

## POLICY DEVELOPMENT NEWS

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**PLEASE NOTE:** The contents of MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are intended neither for verbatim replication nor to replace the advice of the local board's legal counsel. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the content's application and suitability to the individual school system. Rarely does one board's policy statement serve exactly to address the concerns and needs of all units. Sample policies are most appropriately used as a basis or beginning for a board's policy development on specific topics.

### A POLICY UPDATE: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT

As superintendents and experienced school board members will recall, in 2015 the Maine Legislature revised the statutes requiring mandatory reporters to report suspected child abuse or neglect to the Maine Department of Human Services (DHHS). The most significant change, at least from the school perspective, was the additional procedural elements in the documentation of reports. MSMA revised its sample policy *JLF, Reporting Child Abuse and Neglect*, accordingly.

In 2016, the Legislature added the requirement for mandated training, to be completed, at least once every four years, by all employees obligated by law to report suspected child abuse and neglect.

Over the past year, DHHS has become increasingly concerned that school units are not meeting all of their reporting requirements, including making reports in a timely manner. There has also reportedly been some concern that schools have felt that they are required to investigate employee reports of suspected child abuse or neglect before making a report, which is not what the law requires, delaying DHHS response. The law only requires a reporter to have reasonable cause to suspect abuse or neglect. When a report is received, it is up to DHHS to investigate and substantiate child abuse and neglect.

A brief refresher on the process:

Maine law states that “mandatory reporters” including school administrators, teachers, ed techs, guidance counselors, social workers, bus drivers and any other school employees identified in the school board’s policy must *immediately report or cause a report* to be made to [DHHS] when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred.” The law directs, “Reports regarding abuse or neglect must be made *immediately* by telephone to [DHHS] and must be followed by a written report within 48 hours if requested by [DHHS].” A report must *also* be made to the local district attorney if the person who is suspected of child abuse or neglect is not responsible for the child.

While a mandated reporter can always make a report directly to DHHS, the law also permits a mandated reporter (the “notifying employee”) to fulfill his/her reporting obligations by immediately notifying the principal or superintendent of his/her suspicions. If so notified, the principal or superintendent must make the report and provide confirmation to the notifying person, in writing, that a report has been made to DHHS [and to the DA, if required], including the name of the person making the report, the date and time of the report, and a summary of the information conveyed.

If the notifying person/employee does not receive confirmation within 24 hours that a report has been made, the notifying person/employee must make the report directly.

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Reporting of suspected child abuse and neglect and the training requirement for mandated reporters is addressed in 22 MRSA §4011-A.

MSMA has again updated its sample policy [\*JLF, Reporting Child Abuse and Neglect\*](#), sample procedure [\*JLF-R, Reporting Child Abuse and Neglect Administrative Procedure\*](#), and exhibit [\*JLF-E, Suspected Child Abuse/Neglect Report Form\*](#). Each can be accessed, in Word format, by clicking on the title of the desired document. The procedure is intended for administrative purposes and does not need Board adoption. The form is intended to assist mandatory reporters in reporting, and administrators in confirming to the “notifying person” that a report has been made. The form does not need Board approval.

We remind boards and superintendents of the importance of ensuring that school unit employees understand their reporting obligations, including the need for immediacy in reporting, and of having a system to ensure that staff complete mandated training and that such training is documented.

Information for mandated reporters, including options for fulfilling the mandated training requirement, is available on the DHHS website at <http://www.maine.gov/dhhs/ocfs/mandated-reporters.shtml>.

One option is the online version of the Mandated Reporter Training designed by the DHHS Office of Child and Family Services. This training is designed to be completed on an individual basis. At the end of the training, there is a link to a quiz designed to check understanding. If the quiz is completed successfully, a certificate of completion will be presented for printing and documentation of training.

The other option is live group training, through programs offered by trainers on the DHHS list. Several trainers are available in every county, and there is no cost involved.

While the law requires mandated reporters to complete mandated training approved by DHHS at least once every four years, Superintendents/designees may also want to consider annually reminding staff of their reporting obligations as part of in-service activities at the beginning of the school year.

\*MSMA SAMPLE POLICY\*

NEPN/NSBA Code: JLF

## **REPORTING CHILD ABUSE AND NEGLECT**

### **I. DEFINITIONS**

- A. Child abuse or neglect. Child abuse or neglect is defined by Maine law as “threat to a child’s health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, or failure to ensure compliance with school attendance requirements under Title 20-A” (specifically when a child who is at least seven years of age and has not completed grade six, has the equivalent of seven full days of unexcused absences or five consecutive school days of unexcused absences during a school year).

- B. Person responsible for the child. A “person responsible for the child” means a person with responsibility for a child’s health or welfare, whether in the child’s home or another home or a facility which, as part of its function, provides for the care of the child. It includes the child’s parent, guardian or other custodian.

## II. EMPLOYEES’ DUTY TO REPORT

- A. Any employee of the school unit who knows or has reason to suspect that a child has been or is likely to be abused or neglected must immediately notify the building principal or designated agent.
  - 1. In addition to notifying the building principal/designated agent , the employee may also make a report directly to the Department of Health and Human Services (DHHS) or the District Attorney (see also Section III.B which provides further information about reporting to DHHS and/or the District Attorney).
- B. If the reporting employee does not receive written confirmation from the building principal/designated agent or Superintendent within 24 hours of his/her report that a report has been made to DHHS and/or District Attorney, the employee shall make an immediate report directly to DHHS and, if the person suspected is not a person responsible for the child, to the District Attorney. In such cases, the employee shall then complete a copy of the Suspected Child Abuse and Neglect Reporting Form (JLF-E).
- C. If the reporting employee does receive written confirmation from the building principal/designated agent or Superintendent within 24 hours of his/her report (i.e., a copy of the Suspected Child Abuse and Neglect Reporting Form (JLF-E)), he/she shall sign the form as acknowledgement that the report was made and return it to the building principal/administrator or Superintendent.

## III. ADMINISTRATOR REPORTING AND CONFIRMATION DUTIES

All building principals and the Superintendent are designated agents to make child abuse and neglect reports. A building principal may also designate a specific agent to receive reports.

**[NOTE: Other administrators may also be designated at the discretion of the Superintendent.]**

- A. If a building principal/designated agent receives the report, he/she shall notify the Superintendent immediately.
- B. The Superintendent or building principal shall immediately make a report by telephone to DHHS, and if requested by DHHS, provide a written report of the suspected abuse or neglect to DHHS within 48 hours. In addition, if the person suspected of abuse or neglect is not the parent, guardian or other custodian of the child, the Superintendent/building principal shall also make a report to the District Attorney.
- C. The law requires the reporting employee to make his/her own report to DHHS and/or the District Attorney if he/she has not received confirmation within 24 hours that such a report has been made by the Superintendent/building principal.
- D. The person making the report to DHHS and/or the District Attorney shall complete the Suspected Child Abuse or Neglect Form (JLF-E).
- E. The Superintendent/building principal shall provide a copy of the Suspected Child Abuse or Neglect Form to the reporting employee within 24 hours of the employee's initial report. The reporting employee shall sign the report and return it to the Superintendent/building principal.
- F. If requested by the relevant agency, the form will be forwarded to DHHS and/or the District Attorney, and shall be retained by the school unit for ten years, as specified in the Maine Archives Rules, along with any other information relevant to the case.

#### IV. INTERNAL INVESTIGATIONS AND DISCIPLINE

- A. Employees. If the person suspected of abuse or neglect is an employee, the Superintendent/designee shall investigate and take appropriate action, in accordance with applicable Board policies, collective bargaining contracts, and federal and state laws.
- B. Students. If the person suspected of abuse or neglect is a student, and the abuse or neglect occurred on school premises, during a school activity, or is otherwise related to the school, the Superintendent/designee shall investigate and take appropriate action, in accordance with applicable Board policies and federal and state laws.

## V. INTERVIEWS OF CHILD AND SCHOOL PERSONNEL

- A. DHHS personnel shall be permitted to meet with and interview the child named in the report when the child is present at school without prior notification to the parent or custodian when DHHS has reasonable grounds to believe that prior notice would increase the threat of serious harm to the child or another person. The Department may conduct one initial interview with a child without prior notification to the parent or custodian of the child when the child contacts DHHS or a person providing services puts the child into contact with DHHS.
- B. Upon request of a DHHS employee to meet with and interview the child named in the report when the child is present at school, the building principal or designee shall:
  - 1. Require the DHHS employee requesting to interview the child to provide written certification that in the Department's judgment, the interview is necessary to carry out its duties;
  - 2. Require the DHHS caseworker to discuss the circumstances of the interview and any relevant information regarding the alleged abuse or neglect with the child's teacher, guidance, school nurse, social worker or building principal as the caseworker deems is necessary to provide needed emotional support to the child prior to and following the interview;
  - 3. Not place conditions on how the interview is conducted, including, but not necessarily limited to requiring that certain persons be present during the interview; prohibiting certain persons from being present during the interview; and requiring notice to or consent from a parent or guardian;
  - 4. Provide an appropriate, quiet and private place for the interview; and
  - 5. Not disclose any information about DHHS's intention to interview the child except to school officials or the school's attorney who need the information to comply with the interview request.

## VI. CONFIDENTIALITY OF INFORMATION AND RECORDS

All records, reports and information concerning alleged cases of child abuse and neglect shall be kept confidential to the extent required by Board policies and applicable law.

The building principal/designee is permitted to release a child's school records without prior consent of the parent/guardian to DHHS or law enforcement officials in response to a lawful subpoena, or as necessary to protect the health or safety of the child or other individuals under federal law.

## VII. TRAINING

Any school unit employee who is required to make a report shall, at least once every four years, complete mandated training approved by DHHS.

**[NOTE: The DHHS training, designed for individual completion, is available online at <http://www.maine.gov/dhhs/ocfs/cps/>, the “Mandated Reporter Resource Page.” The site also has a list of trainers, if group training is preferred.]**

## VIII. GOOD FAITH IMMUNITY FROM LIABILITY

Any person who in good faith reports, assists DHHS in making the child available for an interview, or participates in the investigation or proceedings of a child protection investigation is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false.

Legal Reference: 22 MRSA §4011-A  
20 USC § 1232g, Family Educational Rights and Privacy Act  
20-A M.R.S.A. §§ 5051-A(1)(C); 5051-A(2)(C)

Cross Reference: ACAA – Harassment and Sexual Harassment of Students  
JLF-R – Reporting Child Abuse and Neglect Administrative Procedure  
JLF-E – Suspected Child Abuse and Neglect Report Form  
JRA – Student Records

Adopted: \_\_\_\_\_

**\*MSMA SAMPLE ADMINISTRATIVE PROCEDURE\***

NEPN/NSBA Code: JLF-R

**REPORTING CHILD ABUSE AND NEGLECT-  
ADMINISTRATIVE PROCEDURE**

This procedure implements the Board's policy JLF – Reporting Child Abuse and Neglect. It summarizes the steps to be taken when a school employee suspects that a child has been or is likely to be abused or neglected.

The “notifying person” refers to any employee of the school unit who has the information that gives rise to the reasonable suspicion that a child has been or is likely to be abused or neglected and is required by law or Board policy to report it.

- A. The notifying person should immediately notify the building principal or other designated agent of the suspected abuse or neglect. The person may notify the Department of Health and Human Services (DHHS) directly, and if appropriate, the District Attorney (DA).
- B. The building principal or designated agent should immediately notify the Superintendent. The building principal/designated agent or Superintendent should immediately make a report by telephone to DHHS, and if requested by DHHS, should provide a written report of the suspected abuse or neglect to DHHS within 48 hours. If the person suspected of abuse or neglect is not the parent, guardian or other custodian of the child, the building principal or Superintendent shall also make a report to the DA.
- C. The building principal/designated agent or Superintendent should send a written confirmation containing the name of the person reporting, the date and time of the report and a summary of the information to the notifying person.
- D. The notifying person should acknowledge in writing that he/she has received the confirmation that the report has been made by the principal or designated agent.
- E. The confirmation and acknowledgement should be retained in the school's records.
- F. If the notifying person has not received written confirmation within 24 hours of making his/her report to the principal or designated agent has caused a report to be made to DHHS and, if appropriate, the DA, the notifying person shall immediately make a report to DHHS and, if appropriate, the DA.

Cross Reference: JLF – Reporting Child Abuse and Neglect  
JLF-E – Suspected Child Abuse and Neglect Report Form

Adopted: \_\_\_\_\_



\*MSMA SAMPLE EXHIBIT\*

NEPN/NSBA Code: JLF-E

**SUSPECTED CHILD ABUSE/NEGLECT REPORT FORM**

Any employee of [**School unit name**] who suspects that a child has been or is likely to be abused or neglected (the “notifying person”) must immediately notify the building principal using this form. The purpose of this form is to document your reporting and to facilitate confirmation to you that the building principal or other designated agent has made your report to the Department of Health and Human Services (DHHS) or, as appropriate, to the District Attorney.

If you have not received written confirmation within 24 hours of submitting this form to the building principal, you must make your own report to DHHS or, if appropriate, to the DA.

- 1) Name/title/telephone number and email address of notifying person (person who originally has the information and is required to report it):

\_\_\_\_\_  
\_\_\_\_\_

- 2) Date and time of notifying person’s report: \_\_\_\_\_

- 3) Name/title of school principal /designated agent first report made to:

\_\_\_\_\_

- 4) Did notifying person contact DHS independently: \_\_\_\_\_ Yes \_\_\_\_\_ No

- 5) Name of student who is subject of report: \_\_\_\_\_

Birthdate: \_\_\_\_\_ Sex: \_\_\_\_\_ Grade: \_\_\_\_\_

Known history of abuse/neglect? \_\_\_\_\_

Parent/Guardian Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

Home and work telephone numbers: \_\_\_\_\_

Name(s) of sibling(s): \_\_\_\_\_

NEPN/NSBA Code: JLF-E

- 6) Statements or indicators leading to the suspicion of abuse/neglect (include all known information, including date, time and location, name of alleged abuser, and relationship to student): \_\_\_\_\_

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- 7) List any photographs taken or other materials collected related to the report:

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- 8) Actions taken by school personnel (list date, time and personnel involved):

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NEPN/NSBA Code: JLF-E

### **CONFIRMATION OF REPORT**

(Used for confirming principal or designated agent's report to authorities)

Name of principal or designated agent: \_\_\_\_\_

Agency contacted by telephone: \_\_\_\_\_

Name and title of agency contact: \_\_\_\_\_

Date and time of telephone report: \_\_\_\_\_

Copy of report form sent (include date and addressee): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Principal/Designated Agent Signature

\_\_\_\_\_  
Date and Time

### **EMPLOYEE'S ACKNOWLEDGEMENT OF RECEIPT OF CONFIRMATION**

(To be returned to principal or designated agent)

I have received confirmation that my report has been made to DHHS or the DA by the Principal or other Designated Agent.

\_\_\_\_\_  
Notifying Person/Original Reporter's Signature

\_\_\_\_\_  
Date and Time

(Employee's Signature)