

**A GUIDE TO IDENTIFYING AND REPORTING
CHILD ABUSE IN THE SCHOOLS**

**RHODE ISLAND DEPARTMENT OF
ELEMENTARY AND SECONDARY EDUCATION**



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I. INTRODUCTION

A. The Reason For This Document

In May, 1981, the Rhode Island General Assembly requested that the Department of Education develop guidelines for local school personnel to use in reporting suspected cases of child abuse and neglect. In response to this request, the Department of Education developed A Guide to Identifying and Reporting Child Abuse in the Schools. This edition of the Guide has been updated and revised to reflect changes in Rhode Island's laws on child abuse and neglect and to reference current DCYF protocols for handling complaints of child abuse that it receives. The Guide has also been revised to provide additional resources to educators, including a sample Child Abuse/Neglect Reporting Protocol for use by districts and schools.

The second purpose of this document is to describe to school personnel their responsibilities under Rhode Island law for reporting suspected child abuse and neglect under §40-11-3 and to detail the resources of the Department for Children, Youth and Families to receive and respond to reports of suspected child abuse and neglect on a twenty-four-hour-a-day-basis. A child is "abused and/or neglected" when the child's physical or mental health or welfare is harmed, or threatened with harm, by his or her parent "or other person responsible for his or her welfare." A "person responsible for the child's welfare" is defined in §40-11-2. This definition includes parents, foster parents, guardians, persons residing in the child's home, employees of residential facilities, and those providing out-of-home care in child day care settings. The definition does not include an employee, agent, contractor, or volunteer of an educational program.

A separate Guidance document, entitled "Guidance on Reporting of Sexual Abuse by Persons Working or Volunteering in Educational Programs" has been developed to assist education personnel in fulfilling their separate and distinct roles as mandatory reporters of suspected cases of child sexual abuse perpetrated by an employee, agent, contractor, or volunteer of an educational program. In 2016 the R.I. General Assembly enacted §40-11-3.3 that created a separate and distinct reporting requirement for any person suspecting that any child has been the victim of sexual abuse perpetrated by an employee, agent, contractor, or volunteer of an educational program. This law was amended in 2018 to require that a separate reporting protocol be followed when the mandatory reporter is an employee, agent, contractor or volunteer of an educational program. The Commissioner's Guidance on Reporting of Sexual Abuse by Persons Working or Volunteering in Educational Programs" describes the protocol to

be followed by school personnel in making mandatory reports of child sexual abuse under §40-11-3.3.

B. The Law On Child Abuse

Rhode Island was one of the first states to recognize the problem of abused children and to enact legislation to combat child abuse and neglect. The present Rhode Island statute requires prompt reporting of any suspicion of child abuse or neglect¹. This law provides certain protections to anyone making a good faith report; however, it also attaches both civil and criminal liability to anyone who fails to report promptly a suspected case².

It is well recognized that schools can play an important role in preventing child abuse. Because of their close contact with children throughout the day, educators have the opportunity to promptly detect when a child is being abused or neglected. Quick detection and prompt action can mean the difference between life and death for an abused child. Prompt reporting by certified staff in accordance with the requirements of state law also fulfills a professional responsibility to report suspicions of child abuse and neglect to DCYF.

C. The Use of Guidelines

The guidelines portion of this document is organized to follow the sequence of detecting and reporting a child abuse situation within a school setting. Because of the variation in size and structure among local school districts, it is not feasible to disseminate a single procedure that can be used in all schools, however a sample child abuse reporting procedure (or “protocol”) has been developed as a starting point and is attached in Appendix V. It is strongly encouraged that each school’s procedure be developed in consultation with the superintendent of your district and with appropriate input from district legal counsel. It should be emphasized that all local procedures must reflect the reporting provisions in the law that have been designed to enhance DCYF’s capability to receive and respond to reports of suspected abuse. Furthermore, the procedure that is adopted and followed cannot relieve a teacher- or other member of the school staff- of reporting responsibility or pass such responsibility to an administrator because this would constitute a violation of the law.

¹Rhode Island General Laws, Section 40-11-3 (1956) as amended.

²Rhode Island General Laws, Section 40-11-4 and 40-11-6.1 (1956) as amended.

D. The Problem In Rhode Island

While educators have always recognized their moral and professional responsibility for dealing with child abuse cases, Rhode Island law requires the prompt reporting of any suspicion of child abuse or neglect. Not only could the failure to quickly report a case of child abuse or neglect threaten the life of an individual child, it could also result in serious criminal and civil liability for an individual school employee, teacher, school administrator, and the school district. The failure of an educator to comply with the legal responsibility to report a suspicion of child abuse or neglect could also have an impact on retention of his/her professional certificate.

E. A Policy On Child Abuse; A Protocol for Reporting

The process of protecting a child's safety in cases of child abuse involves three steps: identification, investigation and intervention. In almost all cases, an educator suspecting child abuse or neglect will not be involved beyond the identification stage. Investigation and intervention will be handled by professionals at the DCYF. Without cooperation in this important first stage, however, DCYF cannot begin to function to protect an individual child. Experience has shown that investigating and reporting suspected child abuse is a difficult and sensitive area for educators. An individual teacher may be hesitant to act in any but the most obvious cases of physical abuse. Many teachers may still be unsure of the indicators of child abuse, or unaware of the full dimensions of the child abuse problem and the danger that chronic abuse or neglect poses to the life or future well-being of a child. Fearing civil liability or personal embarrassment, some teachers may still be reluctant to become involved in reporting anything but the most obvious cases.

To dispel this hesitancy and fear, many school districts have developed a child abuse policy, i.e. a statement that clearly defines the problem of child abuse and emphasizes the necessity of all school personnel to assist in fighting the problem. A well-developed policy and protocol will specify the responsibilities of all personnel in the school for such activities as identification, reporting, multidisciplinary cooperation, public awareness, etc. However, it must be emphasized that all Rhode Island residents are mandated to report their suspicions of abuse and neglect to DCYF. A school protocol that passes reporting responsibility to someone else in the school, for example, the principal or school nurse, does not relieve a teacher of his or her legal responsibility to report.

F. Definitions and Indicators Of Child Abuse

Child abuse refers to any non-accidental injury or any pattern of injury or neglect to a child. Any physical or emotional trauma to a child for which there is no reasonable explanation should arouse a suspicion of abuse.

1. Physical Abuse

A physically abused child is any child under the age of eighteen who has been injured as a result of the actions or lack of action of the parent, sibling, or other person responsible for the child's welfare. Indicators of physical abuse include, but are not limited to, the following:

- a. insufficiently explained bruises, welts, abrasions, burns, fractures, etc.;
- b. reports of injury made by the child; or
- c. behaviors such as fear of returning home, fear of parents, or fear of contact with adults.

2. Mental Injury Or Emotional Maltreatment

Mental injury is emotional or psychological harm inflicted upon the child. It is often attributable to the unwillingness or inability of the parent to exercise a minimum degree of care for the child. Indicators of such maltreatment include, but are not limited to, the following:

- a. substantially diminished psychological or intellectual functioning;
- b. failure-to-thrive syndrome (unexplained lack of progress in intellectual, emotional or physical functioning);
- c. lack of control of aggressive or self-destructive impulses;
- d. habitual absences and/or truancy;
- e. habit disorders such as biting, rocking, hair pulling, etc.

3. Neglect

A neglected child is any child whose physical or mental health or welfare is harmed as a result of the inaction of his/her parent or other person responsible for his/her welfare.

Indicators of neglect include, but are not limited to, the following:

- a. consistent hunger, poor hygiene, inappropriate dress;
- b. consistent lack of supervision;
- c. unattended physical or medical needs;
- d. reports by the child that he has no caretaker or no one at home; or
- e. behavior such as a reluctance to leave school, constant fatigue, and begging or stealing food, etc.

4. Sexual Abuse

A sexually abused child is any child who has been used for the sexual stimulation of any adult, even if that person is a parent or sibling. Sexual abuse may include, but is not limited to, the following:

- a. incest;
- b. fondling of genitals;
- c. exhibitionism by parent(s) and/or older siblings; or
- d. sexual exploitation, such as using the child for pornography or prostitution.

Indicators of sexual abuse include, but are not limited to, the following:

- a. explicit reports or stories by the child of a sexual nature;
- b. torn, stained, or bloody underclothing;
- c. bruises or bleeding in the genital area;
- d. venereal disease or pregnancy; or
- e. pain or itching in the genital area.

G. Signals For The Educator

Certain signals should suggest to a teacher the possibility of child abuse. One or two of these signals does not necessarily indicate abuse. If, however, several of these signals are present, or there is a recurring pattern of these signals, a prudent person should suspect abuse. Such clues occur when a child:

1. is habitually away from school and constantly late;
2. arrives at school very early and leaves very late, or indicates he/she does not wish to be at home;
3. is unusually or chronically compliant, shy, withdrawn, passive or uncommunicative;
4. is nervous, hyperactive, aggressive, disruptive, or destructive;
5. has any unexplained injury (e.g. missing hair, a burn, limp or bruises);
6. has an inordinate number of "explained" injuries over a period of time;
7. complains about frequent physical punishment;
8. goes to the bathroom with frequency or difficulty;
9. is inadequately dressed for the weather conditions;
10. has clothing that is soiled, tattered, or too small;
11. is dirty, has neglected teeth, poor hygiene;

12. is thin, emaciated, and constantly tired, suggesting malnutrition and dehydration;
13. is usually fearful of other children and adults; or
14. has been given inappropriate food, drink, or medication.

Educators should also suspect child abuse if the parents:

1. show little concern for their child's problems;
2. do not respond to school communications, never attend parent's nights, or never inquire about the child's schoolwork or progress;
3. take an unusual amount of time to seek health care for the child or show ignorance of a health condition of the child;
4. do not adequately explain an injury or are unaware of a child's injury;
5. give different or contradicting explanations for the same injury;
6. suggest that the cause of an injury can be attributed to a third party;
7. are reluctant to share information about the child;
8. respond inappropriately to the seriousness of a problem;
9. are abusing alcohol or drugs;
10. have unrealistic expectations for the child;
11. are very strict disciplinarians;
12. were themselves abused, neglected, or deprived as children; or
13. have taken the child to different doctors, clinics, or hospitals for past injuries (often called "doctor shopping" or "hospital shopping", i.e. the attempt to avoid suspicion by medical personnel).

It should be emphasized that one or two of these indicators in isolation may not be cause for a reportable suspicion.

II. GUIDELINES

A. Develop A Policy

A district or school policy regarding child abuse is a statement from the school administration which demonstrates recognition of the problem of child abuse and emphasizes the willingness of school personnel to assist in combating the problem.

A well-developed policy statement will explain to teachers and other personnel in the school district the need for certain activities, such as parent information and public awareness programs, teacher in-service training, etc. A good policy statement will define how the school district's child abuse prevention activities will be evaluated over the school year. Any policy which is adopted should be made available to all school personnel, volunteers, parents, and social service agencies in the community. (See Appendix VI for a sample policy).

B. Know The Law

It is important that all school personnel be made aware of the law concerning child abuse and how it might affect them. Sections of Rhode Island law pertaining to child abuse include: (See Appendix IV for the full text of citations)

Section 40-11-3 Duty to Report

Section 40-11-4 Immunity From Liability

Section 40-11-6.1 Penalty For Failure To Report

Section 40-11-7 Duties of Department – Investigation of Report;
Petition For Removal

Section 40-11-13 Confidentiality Of Reports

C. Understand The Problem

In addition to the child protective services provided by the Department of Children, Youth and Families, DCYF provides a link to other agencies and organizations in the community that provide various services to children through the "family care community partnership," a group of service providers utilized by DCYF. As part of its follow-up on reports of child abuse and neglect, DCYF will identify (and sometimes require the family to utilize) community services and resources needed to support the child and his/her family. Services such as parent education and counseling may be provided by area mental health centers, the visiting

nurses association, and family service agencies. If necessary, DCYF will find temporary placement for the child while these resources and services are being provided to the child's family.

D. Have A Standard Reporting Procedure For All Schools

To prevent duplication of effort, confusion and unnecessary delays in reporting, each school district should encourage the use of a single procedure for reporting child abuse and neglect immediately to the DCYF 1.800. 742.4453 (1.800.RI.CHILD). The particular procedure developed for use should be in compliance with state law. Therefore, it is wise to have the superintendent of schools and the school attorney review the procedure and that it include, but not be limited to, the following elements:

1. A brief statement of the dimension of the child abuse problem statewide and the rationale for involving school personnel in reporting;
2. The title and citation of state law on child abuse as well as any town or city ordinances or policies on the subject;
3. The definition of child abuse, neglect and other reportable conditions;
4. A brief description of the Department for Children, Youth and Families 24-hour Hotline;
5. The information required in a report;
6. The expected conduct of the reporter for cooperation and assistance after the report is made;
7. The methods for safeguarding the well-being of the child during the reporting and investigating procedure;
8. The methods for insuring confidentiality of the reporting and investigative procedure;
9. A brief description of legal liability for failure to report, civil immunities, possible judicial or adjudicative proceedings which may occur after reporting, etc.;
10. The method to be used for disseminating the school system's policy and reporting procedures.

E. When A Member of the School Staff Suspects Child Abuse

1. The Law

- a. Who Reports: The duty to report rests with any person who has reasonable cause to know or suspect that any child has been abused or neglected. In a school setting, this means teachers, aides, volunteers, principals, custodians, school bus drivers, substitute teachers, secretaries, etc. (40-11-3). Reasonable cause may result from any personal observation, admission or response from a child or any communication (even if secondhand or hearsay) which would suggest to a reasonable person that a child has been abused.
- b. When To Report: The report must be made within twenty-four (24) hours after reasonable knowledge or suspicion (40-11-3).
- c. How To Report: Any person shall report within twenty-four hours to the Rhode Island Department for Children, Youth and Families or its agent (40-11-3). Reports are taken at the Child Abuse Hotline, 1-800-742-4453 (1-800-R.I.CHILD) twenty-four (24) hours per day, seven (7) days per week.

2. School Concerns

- a. Use Reasonable Judgment: The reporter should exercise some judgment to evaluate a suspicion and to determine whether the observed injury has a rational explanation for its cause. If there is a reasonable cause to **know or suspect** that the child has been abused or neglected, a report to DCYF must be made. A DCYF child protective investigator may request the school nurse to assist by examining the child, consistent with school protocols on the provision of health services to students.
- b. Talk To The Child: When a teacher recognizes possible abuse, he/she may wish to question the child concerning the suspicious condition. Often, it is difficult for a child to admit being mistreated. Children can be protective of their parents, and a child may be reluctant to admit the cause of an injury caused by a parent or sibling. Even a preliminary inquiry by a teacher should be conducted in a confidential manner and the teacher should merely seek to confirm the suspicion of abuse. Investigation should be left to DCYF, which will follow up on the report.

F. When the Report is Made from the School

1. The Law

- a. Immunity: Any person making a good faith report shall have immunity from any civil or criminal liability (40-11-4).
 - b. Penalty for Failure to Report: Any person who knowingly fails to report or prevents any person from making a reasonable report is subject to a fine of \$500.00 or imprisonment up to one year or both (40-11-6.1). (Appendix IV)
2. School Concerns
- a. Time of Report: If possible, a report should be made in the morning hours. This will allow time for the DCYF child protective investigator to conclude his/her investigation during the school day. (Appendix II).
 - b. Verification: If the child protective investigator determines that the report meets the criteria for Child Protective Services to initiate an investigation (see Criteria attached in Appendix III), he/she will call the building principal to make arrangements for the school visit. The return call will serve as verification that the report has been received, and will notify the building principal of when the child protective investigator will arrive at the school.
Depending on the severity of the abuse or neglect of which DCYF has received notice, the verification could be within minutes or twenty-four (24) hours.
 - c. Contents of Report: All reports made to the Child Abuse Hotline at DCYF should contain the name, age, and grade of the child and his/her present location, the name and telephone number of the person making the report, the school name, address and telephone number, contact information on file at school for the child's family, including the name, address and telephone number of the child's parent(s), the condition of the child and the reason for the suspicion. (See Appendix II "Child Abuse Reporting Form" for a summary of the information DCYF will request of the person making the report).

G. When a Report is Received by DCYF

1. The Law
 - a. Investigation: DCYF's Division of Child Protective Services will investigate each

report that meets its four criteria (see Appendix III) and provide such social services and other services as are necessary to protect the child and preserve the family (40-11-7) (Appendix IV). It should be noted that in addition to requiring reports of abuse and neglect, R.I.G.L. 40-11-3 also imposes a duty to report knowledge or a reasonable suspicion that a child has been the victim of sexual abuse **by another child**. These reports should be reported immediately to DCYF and must be investigated immediately by the Child Protective Services Unit.

- b. Confidentiality: All records concerning reports are confidential. (40-11-13) (Appendix IV).

2. School Concerns

- a. Anonymous Reports: Although anonymous reports will be accepted, such reports may limit the ability of the Child Protective Investigator to complete the investigation and protect the child from further abuse and neglect. All records concerning reports of child abuse and neglect, including reports made to DCYF, are confidential, with certain limited exceptions. DCYF is under a policy mandate not to reveal the identity of any person making a report to the DCYF hotline.
- b. Protection: Every effort should be made to safeguard the child awaiting examination by DCYF. The meeting with the Child Protective Investigator should occur in a secure and confidential environment within the school, with or without school personnel present.
- c. Written Records: No written record of the initial report and/or investigation is required by law to be kept by the school, but district legal counsel may recommend that a child abuse reporting form be maintained to document that a report has been made to the DCYF hotline by a member of the school staff (see Appendix II).

H. When the Report is Investigated at the School

1. The Law

- a. Privileged Communication: Privileged communication between husband and wife

and any professional person and his/her patient/ client (except that between attorney and client) is abrogated in situations involving child abuse. It is not grounds for failure to report (40-11-11) (Appendix IV).

- b. Questioning of the child by DCYF: Pursuant to RIGL 40-11-7 any person required to investigate reports of child abuse and/or neglect may question the child victims of those reports with or without the consent of the parent or other person responsible for the child's welfare.
- c. Examination: Should an initial investigation indicate evidence of physical or sexual abuse, the Child Protective Investigator is required to have the child examined by a physician or a certified registered nurse practitioner. A report of the findings of the physician or nurse practitioner must then be provided to DCYF. (40-11-6) Appendix IV).

2. School Concerns

- a. Identification: Upon arrival at the school, the Child Protective Investigator will report to the building's principal and present proper identification.
- b. Cooperation: All school personnel should make every effort to cooperate with the Child Protective Investigator during the school visit.
- c. Records: The Child Protective Investigator will not ask to remove school records; however, if necessary, records of the child may be reviewed at the school during the visit.
- d. Notice to Parent(s): It is **not** the responsibility of school personnel to notify the parent(s) that a report has been made to the DCYF hotline, and/or that a DCYF Child Protective Investigator has conducted an investigation at the school. The Child Protective Investigator has the responsibility to notify the parent(s) that a child abuse/neglect report has been made and to inform the parent(s) of the status of his or her investigation.

I. If the Child is Removed from the School

1. The Law

- a. Policy: The public policy of the State of Rhode Island is to protect children whose

health and welfare may be affected by abuse and neglect and to provide a temporary or permanent safe environment when necessary. (40-11-1) (Appendix IV)

- b. Child Protection: With reasonable cause, a law enforcement officer or a DCYF Child Protective Investigator may take a child into protective custody without the consent of the parents or others exercising control over the child. (40-11-5) (Appendix IV)

2. School Concerns

- a. Release: Each school should prepare a written release to be signed by the Child Protective Investigator when the child is to be removed from the school by DCYF. (See Appendix I)
- b. Notification: Whenever the child is removed from school custody by DCYF, it is suggested that a parent or guardian immediately be notified by the school.
- c. Confidentiality: Every attempt should be made to restrict information concerning the reasons for and fact of the child's removal from school.

Note: If, after a report is made to the DCYF hotline, a DCYF Child Protective Investigator does not arrive by the end of the school day, and the child is considered to be at risk if he/she returns home, the DCYF supervisor at 1-800-RI-CHILD should be called immediately so that the principal can follow DCYF's instructions to ensure that the child will be protected.

J. When the Investigation is Completed at the School

1. The Law

- a. Confidentiality of Reports: All records concerning reports of child abuse and neglect must be kept confidential. The law provides fines of not more than \$200 or imprisonment for not more than 6 months, or both, for violations of confidentiality. (40-11-13) (Appendix IV)
- b. Immunity from Liability: Any person participating in good faith in making a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. (40-11-4) (Appendix IV).

2. School Concerns:

- a. Return: If the investigation reveals that no child abuse has occurred, the child should immediately be returned to the normal classroom situation. Every effort should be made to minimize any disruption to the child and confidentiality should be strictly observed.
- b. Records: It is recommended that any written record concerning the DCYF report and/or investigation be held on file only as long as district legal counsel recommends.
- c. Follow up with Reporter: Although neither the reporter nor other members of the school staff is informed of the outcome of the investigation of the report of child abuse or neglect (since all records are confidential under the law) any necessary follow up at the school level will be communicated to school officials by staff of DCYF.

NOTE

This document was prepared with the cooperation of the Division of Child Protective Services of the Department for Children, Youth and Families (DCYF). The information contained in this document is not intended to provide school districts, or school personnel, with legal advice and employees of school districts are encouraged to consult with the district's legal counsel to obtain such advice.

Questions with respect to the responsibility to report or the protocol for reporting should be referred to Stephanie Terry (401-528-3465), Assistant Director - Child Protective Services Unit.

III. APPENDICES

**APPENDIX I
RELEASE FORM**

IN ACCORDANCE WITH THE GENERAL LAWS OF RHODE ISLAND
SECTION 40-11-1 and 40-11-5,

Name of Child

IS HEREBY RELEASED TO THE CUSTODY OF THE DEPARTMENT FOR CHILDREN, YOUTH
AND FAMILIES.

NAME OF SCHOOL:

PRINCIPAL

*TIME OF RELEASE:

DCYF CHILD

PROTECTIVE

INVESTIGATOR:

DATE:

*At this time the parents have _____ have not _____ been notified.

APPENDIX II
CHILD ABUSE REPORTING FORM

CALL: Department for Children, Youth and Families
Hotline 1.800.742.4453

DATE and TIME of call: _____ at _____ (a.m. - p.m.)

1. Name of Child _____
2. Age of Child _____
3. School of Child _____
4. Grade of Child _____
5. School Address _____
6. School Telephone _____
7. Contact information on file at school for the child's family (include parent's (s') name, address and telephone number) _____
8. Condition of the child _____
9. Reason for the Suspicion _____
10. Present Location of Child _____
11. Name and telephone number of Reporter _____

APPENDIX III
CHILD ABUSE AND/OR NEGLECT CASE

A. FOUR ELEMENTS OF A CHILD PROTECTIVE SERVICES (CPS) CASE

Every call accepted as a Child Protective Services case by the Call Floor Worker **must** contain the four items listed below:

1. A child under 18 years of age living in his/her own home or under 21 years of age if living in DCYF foster/institutional care or under 21 years of age if in DCYF custody, regardless of placement.
2. Harm or substantial risk of harm to the child must be present.
3. A specific incident or pattern of incidents suggesting child abuse and/or neglect must be identified.
4. The alleged perpetrator is a “person responsible for the child’s welfare”. For purposes of mandatory reporting of child abuse or neglect, a “person responsible for child's welfare" means the child's parent; guardian; any individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian and has unsupervised access to a child; foster parent; an employee of a public or private residential home or facility; or any staff person providing out-of-home care (out-of-home care means child day care to include family day care, group day care, and center-based day care).

It is up to the Call Floor Worker to decide that these elements are present. Also, the worker must have “reasonable cause to believe” that abuse/neglect circumstances exists. “Reasonable cause to believe” is defined as: based on what “reasonable” people, in similar circumstances would conclude from such things as the nature of injury(ies) to the child, statement and demeanor of the parents or the child, conditions of the home, etc.

The person taking the report must bear in mind the following:

1. The reporter is referring this situation out of his/her own sense of “reasonable cause to believe.”
2. The above pre-supposes that the reporter has an accurate understanding of what constitutes child abuse and neglect.

3. The age of the child and his/her ability for self-care are to be taken into consideration.

Finally, the decision to accept or reject the oral report for investigation is based on the premise that, if the circumstances are true, they would constitute child abuse or neglect as defined in Rhode Island State Law. An abused and/or neglected child is defined by Rhode Island law as:

.....a child whose physical or mental health is harmed or threatened with harm when his parent or other person responsible for his welfare:

- a. Inflicts, or allows to be inflicted upon the child physical or mental injury, including excessive corporal punishment; or
- b. Creates or allows to be created a substantial risk of physical or mental injury to the child, including excessive corporal punishment; or
- c. Commits, or allows to be committed against the child, an act of sexual abuse; or
- d. Fails to supply the child with adequate food, clothing, shelter, or medical care, though financially able to do so or offered financial or other reasonable means to do so; or
- e. Fails to provide the child with a minimum degree of care or proper supervision or guardianship because of his unwillingness or inability to do so by situations or conditions such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or alcohol to the extent that the parent or other person responsible for the child's welfare loses his or her ability or is unwilling to properly care for the child; or
- f. Abandons or deserts the child
- g. Sexually exploits the child in that the person allows, permits, or encourages the child to engage in prostitution as defined by the provisions in §11-34.1-1 et seq., entitled "Commercial Sexual Activity"; or
- h. Sexually exploits the child in that the person allows, permits, encourages, or engages in the obscene or pornographic photographing, filming, or depiction of the child in a setting that, taken as a whole, suggests to the average person that the child is about

to engage in, or has engaged in, any sexual act, or that depicts any such child under eighteen (18) years of age performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

- i. Commits, or allows to be committed, any sexual offense against the child as such sexual offenses are defined by the provisions of chapter 37 of title 11, entitled "Sexual Assault," as amended; or
- j. Commits, or allows to be committed, against any child an act involving sexual penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator knows, or has reason to know, that the victim is a severely impaired person as defined by the provisions of §11-5-11, or physically helpless as defined by the provisions of § 11-37-1(6).

APPENDIX IV

LAWS

40-11-3. Duty to report -Deprivation of nutrition or medical treatment. – (a) Any person who has reasonable cause to know or suspect that any child has been abused or neglected as defined in §40-11-2, or has been a victim of sexual abuse by another child, shall, within twenty-four (24) hours, transfer that information to the department of children, youth and families, or its agent, who shall cause the report to be investigated immediately. As a result of such reports and referrals, protective social services shall be made available to those children in an effort to safeguard and enhance the welfare of those children and to provide a means to prevent further abuse or neglect. The department shall establish and implement a single, statewide, toll-free telephone to operate twenty-four (24) hours per day, seven (7) days per week for the receipt of reports concerning child abuse and neglect, which reports shall be electronically recorded and placed in the central registry established by §42-72-7. The department shall create a sign, using a format that is clear, simple and understandable to students, that contains the statewide toll-free number for posting in all public and private schools in languages predominately spoken in the state, containing pertinent information relating to reporting the suspicion of child abuse, neglect and sexual abuse. This sign shall be available to the school districts electronically. The electronically recorded records, properly indexed by date and other essential identifying data, shall be maintained for a minimum of three (3) years; provided, however, any person who has been reported for child abuse and/or neglect, and who has been determined not to have neglected and/or abused a child, shall have his or her record expunged as to that incident three (3) years after that determination. The department shall continuously maintain a management-information database that includes all of the information required to implement this section, including the number of cases reported by hospitals, health-care centers, emergency rooms, and other appropriate health-care facilities.

(b) The reporting shall include immediate notification of the department of any instance where parents of an infant have requested deprivation of nutrition that is necessary to sustain life and/or who have requested deprivation of medical or surgical intervention that is necessary to remedy or

ameliorate a life-threatening medical condition, if the nutrition or medical or surgical intervention is generally provided to similar nutritional, medical or surgical conditioned infants, whether disabled or not.

(c) Nothing in this section shall be interpreted to prevent a child's parents and physician from discontinuing the use of life-support systems or no palliative treatment for a child who is terminally ill where, in the opinion of the child's physician exercising competent medical judgment, the child has no reasonable chance of recovery from the terminal illness despite every, appropriate medical treatment to correct the condition.

40-11-4. Immunity from liability – Any person participating in good faith in making a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

40-11-5. Protective custody by physician or law enforcement officer. --

(a) Any physician or duly certified registered nurse practitioner treating a child who has suffered physical injury that appears to have been caused by other than accidental means, or a child suffering from malnutrition or sexual molestation, shall have the right to keep such child in the custody of a hospital or any licensed child care center or facility for no longer than seventy-two (72) hours, with or without the consent of such child's parents or guardian, pending the filing of an ex-parte petition to the family court. The expense for that temporary care shall be paid by the parents or legal guardian of such child or, if they are unable to pay, by the department.

(b) Any police or law enforcement officer may take a child into protective custody without the consent of the parents, or others exercising control over the child.

(c) If the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health, unless he or she is taken into protective custody, the officer shall immediately notify

and place the child with the director of the department of children, youth and families or his or her designated agent who shall care for the child; provided, however, that no child may be detained in protective custody longer than forty-eight (48) hours without the express approval of a justice of the family court.

(d) Any child protective investigator or social caseworker II employed by the department, may take a child into temporary protective custody without the consent of his or her parent or other person responsible for the welfare of the child, if the investigator or social caseworker II has reasonable cause to believe that the child or his or her sibling has been abused and/or neglected and that continued care of the child by his or her parent or other person responsible for the child's welfare will result in imminent further harm to the child. The investigator or social caseworker II shall have the child examined by a licensed physician or duly certified registered nurse practitioner within twenty-four (24) hours in accordance with the provisions of §40-11-6 (c); and provide further, that the child shall not be detained in protective custody longer than forty-eight (48) hours without the expressed approval of a justice of the family court.

40-11-6. Report by physicians of abuse or neglect. --

(a) When any physician or duly certified registered nurse practitioner has cause to suspect that a child brought to him or her or coming to him or her for examination, care, or treatment, is an abused or neglected child as defined in this chapter, or when he or she determines that a child under the age of twelve (12) years is suffering from any sexually transmitted disease, he or she shall report the incident or cause a report thereof to be made to the department as provided in subsection (b).

(b) An immediate oral report shall be made by telephone or otherwise, to both the department and law enforcement agency, and shall be followed by a report, in writing, to the department and law enforcement agency explaining the extent and nature of the abuse or neglect the child is alleged to have suffered.

(c) The department, upon receipt of such a report by a person other than a physician or duly certified registered nurse practitioner alleging that a child has been physically abused, shall investigate the report, and if the investigation reveals evidence of injury or that the child has been the victim of sexual abuse, the department shall have the child examined by a licensed physician or duly certified registered nurse practitioner. Any child protective investigator shall, with or without the consent of the parent or other person responsible for the child's welfare, have

the right to remove the child from the place where the child may be to secure the examination required by this subsection. Upon completion of the examination, it shall be mandatory for the physician or duly certified registered nurse practitioner to make a written report of his or her findings to the department.

(d) The department shall promulgate rules and regulations to implement the provisions of this section.

40-11-6.1 Penalty for failure to report or perform required act. -- Any person, official, physician or institution required by this chapter to report known or suspected child abuse or neglect or to perform any other act who knowingly fails to do so or who knowingly prevents any person acting reasonably from doing so shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than one (1) year or both. In addition, any person, official, physician or institution who knowingly fails to perform any act required by this chapter or who knowingly prevents another person from performing a required act shall be civilly liable for the damages proximately caused by that failure.

40-11-7 Investigation of reports - Petition for removal from custody Report to child advocate – Attorney General – Court-appointed special advocate. -- (a) The department shall investigate reports of child abuse and neglect made under this chapter in accordance with the rules the department has promulgated and in order to determine the circumstances surrounding the alleged abuse or neglect and the cause thereof. The investigation shall include personal contact with the child named in the report and any other children in the same household. Any person required to investigate reports of child abuse and/or neglect may question the subjects of those reports with or without the consent of the parent or other person responsible for the child's welfare. The interviewing of the child or children, if they are of the mental capacity to be interviewed, shall take place in the absence of the person or persons responsible for the alleged neglect or abuse. In the event that any person required to investigate child abuse and/or neglect is denied reasonable access to a child by the parents or other person, and that person required to investigate deems that the best interests of the child so require, they may request the intervention of a local law enforcement agency, or seek an appropriate court order to examine and interview the child. The department shall provide such social services and other services as are necessary to protect the child and preserve the family.

(b) In the event that after investigation it is determined by the department that the child is being or has been abused or neglected but that the circumstances of the child's family or otherwise do not require the removal of the child for his or her protection, the department may allow the child to remain at home and provide the family and the child with access to preventative support and services. In addition, the department is authorized to petition the family court for an order for the provision of treatment of the family and child.

(c) The department shall have the duty to petition the family court for removal of the child from the care and custody of the parents, or any other person having custody or care of the child if there is a determination that a child has been abused or neglected; which results in a child death, serious physical or emotional harm, sexual abuse or exploitation or an act or failure to act which represents an imminent risk of serious harm. In addition, in cases of alleged abuse and/or neglect, the department may petition the family court for the removal of the alleged perpetrator of that abuse, and/or neglect from the household of the child or children when the child or children are eleven (11) years of age or older. It shall be the responsibility of the department to make the parent or other person responsible for the child's welfare aware of the court action, the possible consequences of the court action, and to explain the rights of the parent relative to the court action.

(d) The department shall forward immediately any reports of institutional child abuse and neglect to the child advocate who shall investigate the report in accordance with chapter 73 of title 42, and also to any guardian ad litem and/or attorney of record for the child.

(e) In the event that after investigation the department takes any action regarding placement of the child, the department shall immediately notify the child advocate of such action.

(f) In the event that after investigation the department has reasonable cause to know or suspect that a child has been subjected to criminal abuse or neglect, the department shall forward immediately any information as it relates to that knowledge or suspicion to the law enforcement agency.

40-11-13. Confidentiality of reports and records – Penalty for disclosure. – (a) All records concerning reports of child abuse and neglect, including reports made to the department, shall be confidential except as specifically provided by this chapter or as specifically provided by §42-72-8 or specifically authorized by the family court in furtherance of the purposes directly connected with this chapter.

(b) Any employee or agent of the department violating any of the provisions of this section shall be guilty of a misdemeanor, and shall be fined not more than two hundred dollars (\$200) or shall be imprisoned for not more than six (6) months or both.

(c) Nothing in this chapter shall limit the right of the attorney general to receive all records and reports of child abuse when the office is engaged in the investigation of or prosecution of criminal conduct by another relating to the child or other children within the same family unit.

APPENDIX V
SAMPLE SCHOOL PROTOCOL FOR REPORTING
CHILD ABUSE AND NEGLECT

When any person employed by the _____ School Department and assigned to the _____ School has reasonable cause to know or suspect that any child, whether a student at the school or any other child, has been abused or neglected (as defined below) or has been a victim of sexual abuse by another child, the employee shall, within twenty-four (24) hours, transfer that information to the Department of Children Youth and Families by calling the Child Abuse Hotline at 1-800-RI-CHILD. The call may be made from the telephone in the school office, or the reporter's home or cell phone, as long as every effort is made to ensure confidentiality. Reports are taken at the Child Abuse Hotline twenty-four (24) hours per day, seven (7) days per week.

The employee should be prepared to provide the following information, if it is available, to the person answering the Child Abuse Hotline: name, age, and grade of the child; the school name, address and telephone number; contact information on file at school for the child's family, including the name, address and telephone number of the child's parent(s); the condition of the child; reason for the suspicion; present location of the child; name and telephone number of the person making the report.

At the time of making the report to the DCYF Child Abuse Hotline, or as soon possible thereafter, the reporter should complete the attached "Child Abuse Reporting Form" and immediately forward a copy to the school principal and another copy to the superintendent of schools. The original Child Abuse Reporting Form should be maintained by the reporter as verification that the mandated report to DCYF has been made. The reporter should make himself or herself available as needed to provide any follow up information to the Child Protective Investigator assigned to the case.

Any person making or participating in making a good faith report has immunity from any civil or criminal liability (RIGL §40-11-4).

Any person who knowingly fails to report or prevents any person from making a reasonable report is subject to a fine of \$500.00 or imprisonment up to one year or both (RIGL §40-11-6.1). Such person may also be subject to discipline up to and including termination of employment (Policy _____ of the _____ School Department).

All records concerning reports of child abuse and neglect, including reports made to the DCYF Hotline, are confidential and must not be disclosed, except when otherwise permitted by law. (RIGL §40-11-13).

Records maintained at the school or in the central office that are related to reports of child abuse and neglect should be retained separate from the student's educational records and retained only so long as deemed appropriate by the district's legal counsel.

Rhode Island law defines an "abused and/or neglected child" as a child whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare:

- (i) inflicts or allows to be inflicted upon the child physical or mental injury, including excessive corporal punishment; or
- (ii) creates or allows to be created a substantial risk of physical or mental injury to the child, including excessive corporal punishment; or
- (iii) commits or allows to be committed, against the child, an act of sexual abuse; or
- (iv) fails to supply the child with adequate food, clothing, shelter, or medical care, though financially able to do so or offered financial or other reasonable means to do so; or
- (v) fails to provide the child with a minimum degree of care or proper supervision or guardianship because of his or her unwillingness or inability to do so by situations or
- (vi) conditions such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or alcohol to the extent that the parent or other person responsible for the child's welfare loses his or her ability or is unwilling to properly care for the child; or
- (vii) abandons or deserts the child; or

- (viii) sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions in section 11-34.1-1 et seq., entitled “Commercial Sexual Activity; or
- (ix) sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under eighteen (18) years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or
- (x) commits or allows to be committed any sexual offense against the child as such sexual offenses are defined by the provisions of chapter 37 of title 11, entitled “Sexual Assault”, as amended; or
- (xi) commits or allows to be committed against any child an act involving sexual penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator knows or has reason to know that the victim is a severely impaired person as defined by the provisions of § 11-5-11, or physically helpless as defined by the provisions of § 11-37-6.

“Mental injury” includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior, including incorrigibility, ungovernability, or habitual truancy; provided, however that the injury must be clearly attributable to the unwillingness or inability of the parent or other person responsible for the child’s welfare to exercise a minimum degree of care toward the child.

“Reasonable cause to know or suspect” child abuse or neglect is defined as “facts and circumstances based upon as accurate and reliable information as possible that would justify a reasonable person to suspect that a child is abused or neglected. The facts and circumstances may include evidence of an injury or injuries, and the statements of a person worthy of belief, even if there is no present evidence of injury”.

APPENDIX VI
SAMPLE POLICY ON CHILD ABUSE
AND NEGLECT PREVENTION

The _____ School Department is dedicated to the goal of protecting our students from child abuse and neglect and to responding effectively to incidents of child abuse and neglect. The _____ School Department recognizes that schools can play an important role in preventing child abuse and neglect because of the sustained contact that school personnel have with children on a consistent daily basis and the ability of educators to promptly detect when a child is being abused or neglected. Creating an environment in which student safety, health and welfare are protected not only ensures the wellbeing of our students, but also helps in removing obstacles to their learning and achieving at high levels. Our schools will work cooperatively with all agencies with responsibility for addressing child abuse and neglect, most especially with the Division of Child Protective Services of Rhode Island's Department for Children, Youth and Families.

Rhode Island General Laws §40-11-3 requires that any person who has reasonable cause to know or suspect that any child has been abused or neglected (or who has been a victim of sexual abuse by another child) shall, within twenty-four (24) hours, transfer that information to the department of children, youth and families or its agent who shall cause the report to be investigated immediately. Reports are made by calling the Child Abuse Hotline at 1-800-RI-CHILD.

All employees of the district are mandated reporters and are required to follow the law and the Protocol for Reporting Child Abuse and Neglect established for each school in the district. Mandated reporters include teachers, paraprofessionals, principals, school custodians, bus drivers, secretaries and any other person, including volunteers, in the school setting. As a result of these reports and referrals, protective social services will be made available to those students in an effort to safeguard their welfare and provide a means to prevent further abuse or neglect. School employees who are mandated reporters and who fail to do so will be subject not only to the penalties provided by law, but also to disciplinary action, up to and including dismissal.

All employees of the district will be provided with annual training on the identification and mandated reporting of child abuse and neglect, including a workshop that provides information on the legal and psychological aspects of child sexual and physical abuse, the impact such abuse has on children, and the appropriate response to a child who has made an allegation of abuse.

The Superintendent of Schools or his designee shall have the responsibility to ensure that this policy is implemented throughout the district, that parents are made aware of how the district is addressing the issue of child abuse and neglect, that annual trainings are conducted, that each school has developed a protocol for reporting, that the protocol is being followed, and that appropriate records of reports and follow up are maintained by the district. Building principals shall have the responsibility to disseminate the district policy and school protocol on reporting child abuse and neglect to all school personnel and volunteers at the beginning of each school year and to make sure that the protocol is followed.

The Superintendent shall annually evaluate the effectiveness of the district's child abuse prevention activities and report to the School Committee on any revisions to this policy or to school protocols that might be needed to more effectively address the problem of child abuse and neglect.

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