reason to believe that a victim of abuse or neglect is a resident of another state or was injured as a result of an act that occurred in another state may make a report to the child protection agency with the authority to receive such reports, pursuant to law, in the other state in addition to notifying the Missouri CD pursuant to this policy.

The reporting requirements are individual, and no supervisor or administrator may impede or inhibit any reporting under this section. Employees who make a report in accordance with law shall not 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 employees mandated by law to make a report 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 the time required to make a 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.

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 and 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.

When the CD receives a child abuse report alleging that an employee of the district has abused a student, the CD will notify 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.

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 be shared only 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.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
§§ 210.110-.165, RSMo.	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§160.261, RSMo.	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§162.069, RSMo.	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§162.203, RSMo.	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§167.122, RSMo	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§167.123, RSMo	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§170.045, RSMo	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
§210.865, RSMo.	State Statute - https://simbli.eboardsolutions.com/SU/slashVClyWU73Tdpv4JZYxrPDw==
13 C.S.R. 35-31.010	State Regulation - https://simbli.eboardsolutions.com/SU/lyc2NIZPsdzEk6V6aJ45g==

Federal References

	Description
20 U.S.C. § 1232g	Family Educational Rights and Privacy Act - https://simbli.eboardsolutions.com/SU/plusSLEkiEKYG9tr1Va3O8c8g==

Cross References

	Description
AC	PROHIBITION AGAINST ILLEGAL DISCRIMINATION, HARASSMENT AND RETALIATION - https://simbli.eboardsolutions.com/SU/zy3f4tp8uiHnFmR1ur2EbA==
ACA	SEXUAL HARASSMENT UNDER TITLE IX - https://simbli.eboardsolutions.com/SU/zslshuo6oy5xZq7gcV0bXTm5g==
BHA	BOARD TRAINING AND DEVELOPMENT - https://simbli.eboardsolutions.com/SU/9BYYOplusKNKvx0uFjQ5ZKLjg==
GBCBB	PROTECTED STAFF COMMUNICATIONS - https://simbli.eboardsolutions.com/SU/f7QbvNslshX68CylusslshR900MfSA==

GBH	STAFF/STUDENT RELATIONS - https://simbli.eboardsolutions.com/SU/A222dMdrwxzxoHRslshBxWZA==
GBLB	REFERENCES - https://simbli.eboardsolutions.com/SU/Dgy1XNuOYuf3ERc5i9HhOQ==
GCPB	RESIGNATION OF PROFESSIONAL STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/9V9w1394islsh867g2JAeuwfa==
GCPD	SUSPENSION OF PROFESSIONAL STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/Q5foRdr2Qqu5plusAH9jAG7gQ==
GCPE	TERMINATION OF PROFESSIONAL STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/eslshkGTyORgswTYt5pFVki5g==
GCPF	RENEWAL OF PROFESSIONAL STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/Lo9DzTEFk1x9Amav6slsh4x3w==
GDPB-2	RESIGNATION OF SUPPORT STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/LBKvZ2rplusHbPJSSlshlvpcpRg==
GDPD	SUSPENSION OF SUPPORT STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/Eoq01kxvQdQIEswHwIK9Cw==
GDPE	NONRENEWAL AND TERMINATION OF SUPPORT STAFF MEMBERS - https://simbli.eboardsolutions.com/SU/pluskEjwsDm5ZWX0Rjdj3JZVQ==
IGAEB	SEXUAL HEALTH INSTRUCTION - https://simbli.eboardsolutions.com/SU/7NKdWLVfnzGVrQgDESsWdA==
IGAEB-AP(1)	SEXUAL HEALTH INSTRUCTION - https://simbli.eboardsolutions.com/SU/0npGW2QpPRplusak9plusXaljzZA==
IGAEB-AP(2)	SEXUAL HEALTH INSTRUCTION - (Notification – High School) - https://simbli.eboardsolutions.com/SU/jfwNnBVaF2CfNtvkd3eCVQ==