

# KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

## Reporting Suspected Child Abuse and Neglect

Series: J28A

Reference: W. Va. Code §49-1-101 et seq., §49-2-101 et seq.

Issued: 01.04.1990

Revised: 04.24.2006; 06.12.2015; 06.26.2020

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Revision Number: 3

### Purpose

This policy is to inform all Kanawha County School employees of their legal obligation as a mandatory reporter in compliance with West Virginia Law.

#### 1. Definitions

1.1 **“Abuse”** means health or welfare is being harmed or threatened by: A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home. Physical injury may include an injury to the child as a result of excessive corporal punishment; Sexual abuse or sexual exploitation; the sale or attempted sale of a child by a parent, guardian, or custodian; Domestic violence; or human trafficking or attempted human trafficking.

1.2 **“Serious physical abuse”** means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

1.3 **“Neglect”** means harm of physical or mental health or threat by a present refusal, failure or inability of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is not due primarily to a lack of financial means on the part of the parent, guardian, or custodian; or being without necessary food, clothing, shelter, medical care, education, or supervision because of the disappearance or absence of the child’s parent or custodian.

1.4 **“Reasonable Cause”** means as state of facts found to exist that would warrant a reasonable prudent person to believe that a person did the act alleged. KCS interprets this to mean that if an employee has minimal information to suspect abuse, there is reasonable cause to report it.

1.5 **“Sexual abuse”** means:

(A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-3, which a parent, guardian or custodian engages in, attempts to engage in, or knowingly procures another person to engage in with a child notwithstanding the fact that for a child who is less than sixteen years of age the child may have willingly participated in that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct or, for a child sixteen years of age or older the child

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may have consented to that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct;

(B) Any conduct where a parent, guardian or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child; or

(C) Sexual abuse in the first degree, sexual abuse in the second degree, or sexual abuse in the third degree.

1.6 “**Sexual assault**” means sexual assault in the first degree,<sup>1</sup> sexual assault in the second degree,<sup>2</sup> or sexual assault in the third degree.

1.7 “**Sexual contact**” means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs, where the victim is not married to the actor and the touching is done for the purpose of gratifying the sexual desire of either party.

1.8 “**Sexual intercourse**” means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

1.9 “**Sexual intrusion**” means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

## 2. Personnel With a Duty to Report and Where

2.1 Any KCS Employee who has reasonable cause to suspect that a child is neglected or abused, including sexual abuse or sexual assault, or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than 24 hours after suspecting this abuse or neglect,

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<sup>1</sup> The person engages in sexual intercourse or sexual intrusion with another person and, in so doing: Inflicts serious bodily injury upon anyone; or employs a deadly weapon in the commission of the act; or the person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

<sup>2</sup> Second degree sexual assault is when a (1) person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or (2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

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report the circumstances to the Department of Health and Human Resources at: Hotline number (7 days a week/ 24 hours a day): 1-800-352-6513. The reporter also needs to fill out the “Kanawha County Schools Child Abuse/Neglect Reporting Form” at the time of making the call in order to document the call. That form shall be given to the school principal.

2.2 In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report to the State Police (304-558-7777) and any law-enforcement agency having jurisdiction to investigate the complaint (304-357-0191).

2.3 Any person required to report under this article must also immediately report the suspect abuse or neglect to the principal, assistant principal, or other person in charge. However, making this notification does not exempt a person from his or her mandate to report suspected abuse or neglect.

### **3. Reporting Sexual Activity in School Facilities**

3.1 Any KCS employee who receives a disclosure from a witness, which a reasonably prudent person would deem credible, or personally observes a non-consensual sexual contact, sexual intercourse, or sexual intrusion of a minor on school property shall immediately, but not more than 24 hour make a report to the State Police or other law-enforcement agency having jurisdiction to investigate the report, and shall also make a report to the principal, assistant principal or similar person in charge. Reporting to a supervisor does not absolve an employee from reporting to the appropriate authorities.

3.2 In the instance where a KCS employee makes a report under Section 3.1 of this policy, the reporter also needs to evaluate whether to file a Title IX Complaint.

3.3 Any KCS employee who observes consensual sexual conduct, or receives a disclosure of consensual sexual conduct on school property which a reasonably prudent person would deem credible, shall make a report immediately, but not more than 24 hours to the principal, assistant principal or similar person in charge, for the purpose of school discipline.

3.4 In the instance where a KCS employee makes a report under Section 3.3 of this policy, the principal, assistant principal or similar person in charge needs

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to evaluate whether to report such conduct to law enforcement, the Department of Health and Human Resources, and the Superintendent.

4. **Failure to Report** – Any person who suspects or knows of child abuse or neglect and fails to report, or prevents another person from reporting, in accordance with this policy, is subject to criminal charges and employee discipline.

5. **Immunity from Liability** – Any KCS employee acting in good faith in making a report under this policy is immune from any civil or criminal liability.

6. **Confidentiality** – Except where disclosure of information is expressly provided for in this regulation, all matters concerning suspected child abuse and neglect shall be confidential.