



TITLE: REPORTING OF CHILD ABUSE

1.0 Rationale:

All employees of District School Board Ontario North East share in the vital role of the identification and the prevention of child abuse. Board employees have the moral and legal responsibility to report any and all suspected cases of child abuse.

2.0 Definitions:

The Child and Family Services Act, 1990: SECTION 37 states:

“Interpretation

37. (1) In this Part,

“child” does not include a child as defined in subsection 3 (1) who is actually or apparently sixteen years of age or older, unless the child is the subject of an order under this Part; (“enfant”)

“child protection worker” means a Director, a local director or a person authorized by a Director or local director for the purposes of section 40 (commencing child protection proceedings); (“préposé à la protection de l’enfance”)

“parent”, when used in reference to a child, means each of,

- a) the child’s mother,
- b) an individual described in one of paragraphs 1 to 6 of subsection 8 (1) of the *Children’s Law Reform Act*, unless it is proved on a balance of probabilities that he is not the child’s natural father,
- c) the individual having lawful custody of the child,
- d) an individual who, during the twelve months before intervention under this Part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provided for the child’s support,
- e) an individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child, and

- f) an individual who has acknowledged parentage of the child in writing under section 12 of the *Children's Law Reform Act*,

but does not include a foster parent; ("père ou mère")

"place of safety" means a foster home, a hospital, a person's home that satisfies the requirements of subsection (5) or a place or one of a class of places designated as a place of safety by a Director or local director under section 18, but does not include,

- a) a place of secure custody as defined in Part IV, or
- b) a place of secure temporary detention as defined in Part IV. ("lieu sûr") R.S.O. 1990, c. C.11, s. 37 (1); 2006, c. 19, Sched. D, s. 2 (5); 2006, c. 5, s. 6 (1,2).

Child in need of protection

(2) A child is in need of protection where,

- a) 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;
- b) 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;
- c) 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;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (c) is repealed by the Statutes of Ontario, 2008, chapter 21, section 2 and the following substituted:

- c) the child has been sexually molested or sexually exploited, including by child pornography, 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;

See: 2008, c. 21, ss. 2, 6.

- d) there is a risk that the child is likely to be sexually molested or sexually exploited as described in clause (c);

- e) 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;
- f) the child has suffered emotional harm, demonstrated by serious,
 - (i) anxiety,
 - (ii) depression,
 - (iii) withdrawal,
 - (iv) self-destructive or aggressive behaviour, or
 - (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;

- (f.1) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) 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;
- g) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) 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;
- (g.1) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) 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;
- h) 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 unable to consent to, treatment to remedy or alleviate the condition;
- i) 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;
- j) the child is less than twelve 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;

- k) the child is less than twelve 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; or
- l) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under the Part. R.S.O. 1990, c. C.11, s. 37 (2); 1999, c. 2, s. 9.

Best interests of child

(3) Where a person is directed in this Part to make an order or determination in the best interests of a child, the person shall take into consideration those of the following circumstances of the case that he or she considers relevant:

1. The child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs.
2. The child's physical, mental and emotional level of development.
3. The child's cultural background.
4. The religious faith, if any, in which the child is being raised.
5. The importance for the child's development of a positive relationship with a parent and a secure place as a member of a family.
6. The child's relationships and emotional ties to a parent, sibling, relative, other member of the child's extended family or member of the child's community.
7. The importance of continuity in the child's care and the possible effect on the child of disruption of that continuity.
8. The merits of a plan for the child's care proposed by a society, including a proposal that the child be placed for adoption or adopted, compared with the merits of the child remaining with or returning to a parent.
9. The child's views and wishes, if they can be reasonably ascertained.
10. The effects on the child of delay in the disposition of the case.
11. The risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent.
12. The degree of risk, if any, that justified the finding that the child is in need of protection.
13. Any other relevant circumstances. R.S.O. 1990, c. C.11, s. 37 (3); 2006, c. 5, s. 6 (3).

Where child an Indian or native person

(4) Where a person is directed in this Part to make an order or determination in the best interests of a child and the child is an Indian or native person, the person shall take into consideration the importance, in recognition of the uniqueness of Indian and native culture, heritage and traditions, of preserving the child's cultural identity. R.S.O. 1990, c. C.11, s. 37 (4).

Place of safety

(5) For the purposes of the definition of "place of safety" in subsection (1), a person's home is a place of safety for a child if,

- a) The person is a relative of the child or a member of the child's extended family or community; and
- b) A society or, in the case of a child who is an Indian or native person, and Indian or native child and family service authority designated under section 211 of Part X has conducted an assessment of the person's home in accordance with the prescribed procedures and is satisfied that the person is willing and able to provide a safe home environment for the child. 2006, c. 5, s. 6 (4).

Note: Despite the proclamation of the Statutes of Ontario, 1999, chapter 2, section 9, section 37 of this Act, as it read before March 31, 2000, continues to apply with respect to any proceeding under Part III, including a status review proceeding, that was commenced before March 31, 2000. See: 1999, c.2, ss. 37 (5), 38."

3.0 Policy:

It is the policy of District School Board Ontario North East that suspected cases of child abuse shall be reported to the appropriate local Child and Family Services agency.

PROCEDURES:

(found in: <http://docushare.dsb1.edu.on.ca/docushare/dsweb/View/Collection-4120>;
Forms from Procedures are found in Forms... Policy Manual Forms)

The **Reporting Child Abuse and Assault: Procedures Manual** has been developed for the purpose of ensuring that all partners are aware of the procedures that must be followed in the reporting of suspected abuse which include:

1. Procedures for suspected child abuse by a staff member on a student.
2. Procedures for suspected child abuse - occurring out of school.
3. Procedures for suspected abuse by a student on another student.
4. Procedures for suspicion of abuse where a student assaults a staff member.