

Toronto District School Board

Policy P045

Title: **DEALING WITH ABUSE AND NEGLECT OF STUDENTS**

Adopted: October 27, 1999

Revised: **May 14, 2014**

Reviewed:

Authorization: Board

PREAMBLE

Every year, thousands of cases of child abuse and neglect are reported to child welfare authorities in Toronto. Both the Ontario *Child and Family Services Act* and the *Criminal Code* of Canada demonstrate our society's commitment to protecting children from abuse and neglect. Toronto District School Board employees and volunteers have a role and responsibility in the protection of children and students of all ages.

Where a child suffers from abuse or neglect, there may be long-term effects. Increased rates of suicide, addiction, and mental health disorders of all kinds are directly related to child abuse or neglect. Experience has shown that it is not only younger children who are victims of abuse or neglect, but that older students can also be victimized in the home, at school, or in the community.

Early identification of child abuse and neglect can occur through disclosure or as the result of reasonable suspicions on the part of Board employees and volunteers. Reporting disclosures or suspicions may not only prevent future victimization of children, it may also permit both the victim and perpetrator to receive the help they need. Early intervention may ameliorate the long-term effects of abuse or neglect and break the ongoing cycle of further victimization and harm.

1.0 OBJECTIVE

- 1.1 To provide a safe, nurturing, positive, and respectful learning environment focused on preventing abuse and neglect for all students.
- 1.2 To educate students about abuse and neglect.
- 1.3 To train employees about abuse and neglect.
- 1.4 To inform volunteers working with students about their legal duty to report abuse and neglect - suspected, witnessed and/or disclosed.

1.5 To address the emotional and psychological needs of students who have experienced abuse or neglect.

2.0 RESPONSIBILITY

Director of Education & Associate Directors of Education

3.0 DEFINITIONS

Abuse and/or neglect refers to any form of maltreatment contemplated in the *Child and Family Services Act*, and includes but is not limited to physical abuse, sexual abuse, emotional abuse, exposure to family violence, or neglect.

Sexually intrusive behaviour includes behaviour of a sexual nature that may put a child or children at risk of physical or emotional harm but is committed by a student under the age of 12. These include any behaviours for which a person might be charged under the *Criminal Code* if they were 12 years of age or older. Other sexually problematic behaviours include persistent sexually explicit talk or enactments, sex play between children of different ages or developmental levels, and the inability of a child to stop engaging in sexual behaviour.

4.0 POLICY

4.1 The Toronto District School Board will educate all of its students about their right to live without being subjected to abuse or neglect and will take measures to encourage and support the disclosure of abuse and neglect.

4.2 The Toronto District School Board will establish a series of evidence-informed programs in elementary and secondary schools to educate all of its students about abuse and neglect.

4.3 The Toronto District School Board will educate all employees about their duty to maintain safe learning environments that are free of child abuse and neglect.

4.4 The Toronto District School Board will train all employees about the duty to report abuse and neglect including:

- The legal duty to report;
- The special reporting obligations of teachers and other professionals;
- How to recognize the signs of child abuse and neglect;
- When, how, and to whom to report;
- How to manage the impact or effects of making a report.

4.5 The Toronto District School Board will provide information to volunteers about the legal duty to report abuse and neglect.

4.6 No employee or volunteer shall subject a child or student to abuse or neglect.

- 4.7 In the case of students and former students under the age of 18, any sexual relationship on the part of an employee or volunteer, in addition to being a serious breach of Board policy, is also a criminal offence of sexual exploitation or sexual assault.
- 4.8 No employee or volunteer working or volunteering directly with a student of any age shall enter into a sexual relationship with that student while the student is enrolled in school or for a period of one year thereafter regardless of which school the student is enrolled in.

5.0 DETECTING AND REPORTING ABUSE AND NEGLECT

- 5.1 The *Child and Family Services Act*, see Appendix A, requires that every person in Ontario has a duty to report to a children's aid society ("CAS") if they suspect that abuse or neglect has occurred or if a child is at risk of abuse or neglect.
- 5.2 All Toronto District School Board employees and volunteers must remain vigilant about abuse and neglect. An employee or volunteer who receives an abuse/neglect disclosure, or suspects and/or witnesses abuse or neglect, will immediately report to a CAS in accordance with the procedures attached to this policy and in compliance with the *Child and Family Services Act*.
- 5.3 Where abuse or neglect has been reported, the Toronto District School Board will cooperate fully with the investigating agency and the Protocol for Joint Investigations of Child Physical and Sexual Abuse will be followed, where applicable.
- 5.4 The Toronto District School Board will support victims of abuse and neglect in accordance with procedures made under this policy.
- 5.5 The dignity and all legal rights to privacy of those affected by an abuse or neglect disclosure will be respected. Where appropriate, support and as much information as may be legally shared will be provided to the greater school community.

6.0 INSTITUTIONAL ACCOUNTABILITY

- 6.1 The Toronto District School Board will hold all employees accountable for the following:
 - 6.1.1 Behaviour that leads to a CAS finding or criminal conviction for abuse or neglect of any child or student (whether or not the behaviour took place in the workplace).
 - 6.1.2 Behaviour that leads the Toronto District School Board to verify that the employee has abused or neglected any child or student (whether or not that behaviour took place in the workplace).

- 6.1.3 Failure to complete the prescribed Toronto District School Board training on abuse and neglect.
- 6.1.4 Failure to report abuse or neglect in accordance with the Toronto District School Board's procedures and/or the *Child and Family Services Act*.
- 6.1.5 Any other violation of this policy or related procedures.
- 6.2 If a Toronto District School Board employee is found or convicted of abusing a child or youth or if an internal investigation determines, on a balance of probabilities, that the employee abused a student, the employee will be subject to disciplinary action up to and including termination.
- 6.3 Any volunteer found to have abused or neglected a child or youth will no longer be permitted to volunteer.
- 6.4 If the Toronto District School Board becomes aware that a volunteer has failed to make a report of abuse or neglect of a child, Toronto District School Board reserves the right to end the person's volunteer activities in our schools.
- 6.5 A school principal may discipline a student for sexual misconduct, including sexually intrusive behaviour (see Definitions 3.0) in accordance with the *Education Act* and related Toronto District School Board policies and procedures even if the student has not yet reached the age of criminal responsibility under the *Youth Criminal Justice Act*.

7.0 SPECIFIC DIRECTIVES

- 7.1 The Director has authority to issue operational procedures to implement this policy.

8.0 REFERENCE DOCUMENTS

TDSB Operational Procedure PR560, Dealing with the Abuse and Neglect of Students

TDSB Operational Procedure PR 608, Sexual Misconduct of Students
Protocol for Joint Investigations of Child Physical and Sexual Abuse, 2006,
Appendix E of Police School Board Protocol

9.0 APPENDIX

Child and Family Services Act, Section 72

DUTY TO REPORT¹

Duty to report child in need of protection

72. (1) Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion and the information on which it is based to a society:

1. The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3.
5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.
6. The child has suffered emotional harm, demonstrated by serious,
 - i. anxiety,
 - ii. depression,
 - iii. withdrawal,
 - iv. self-destructive or aggressive behaviour, or

¹ *Child and Family Services Act*, R.S.O. 1990 c. C. 11, s. 72

v. delayed development,

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

7. The child has suffered emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.

10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.

12. The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.

13. The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately. 1999, c. 2, s. 22 (1).

Ongoing duty to report

[\(2\)](#) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if he or she has made previous reports with respect to the same child. 1999, c. 2, s. 22 (1).

Person must report directly

[\(3\)](#) A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society and shall not rely on any other person to report on his or her behalf. 1999, c. 2, s. 22 (1).

Offence

[\(4\)](#) A person referred to in subsection (5) is guilty of an offence if,

- (a) he or she contravenes subsection (1) or (2) by not reporting a suspicion; and
- (b) the information on which it was based was obtained in the course of his or her professional or official duties. 1999, c. 2, s. 22 (2).

Same

[\(5\)](#) Subsection (4) applies to every person who performs professional or official duties with respect to children including,

- (a) a health care professional, including a physician, nurse, dentist, pharmacist and psychologist;
- (b) a teacher, person appointed to a position designated by a board of education as requiring an early childhood educator, school principal, social worker, family counsellor, operator or employee of a day nursery and youth and recreation worker;
 - (b.1) a religious official, including a priest, a rabbi and a member of the clergy;
 - (b.2) a mediator and an arbitrator;
- (c) a peace officer and a coroner;
- (d) a solicitor; and
- (e) a service provider and an employee of a service provider. 1999, c. 2, s. 22 (3); 2006, c. 1, s. 2; 2010, c. 10, s. 23.

Same

[\(6\)](#) In clause (5) (b),

“youth and recreation worker” does not include a volunteer. 1999, c. 2, s. 22 (3).

Same

[\(6.1\)](#) A director, officer or employee of a corporation who authorizes, permits or concurs in a contravention of an offence under subsection (4) by an employee of the corporation is guilty of an offence. 1999, c. 2, s. 22 (3).

Same

[\(6.2\)](#) A person convicted of an offence under subsection (4) or (6.1) is liable to a fine of not more than \$1,000. 1999, c. 2, s. 22 (3).

Section overrides privilege

[\(7\)](#) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with this section unless the person acts maliciously or without reasonable grounds for the suspicion. R.S.O. 1990, c. C.11, s. 72 (7); 1999, c. 2, s. 22 (4).

Exception: solicitor client privilege

[\(8\)](#) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client. R.S.O. 1990, c. C.11, s. 72 (8).

Conflict

[\(9\)](#) This section prevails despite anything in the *Personal Health Information Protection Act, 2004*. 2004, c. 3, Sched. A, s. 78 (2).