

Title: **ABUSE AND NEGLECT - PROCEDURES**

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Related Document: Policy SHSM.001 – Abuse and Neglect

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Reference Documents:

Ontario College of Teachers, Professional Advisory on Sexual Abuse and Professional Misconduct,
<http://www.oct.ca/en/CollegePublications/PDF/advisory100802.pdf>

Child, Youth and Family Services Act

Criminal Code

Youth Criminal Justice Act

GENERAL GUIDELINES

1. Bloorview School Authority employees and volunteers must remain vigilant about neglect and abuse. In the event a Bloorview School Authority employee or volunteer suspects that abuse or neglect has occurred, the employee or volunteers will forthwith report his/her suspicions to the police and/or a children's aid society in accordance with the procedures attached to this policy and in compliance with the Child, Youth and Family Services Act. The legal responsibilities under the Child, Youth and Family Services Act are described in the following sections.
2. All employees are expected to support victims of abuse and neglect in accordance with the procedures attached to this policy.
3. All student disclosures shall be reported to the police and/or children's aid society in accordance with Section 125 of the Child, Youth and Family Services Act.
4. The dignity and all legal rights to privacy of those affected by abuse disclosure will be respected.
5. Where the alleged perpetrator of abuse is an adult, every effort will be made to protect the student in the learning environment from further contact or reprisals by the adult.
6. If a Bloorview School Authority employee is convicted of abusing a student or if an internal investigation determines, on a balance of probabilities, that the employee abused a student, the employee will be dismissed from employment. Any volunteer found to have abused a student will no longer be permitted to volunteer.
7. Where the alleged perpetrator is a student, he/she will be separated from the alleged victim and, where appropriate, an alternative learning environment and support and counselling will be provided.
8. Bloorview School Authority also recognizes that not all perpetrators of abuse are of the age (chronological or developmental) of criminal responsibility and that sexually intrusive behaviours can occur between students of all ages. For the purpose of this policy, sexual intrusion includes behaviour of a sexual nature that may put a child or children at risk of physical or emotional harm. These include any behaviours for which a person over the age of 12 might be charged under the Criminal Code. 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.
9. Bloorview School Authority will offer support both for victims and perpetrators of sexually intrusive behaviour.
10. Where abuse has been reported, Bloorview School Authority will co-operate fully with the investigating agency.
11. Bloorview School Authority is committed to the goal of obtaining appropriate emotional and psychological support for all victims of neglect and abuse and for their families. In addition, where appropriate, support and as much information as may be legally shared will be provided to the greater school community.

ABUSE AND NEGLECT OF CHILDREN UNDER 16 (NOT INVOLVING BLOORVIEW SCHOOL AUTHORITY EMPLOYEES OR VOLUNTEERS)

Disclosure or Suspicion of Abuse/Neglect

12. The *Child, Youth and Family Services Act* requires reasonable suspicions of abuse or neglect to be reported to a Children's Aid Society.
- (a) If you have reasonable grounds to **SUSPECT** that a child is being abused/neglected, or has been abused/neglected, or is at the risk of being abused/neglected, (no matter where the abuse/neglect occurred or will occur), you **MUST REPORT** your suspicions to a Children's Aid Society (see Section 22).

NOTE: "The duty to report applies to any child who is, or appears to be, under the age of 16 years.

On January 1, 2018, Ontario raised the age of protection from 16 to 18. A professional, or member of the public, who is concerned that a 16-or 17- year-old is or may be in need of protection may, but is not required to, make a report to a society and the society is required to assess the reported information. [CYFSA, s 125 (4)]"

- (b) School personnel/volunteers **SHOULD NOT** conduct an investigation regarding the suspicion or disclosure and should only question the student to clarify the nature of the complaint.
- (c) Third party reports such as a disclosure by a victim to a person that is then reported by that person to a Board employee or volunteer **must be reported** to a Children's Aid Society without interviewing the alleged victim.
- (d) Some children will tell you directly that they are being neglected, hurt or abused while others will let you know indirectly by actions, behaviour or through a third party. Some indicators are described in detail on Appendices C, D, E, F and G.
- (e) You may be unsure that you have reasonable grounds to suspect that the behaviour is abusive. In such a case, you should consult with the persons listed in Section 17.

Privacy, Confidentiality, Secrecy

13. You cannot promise the student that you will keep information about abuse/neglect a secret.
14. Respect the student's right to privacy by not identifying the student to other staff or students. Assure the child that you are required to tell only a few people – the Principal or designate, the police and/or Children's Aid Society.
15. The law prevents the public identification of a victim of a sexual offence or a victim of any child abuse/neglect.

16. The law also prohibits revealing the identity of an offender under the age of 18 or an offender of any age where the act of identification may tend to identify the victim(s)

If in Doubt. . . Consult

17. An intake worker for a Children's Aid Society can also be consulted without naming the suspected victim.

What You Need to Do When Reporting Abuse/Neglect

The responsibility to report lies with the person (employee, volunteer, parent who received the disclosure or who suspected abuse/neglect.

18. Inform the Principal or Designate

Immediately report the suspicion or disclosure to the appropriate Children's Aid Society and report to the Principal or designate what you suspect or what has been disclosed to you.

- In situations where the person with the duty to report is unable to discharge this duty the Principal or designate will make the report in the presence of the person, where possible, who has formed the suspicion or heard the disclosure.
19. If the Principal is not immediately available the employee must report the suspicion or disclosure to a Children's Aid Society and as soon as possible thereafter inform the Principal of the report.
20. Once a person has formed the suspicion or heard a disclosure the Principal or designate shall not prevent a report to the Children's Aid Society being made, nor will there be a sanction or reprisal as a result of such action taken.
21. While the duty to report lies with the person who has formed the suspicion or heard the disclosure, he/she may request the Principal's or designate's presence while making the report to the Children's Aid Society

Inform the Children's Aid Society

22. When reporting to the appropriate Children's Aid Society provide the required information as outlined on Form SHSM.001-Form 2: Record of Report of Abuse or Neglect.
23. If advised by the Children's Aid Society worker that the suspicion and/or disclosure(s) do not warrant an investigation, ensure that you record the worker's name, the date, and time of the consultation.

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| <u>Children's Aid Societies</u> | |
| Children's Aid Society of Toronto | 416-924-4646 |
| Catholic Children's Aid Society of Toronto | 416-395-1500 |
| Jewish Family and Child Services of Toronto | 416-638-7800 |
| Native Child, Youth and Family Services | 416-969-8510 |

Principal's Responsibilities

24. ***It is essential to remember that it is the legal responsibility of the person who has formed the suspicion to report to the appropriate Children's Aid Society. The reporter should consult with the Principal and the Principal shall ensure that the reporter is aware of and complies with sections 25, 26, 27, 28, 29 below.***

25. Ensure that the CAS knows what the timelines are (such as when the child is expected at home) so its response can be prioritized accordingly. The CAS also requires time to make arrangements for an investigation.

26.

As the safety and protection of the student is the Board's paramount concern, the reporter should inform the CAS regarding the child or her/his family circumstances which may help in the investigation. In addition, the reporter should ask the following questions:

- (i) How and when should the parents be contacted?
- (ii) Will the child be interviewed?
- (iii) Do the investigators plan to come to the school or home? When? Will they be investigating or only consulting?
- (iv) May the child go home after school if the interview has not yet taken place? If the child is scheduled for child care, can the child be released to the child care? What information can be shared with the child care?
- (v) If no interview has taken place does the Children's Aid Society have instructions for supervision of the child? What should the Principal do if the parent arrives at the school?
- (vi) What information can be shared with the child and her/his parent(s) if the interview has not yet taken place?

27. After reporting, the reporter should take the following steps:

- (j) Have a trusted person (most likely the person to whom the child disclosed) stay with the child until the police/CAS team arrives at the school (recognizing that the child requires support during this period).
- (ii) If the child indicates that she/he wants support during the interview, the police should be advised and permission sought. The support person should be a person of the child's choosing.

In order to ensure the integrity of the investigation the police wish to interview the child without a support person being present. In such cases, refer to the Police School/Board Protocol (specifically Section 12)

28. Documenting the Incidents (by the reporter)

- (i) Documentation of suspected abuse/neglect cases should be carefully prepared and maintained in accordance with Form HS - #1 – Form 2: Record of Report of Abuse or Neglect. The report must:
 - be factual (including dates and times) and contain no opinions;
 - be brief and to the point; and,
 - contain questions asked of the student, information seen or heard by the teacher, Principal or designate, and other observers.
- (ii) Form HS - #1 – Form 2: Record of Report of Abuse or Neglect will be forwarded, in a sealed envelope marked “Private and Confidential,” to the Principal for secure storage.
- (i) Form HS - #1 – Form 2: Record of Report of Abuse/Neglect and any other written records may be subject to subpoena or disclosure in any subsequent court hearing.

29. Follow-up with Children’s Aid Society

It is the responsibility of the Principal or designate to contact the Children’s Aid Society within 24 hours to ascertain the outcome of any investigation begun pursuant to this procedure.

Notify Children’s Aid Society When a Victim of Child Abuse/Neglect Relocates

30. It is the responsibility of the Principal or designate to notify the Children’s Aid Society when a child is known to have been reported to be at risk or found to be in need of protection and has transferred schools or moved to another Board.

Notify Social Worker (for Resource Students Only)

31. It is the responsibility of the Principal or designate to notify the social worker at Bloorview Kids Rehab assigned to the unit (BIRT, SODR, CCC) so that appropriate support and counselling can be offered to the child and family.

In case of formal report:

Have you completed Form SHSM.001-Form 1: Checklist for Formal Reports of Child Abuse/Neglect?

SEXUAL MISCONDUCT BY A STUDENT 12 YEARS OF AGE AND OVER

Reporting Disclosures

32. Inform the Principal

When any person (including a student) reports to an employee sexual assault or sexual abuse, allegedly perpetrated by a student, 12 years of age and over, the employee shall inform the Principal or designate immediately.

REMEMBER: Do not investigate the disclosure. Once a disclosure has been made, a disclosing student will not be questioned by any other school staff, nor shall any other students or staff be spoken to until specific directions are received from the investigating police.

33. Guidelines for Reporting to Police

- (i) The Principal or designate must call the police.
- (ii) The manner and timing of contacting the parents of the victim and the alleged perpetrator will be done in consultation with the police.
- (iii) The *Youth Criminal Justice Act* prohibits disclosure of the identity of the alleged perpetrator if under the age of 18.

34. Principal's Duties

- (i) Make sure that the police know what the timelines are (such as when a child victim or alleged perpetrator is expected at home) so its response can be prioritized accordingly. The police also require time to make arrangements for an investigation.
- (ii) As the safety and protection of the student is the Board's paramount concern, the Principal should inform the police regarding the child victim or her/his family circumstances which may help in the investigation. In addition, the Principal should ask the following questions in respect to the victim and the alleged perpetrator:
 - (iii) How and when should the parents be contacted?
 - (ii) Will the victim/perpetrator be interviewed?
 - (iii) Do the investigators plan to come to the school or home? When?
 - (iv) Will they be investigating or only consulting?
 - (v) May the victim/perpetrator go home after school if the interview has not yet taken place? If the victim is a child who is scheduled for child care can the child be released to the child care centre? What information can be shared with the childcare centre?
 - (vi) If no interview of the victim has taken place, and the victim is under 16, do the police have instructions for the supervision of the child?
 - (vii) What should the Principal do if the parent of the victim/perpetrator arrives at the school?
 - (viii) What information can be shared with the victim/perpetrator and her/his parent(s) if the interview has not yet taken place?

Inform the Children's Aid Society

35. In the event that the alleged perpetrator is a sibling of the victim or has siblings under the age of 16 at home, or is a babysitter, or is in any other way in a position of authority over the victim, the CAS must be contacted.

Children's Aid Societies

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| Children's Aid Society of Toronto | 416-924-4646 |
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| Native Child and Family Services | 416-969-8510 |

36. Document the Incident(s)

Documentation of disclosed or suspected abuse cases of children under 16 years of age should be carefully prepared and maintained in accordance with the "Record of Report of Abuse/Neglect" (See Appendix A). The report must:

- (i) be factual (including dates and times) and contain no opinions;
- (ii) be brief and to the point; and,
- (iii) contain questions asked of the student, information seen or heard by the teacher, Principal or designate, and other observers.

37. Form Record of Report of Abuse/Neglect will be forwarded, in a sealed envelope marked "Private and Confidential," to the Principal for secure storage.

38. Form HS - #1 – Form 2: Record of Report of Abuse/Neglect and any other written records may be subject to subpoena or disclosure in any subsequent court hearing.

Follow-up with Police

39. If it is not apparent that an investigation has commenced within 24 hours or no assistance has been provided for the victim/perpetrator, it is the responsibility of the Principal or designate to contact the police to ascertain the status of the case.

Procedures for Dealing with Alleged Perpetrator

40. Where the police or CAS have begun an investigation of a student, the alleged perpetrator will be removed immediately from the school pursuant to Ontario Regulation 474, Section 3(1).

Support for Student, Parents and Staff

41. In the case of criminal charges being laid, as outlined above, the Board may, with consultation with staff at Bloorview Kids Rehab, provide appropriate support for the affected school community. A response team may meet with the staff of the school as soon as possible to advise of the charges and describe a plan of action for dealing with students and the school community.

SEXUAL MISCONDUCT BY A STUDENT UNDER 12 YEARS OF AGE

Sexually acting-out behaviour by children under the age of 12 years is a serious problem for which there are limited outside resources and legal guidelines. However, Bloorview School Authority expects these behaviours to be addressed through school social work and parental support. The Principal is the first line of response since a student perpetrator under the age of 12 is under the age of criminal responsibility.

Reporting Disclosures

42. Inform the Principal

- a) When a staff member witnesses, or receives a report of concern about sexual behaviours exhibited by a student under the age of 12 such as those listed in

Appendix G (columns 3 and 4), staff should inform the Principal or designate immediately.

b) The Principal and staff member will determine whether the behaviour falls into the category of inappropriate, problematic or sexually intrusive (see Chart I on page 10) and will follow the appropriate procedures based on that determination. If in doubt whether abuse has occurred, consult the CAS.

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| <u>Children's Aid Societies</u> | |
| Children's Aid Society of Toronto | 416-924-4646 |
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43. Intervene According to the Following Criteria

In order to access the category of the behaviour see chart (below).

- (i) ***Inappropriate sexual behaviour*** does not require notification of any person or agency although any resources may be used at the Principal's discretion.
 - Interventions should be based on Chart II.
- (ii) ***Problematic sexual behaviour*** requires consultation with a child abuse resource person to determine which agency, if any, will do further investigation.
 - The parents of any party should not be contacted until after consultation with the appropriate CAS.
 - Interventions should be based on Chart II.
- (iii) ***Sexually intrusive behaviour*** requires consultation with CAS. The acting-out student may be excluded from the school while the investigation takes place.
 - Intervention should be based on Chart II.

Chart I: Sexual Behaviour Problems of Students Under 12 Years

| 1. INAPPROPRIATE | 2. PROBLEMATIC | 3. INTRUSIVE |
|--|--|---|
| <ul style="list-style-type: none"> • no harm to self or others • self-focused or interpersonal • sexual language or re-enactment may be included • spontaneous • consensual or tolerated by other children • may not include touching • light-hearted usually • involvement of same-age children | <ul style="list-style-type: none"> • harm may be caused to self or others • self-focused or interpersonal • explicit sexual language or re-enactment may be included • spontaneous • one or more incidents (progressive) • consensual or coercion • touching usually included • light-hearted usually • involvement of younger or same age children | <ul style="list-style-type: none"> • harm caused • interpersonal • explicit sexual language or re-enactment • spontaneous or planned • one or more incidents (progressive) • manipulation, coercion or force • touching behaviours • anger or anxiety may be involved • younger or same age children or adults may be involved |

Chart II: School-based Intervention for Sexual Behaviour Problems of Children Under 12 Years of Age

| 1. INAPPROPRIATE | 2. PROBLEMATIC | 3. INTRUSIVE |
|--|---|--|
| <ul style="list-style-type: none"> • staff to advise Principal | <ul style="list-style-type: none"> • staff to advise Principal | <ul style="list-style-type: none"> • staff to advise Principal |
| <ul style="list-style-type: none"> • staff to correct behaviour and establish consequences • staff to ensure comfort of victim | <ul style="list-style-type: none"> • Principal to correct behaviour and establish consequences • Principal to ensure comfort of victim and family | <ul style="list-style-type: none"> • Principal to correct behaviour and establish consequences • Principal to ensure comfort of victim and family |
| <ul style="list-style-type: none"> • school investigation may be required • parents of all parties may be informed | <ul style="list-style-type: none"> • school or CAS investigation may be required • parents of all parties to be informed | <ul style="list-style-type: none"> • school or CAS investigation required • parents of all parties to be informed |
| <ul style="list-style-type: none"> • No withdrawals or exclusions | <ul style="list-style-type: none"> • Student with problematic behaviour may be temporarily withdrawn or excluded if they pose a risk to others | <ul style="list-style-type: none"> • Student with intrusive behaviour may be temporarily excluded, denied access or suspended until the investigation has been concluded |
| <ul style="list-style-type: none"> • CAS not called | <ul style="list-style-type: none"> • CAS may be called | <ul style="list-style-type: none"> • CAS will be called |
| | <ul style="list-style-type: none"> • Safety plan to be established • Child may be referred for assessment/treatment | <ul style="list-style-type: none"> • Safety plan to be established • Child will be referred for assessment/treatment |
| | <ul style="list-style-type: none"> • Principal will convene meeting with parents of student with problematic behaviour | <ul style="list-style-type: none"> • Principal and consultant will convene meeting with parents of student with intrusive behaviour |

44. Procedures if Police or Children's Aid Society are Involved

NOTE: The Children's Aid Society must always be called if there are reasonable grounds to suspect that any child has been abused or is in need of protection. (For example, student perpetrator may be an abuse victim or have siblings under the age of 16). If the CAS is to be called, do not contact parents of any of the parties until the CAS has approved.

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45. When a report of sexually intrusive or sexually problematic behaviour has been made to the police/CAS, the guidelines in Section 29 should be followed.

46. Document the Incidents

- (i) Documentation of sexual behaviour problems with police or CAS involvement and the children are under the age of 12 should be carefully prepared and maintained in accordance with Form HS - #1 – Form-Form 2: Record of Report of Abuse or Neglect. The report must:
 - be factual (including dates and times) and contain no opinions;
 - be brief and to the point; and,
 - contain questions asked of the student, information seen or heard by the teacher, Principal or designate, and other observers.

47. Form HS - #1 - Form 2 will be forwarded, in a sealed envelope marked “Private and Confidential,” to the Principal for secure storage. Notice of Report to a Children’s Aid Society indicating that notice was made to the police/CAS and that a copy of the form is on file with the Principal.

48. Form HS - #1 - Form 2: Record of Report of Abuse or Neglect and any other written records may be subject to subpoena or disclosure in any subsequent court hearing.

Safety Plan and Assessment/Treatment Agreement

49. In the case of either sexually problematic or sexual intrusive behaviour, the Principal will meet with the parents of the acting-out student.

50. The Principal will establish a school safety plan with the parents of all parties, and will provide information to the respective families regarding assessment and treatment for the victim and perpetrator.

51. If it is determined that the student’s continued presence in the school would be detrimental to other students, the student may be excluded from or denied access to the school (see Section 52) and a suitable alternate program may be established.

Acting-Out Student – Suspension, Exclusion, Denial of Access – Discipline

52. If a student is to be removed from a school under this procedure, the Principal should either exclude pursuant to section 265(m) of the *Education Act* which states:

“It is the duty of the Principal of a school, subject to an appeal to the Board to refuse to admit to the school or classroom a person whose presence in the classroom would, in the Principal’s judgement, be detrimental to the physical or mental well-being of the pupils.”

OR

Deny access to the school pursuant to Section 3(1) of Ontario Regulation 474, which states:

“A person is not permitted to remain on school premises if his or her presence is detrimental to the safety or well-being of a person on the premises, in the judgement of the Principal, a Principal or another person authorized by the Board to make such a determination.”

- (i) In addition to exclusion, if a student is found following a Principal’s inquiry to have engaged in sexually intrusive behaviour, the student

- may be subject to disciplinary sanctions such as suspension or expulsion.
- (ii) Appropriate assessment and treatment may be required for re-entry into regular program.

SEXUAL MISCONDUCT BY A BOARD EMPLOYEE OR VOLUNTEER

Board Policy on Sexual Relationships Between Staff and Student/Former Students

53. Board staff/volunteers working directly with a student of any age in their professional capacity (see section 55) will not enter into a sexual relationship with that student during the course of the professional relationship or for a period of one year thereafter.
54. In the case of students/former students under the age of 18, any such relationship, in addition to being a serious breach of Board policy, is also a criminal offence of sexual exploitation or sexual assault.
55. Professional capacity shall mean working or volunteering in the same school as the student is enrolled or otherwise supervising, counselling, coaching or assisting in extra circular activities in which the student is participating regardless of which school the student attends.
56. Other forms of sexual behaviour and remarks by Board employees/volunteers directed at students may constitute abuse by this policy and may be dealt with under this procedure.

Reporting to Children's Aid Society and Police

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| The responsibility to report to CAS lies with the employee or volunteer who received the disclosure or who suspected abuse/neglect. |
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57. Inform the Principal or Designate. Follow the procedures outlined in section 18
58. Inform the Children's Aid Society. If the victim is under 16 years of age follow procedures in section 22.
59. Principal's Duties. Follow the procedures outlined in sections 22-29.

Procedures for Dealing with Alleged Perpetrator (Board Employee or Volunteer)

60. Protocol During Investigation

An employee or a volunteer under investigation will be denied access to all schools under Section 3(i) of Regulation 474 of the *Education Act* until the investigation is completed. In the case of a teacher or unionized employee, he/she must be notified of the right to contact his/her federation/union representative. Prior to the CAS or po-

lice investigation, no employee or volunteer shall be questioned regarding the allegation by Board staff.

NOTE:

According to Section 43.3 (1) of the Ontario College of Teachers Act....

An employer shall promptly report to the College in writing when the employer becomes aware that a member who is or has been employed by the employer,

- (a) has been charged with or convicted of an offence under the Criminal Code (Canada) involving sexual conduct and minors;**
- (b) has been charged with or convicted of an offence under the Criminal Code (Canada) that in the opinion of the employer indicates that students may be at risk of harm or injury; or**
- (c) has engaged in conduct or taken action that, in the opinion of the employer, should be reviewed by a committee of the College.**

61. After Charges Laid

Where an employee is charged with an offence under the Criminal Code involving sexual conduct and minors, or any other offence that, in the opinion of the Board, indicates pupils may be at risk, the Board is required by Section 170 (1) 12.1 of the Education Act to take prompt steps to ensure that the employee performs no duties involving contact with pupils.

A volunteer who is charged will be denied access to all schools under Regulation 474 of the Education Act, Section 3(i).

The charged employee or volunteer should be informed that notification will be given to the school community regarding the charges.

62.

Upon Completion of Police Investigation/Acquittal/Conviction or Where No Investigation

Upon completion of a police investigation, acquittal or conviction, or where no criminal investigation has been undertaken, the assignment/status of the employee/volunteer will be reviewed by the Supervisory Officer. Such review may include an internal investigation and subsequent action such as discipline or support including counselling.

The employee will be dismissed from employment if convicted of a sexual offence against a student, or if an internal investigation determines, on a balance of probabilities, that the employee sexually abused, sexually exploited or sexually assaulted the student. Where the employee is a member of a professional college/society/association, a report of professional misconduct will be made to that college/society/association by the Supervisory Officer of Education or designate. A volunteer will be denied access to all schools under Regulation 474 of the *Education Act*, Section 3(i).

Where an investigation determines that the employee engaged in sexual

misconduct not of a criminal nature, the Principal or designate will determine the appropriate discipline.

Document the Incidents

63. Follow the procedure in section 28

Follow-up with Police/Children's Aid Society

64. Follow the procedure in section 29.

Notify Social Worker (for Resource Students only)

65. It is the responsibility of the Principal or designate to notify the Bloorview Kids Rehab social worker assigned to the unit (BIRT, SODR, or CCC) so that appropriate support and counselling can be offered to the student and family.

Support for Students, Parents and Employees

66. In the case of criminal charges being laid, as outlined above, the Board will provide appropriate support for the affected school community. The Principal will meet with the employees of the school as soon as possible to advise of the charges, ensure that the accused employee has been removed from contact with students, and describe a plan of action for dealing with students and the school community. Individual counselling for employees will be offered.
67. The Principal will, where appropriate, inform students about the charges, the status of the accused employee and offer individual counselling to students. A meeting with parents will be scheduled as soon as possible to explain the school response, answer questions and provide advice for dealing with the personal safety of their children.

PHYSICAL MISTREATMENT OF STUDENTS BY BOARD EMPLOYEES AND VOLUNTEERS

Policy of Bloorview School Authority

68. No student shall experience corporal punishment, physical mistreatment, sexual, emotional or verbal abuse by staff.

When Physical Force Becomes Physical Mistreatment

69. The use of physical force towards students is unacceptable unless necessary to ensure the safety of students or other persons.

Reporting Physical Mistreatment of Students by Employees/Volunteers

70. All allegations or suspicions of physical mistreatment of students must be reported to the Principal.

Reporting Allegation to CAS/Police

71. Where a student has been physically or emotionally harmed (see Appendix J) as the result of physical force, in the case of student under the age of 16, the incident must be reported to the Children's Aid Society and the police, and in the case of students 16 years of age or older, the Principal shall notify the police. Such a report must be made irrespective of any finding that use of force was necessary.

Principal's Investigation

72. If there is no police/Children's Aid Society investigation the Principal must undertake an investigation to determine if physical force was used by an employee or volunteer toward a student and whether such force was necessary to ensure the safety of students or other persons.

Procedures for Dealing with Alleged Perpetrator (Board Employee or Volunteer)

73. Protocol During Investigation

An employee or volunteer under investigation will be denied access to all schools pursuant to Regulation 474 of the Education Act, under Section 3(i). In the case of a teacher or unionized employee, he/she must be notified of the right to contact his/her federation/union representative. Prior to the CAS and police investigation, no employee or volunteer shall be questioned regarding the allegation by Board staff.

74. After Charges Laid

Where an employee is charged with an offence under the Criminal Code involving sexual conduct and minors, or any other offence that, in the opinion of the Board, indicates pupils may be at risk, the Board is required by Section 170 (1) 12.1 of the *Education Act* to take prompt steps to ensure that the employee performs no duties involving contact with pupils.

A volunteer who is charged will be denied access to all schools pursuant to Regulation 474 of the *Education Act*, Section 3(i).

The charged employee or volunteer should be informed that notification will be given to the school community regarding the charges

75. Upon Completion of Police Investigation/Acquittal/Conviction or Where No Investigation

Upon completion of a police investigation, acquittal or conviction, or where no criminal investigation has been undertaken, the assignment/status of the employee/volunteer will be reviewed by the Supervisory Officer. Such review may include an internal investigation and subsequent action such as discipline or support including counselling.

The employee will be dismissed from employment if convicted of assaulting a student, or if an internal investigation determines, on a balance of probabilities, that the employee assaulted the student. Where the employee is a member of a professional college/society/association, a report of professional misconduct will be

made to that college/society/association by the Supervisory Officer or designate. A volunteer will be denied access to all schools pursuant to Regulation 474 under the *Education Act*, Section 3(i).

Upon Completion of Investigation/Acquittal/Conviction or When No Investigation

76. Upon completion of an investigation, or where no criminal investigation has taken place, or where the employee/volunteer has been acquitted or convicted, the assignment status of the employee/volunteer will be reviewed by the Supervisory Officer. Such review may include a further internal investigation and subsequent action such as discipline or support including counselling.

If Physical Mistreatment Confirmed

77. Unless there are mitigating circumstances, the employee will be dismissed from employment if convicted of assaulting a student, or if an internal investigation determines, on a balance of probabilities, that the employee assaulted the student. Where the employee is a member of a professional college/society/association, a report of professional misconduct will be made to that college/society/association by the Supervisory Officer or designate.

Document the Incidents

78. Documentation of suspected assaults against students under age 16 should be carefully prepared and maintained in accordance with Form SHSM.001-Form 2: Record of Report of Abuse or Neglect. The report must:
- be factual (including dates and times) and contain no opinions;
 - be brief and to the point; and,
 - contain questions asked of the student, information seen or heard by the teacher, Principal or designate, and other observers
79. Form SHSM.001-Form 2 will be forwarded, in a sealed envelope marked "Private and Confidential", to the Principal for secure storage.
80. The "Record of Report of Abuse/Neglect" form and any other written records may be subject to subpoena or disclosure in any subsequent court hearing.

Follow-up with Police/Children's Aid Society

81. It is the responsibility of the Principal or designate to notify the police/Children's Aid Society within 24 hours when a child is known to have been reported to be at risk or found to be in need of protection and has transferred schools or moved to another Board.

Notify Social Worker (for Resource Students only)

82. It is the responsibility of the Principal or designate to notify the Bloorview Kids Rehab social worker assigned to the unit (BIRT, SODR or CCC) so that appropriate support and counselling can be offered to the student and family.

Support for Students, Parents and Staff

In the case of criminal charges being laid, as outlined above, the Principal may provide appropriate support for the affected school community

APPENDIX A

Possible Indicators of Child Abuse

Indicators do not prove that a child has been abused. They are clues that should alert a concerned adult that abuse may have occurred. It is not the job of that adult to assess the physical or psychological state of a child or others involved. It is the adult's responsibility to report any suspicions to a children's aid society. The assessment and validation of allegations of child abuse is the role of police and/or children's aid society.

The objectives of this section are:

- to learn guidelines for documenting indicators of abuse
- to provide a list of indicators which will serve as a tool to detect and report suspicions of child abuse
- to recognize normal and problematic sexual behaviour in school-age children

Those signs, symptoms or clues when found on their own or in various combinations which may point to child abuse, are called indicators. Indicators may:

- be apparent in the child's physical condition and/or manifested in the child's behaviour;
- manifest in the behaviours and attitudes of adults who abuse children, and cause others to question their care of children (although most adults who have abused children are not mentally ill, risk factors to take into account are adults that present with some personal dysfunction, such as mental illness, personality disorder or substance abuse);
- be non-specific and common in children and therefore difficult to assess why they are present, for example bed-wetting, nightmares, clinging or increased self-stimulation may be related to stress in the child's life such as marital discord, family illness or death;
- point to a history of abuse such as the re-enactment of adult sexual behaviour or explicit sexual knowledge inappropriate to the child's age and stage of development.

APPENDIX B

Documenting Indicators of Child Abuse

All observed indicators should be fully documented. This process helps to put the information into perspective, assists school personnel in reporting to a children's aid society, and provides a record in the investigation and court processes. When recording any information, it is important to:

- provide a description that is clear and concise;
- be objective and non-judgmental;
- avoid interpretations of medical, physical or emotional conditions, and what you think is happening;
- record any conversations, word for word, between yourself and the child, or any others relevant to the situation;
- record what the child or others said, *using their own words*;
- provide a full description of any injury, including size, colour, shape and placement on the body;
- sign and date the handwritten form;
- document any further suspicions that may arise.

Indicators do not prove that a child has been abused. They are clues that should alert a concerned adult that abuse may have occurred. It is not the job of the adult to assess the physical or psychological state of a child or others involved. It is the adult's responsibility to report any suspicions to a children's aid society. The assessment and validation of allegations of child abuse is the role of police and/or children's aid society.

APPENDIX C

Possible Indicators of Neglect

| Physical Indicators of Children | Behavioural Indicators in Children | Behaviours Observed in Adults Who Neglect Children |
|---|--|---|
| <ul style="list-style-type: none">• infants or young children may display abnormal growth patterns, weight loss, wizened “old man’s” face, sunken cheeks, dehydration, paleness, lethargy, poor appetite, unresponsiveness to stimulation, very little crying, delays in development (which may be suggestive of failure to thrive syndrome)• inappropriate dress for the weather• poor hygiene, dirty or unbathed state• severe, persistent diaper rash or other skin disorder not attended to• consistent hunger• untreated physical, dental problems or injuries• lack of routine medical, dental care• signs of deprivation such as diaper rash and hunger which improve in a more nurturing environment | <ul style="list-style-type: none">• does not meet developmental milestones• appears lethargic, undemanding, cries very little• unresponsive to stimulation• uninterested in surroundings• demonstrates severe lack of attachment to parent, unresponsive, little fear of strangers• may demonstrate indiscriminate attachment to other adults• may be very demanding of affection or attention from others• older children may engage in antisocial behaviours such as stealing food, substance abuse, delinquent behaviour• shows poor school attendance or performance• assumes parental role• discloses neglect such as stating that there is no one at home• independence and self-care beyond the norm | <ul style="list-style-type: none">• maintains a chaotic home life with little evidence of regular, healthful routines such as consistently bringing the child very early and picking up the child very late• overwhelmed with own problems and needs, puts own needs ahead of those of the child• may indicate that the child is hard to care for, hard to feed, describes the child as demanding• may indicate that the child was unwanted, continues to be unwanted• fails to provide for the child’s basic needs• fails to provide adequate supervision: may be frequently unaware of or has no concern for the child’s whereabouts; leaves the child alone, unattended or in the care of others who are unsuitable• cares for or leaves the child in dangerous environments• may display ignoring or rejecting behaviour to the child• has little involvement in the child’s life: appears apathetic towards the child’s daily event; fails to keep appointments regarding the child; unresponsive when approached with concerns• may ignore the child’s attempts at affection |

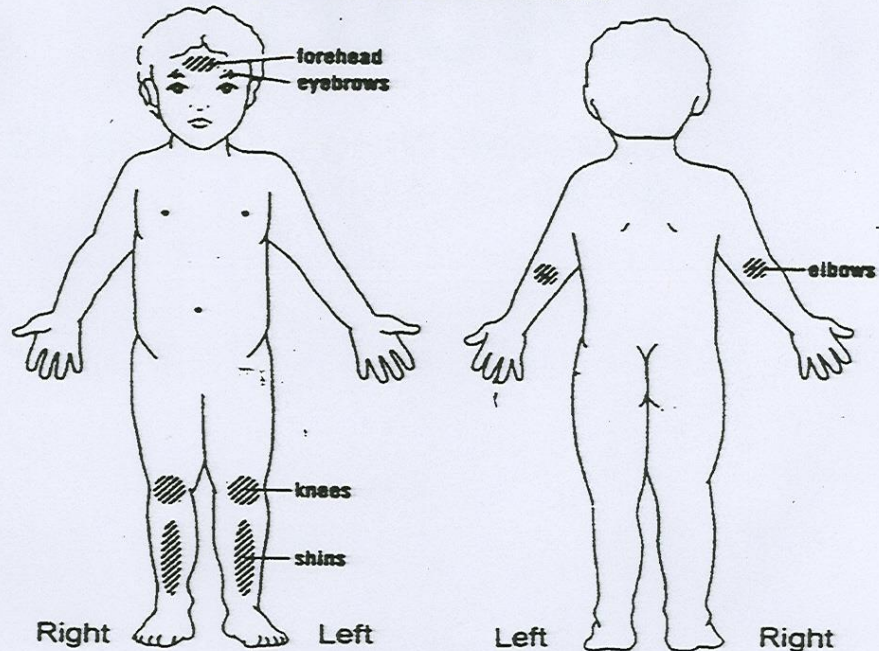
APPENDIX D

Possible Indicators of Physical Abuse

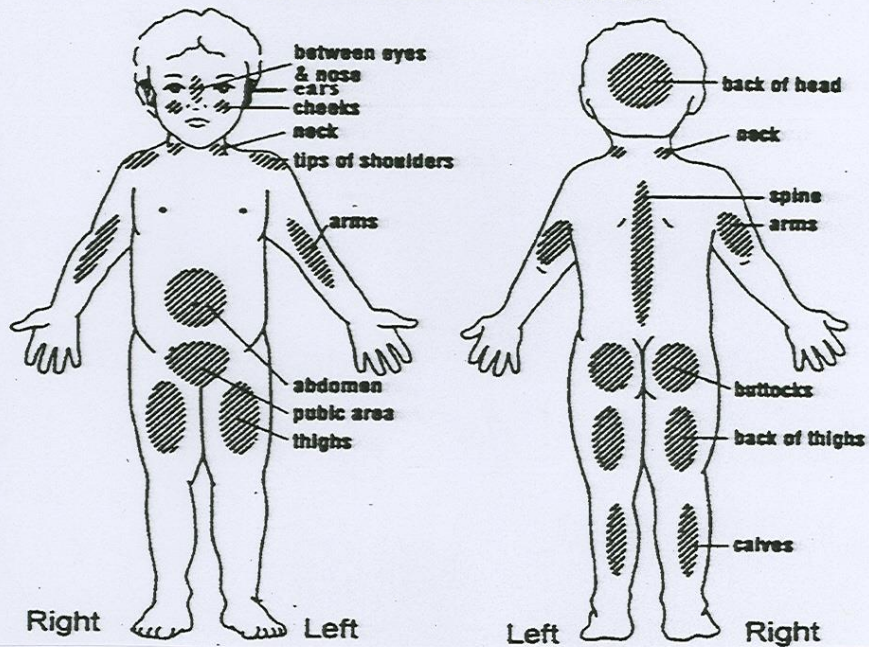
| Physical Indicators of Children | Behavioural Indicators in Children | Behaviours Observed in Adults Who Abuse Children |
|---|---|--|
| <ul style="list-style-type: none">• Injuries on questionable sites (see diagram, see next page)• Bruise pattern, clustered bruising, or welts (e.g., from a wooden spoon, hand- or fingerprint marks, belt)• Burns from a cigarette, patterned burns (e.g., iron, electric burner), burns suggesting that something was used to restrain a child (e.g., rope burns on the wrists, ankles, neck), hot water immersion burns• Head injuries: nausea, absence of hair in patches, irritability• Skull fractures: possible swelling and pain, vomiting, seizures, dizziness, unequal pupil size, bleeding from scalp wounds or nose• Fractures, dislocations, multiple fractures all at once or over time, pain in the limbs, esp. with movement, tenderness, limitation of movement, limping or not using a limb, any fractures in children under two• Fractures of the ribs: painful breathing, difficulty raising arms• Distorted facial appearance with swelling, bleeding, bruising• Human bite marks• Lacerations and abrasions inconsistent with normal play• Evidence of recent female genital mutilation (e.g., difficulty voiding, chronic infections, “wadding”) | <ul style="list-style-type: none">• Cannot recall or describe how observed injuries occurred• Avoids or offers inconsistent, incomplete explanations: is distressed explaining injuries or denies injury• Wary of adults generally or of a particular gender or individual• May cringe or flinch with physical contact• May display over-vigilance, a frozen watchfulness, or vacant stare• Extremes in behaviour: extremely aggressive or passive, unhappy or withdrawn, extremely compliant and eager to please or extremely non-compliant (provokes punishment)• Tries to take care of the parent• May be dressed inappropriately to cover injuries• Is afraid to go home, runs away• Is frequently absent with no explanation, or shows signs of healing injury on return• Poor peer relationships• Evidence of developmental lags, especially in language and motor skills• Academic or behavioural problems• Self-destructive behaviour (e.g., self-mutilation, suicide threats or attempts)• Discloses abuse | <ul style="list-style-type: none">• Gives harsh, impulsive or unusual punishments• Shows lack of self-control with low frustration tolerance, is angry, impatient• May provide inconsistent explanations as to how the child was injured• Socially isolated, little support or parenting relief• May have little knowledge of child development and/or have unrealistic expectations of the child• May often express having difficulties coping with the child or makes disparaging remarks, describes child as different, bad or the cause of own difficulties• May demonstrate little or no genuine affection, physically or emotionally for the child• May state that the child is accident-prone or clumsy• May delay seeking medical attention• May appear unconcerned, indifferent or hostile to child and injury |

CHILDREN'S BRUISES

COMMON SITES FOR BRUISES



QUESTIONABLE SITES FOR BRUISES



(Source: Rimer and Prager, *Reaching Out: Working Together to Identify and Respond to Child Victims of Abuse*, 1998)

APPENDIX E

Possible Indicators of Sexual Abuse

| Physical Indicators of Children | Behavioural Indicators in Children | Behaviours Observed in Adults Who Abuse Children |
|--|---|---|
| <ul style="list-style-type: none">• unusual or excess itching or pain in the throat, genital or anal area• odour or discharge from genital area• stained or bloody underclothing• pain on urination, elimination, sitting down, walking or swallowing• blood in urine or stool• injury to the breasts, genital area: redness, bruising, lacerations, tears, swelling, bleeding• poor personal hygiene• sexually transmitted disease• pregnancy | <ul style="list-style-type: none">• age-inappropriate sexual play with toys, self, others• re-enactment of adult sexual activities• age-inappropriate explicit drawings, descriptions• bizarre, sophisticated or unusual sexual knowledge• sexualized behaviours with other children, adults• reluctance or refusal to go to a parent, relative, friend for no apparent reason, mistrust of others• recurring physical complaints with no physical basis• unexplained changes in personality (e.g., outgoing child becomes withdrawn, global distrust of others)• nightmares, night terrors and sleep disturbances• clinging or extreme seeking of affection or attention• regressive behaviour (e.g., bed-wetting, thumb-sucking)• resists being undressed, or when undressing shows apprehension or fear• engages in self-destructive and self-mutilating behaviours (e.g., substance abuse, eating disorders, suicide)• child may act out sexually or become involved in prostitution• discloses abuse | <ul style="list-style-type: none">• may be unusually overprotective, over-invested in the child (e.g., clings to the child for comfort)• is frequently alone with the child and is socially isolated• may be jealous of the child's relationships with peers or adults• discourages, disallows child to have unsupervised contact with peers• states that the child is sexual or provocative• shows physical contact or affection for the child that appears sexual in nature• relationship with the child may be inappropriate, sexualized or spousal in nature• may abuse substances to lower inhibitions against sexually abusive behaviour• permits or encourages the child to engage in sexual behaviour |

APPENDIX F

Possible Indicators of Emotional Abuse

| Physical Indicators of Children | Behavioural Indicators in Children | Behaviours Observed in Adults Who Abuse Children |
|--|---|---|
| <ul style="list-style-type: none">• child fails to thrive• frequent psychosomatic complaints, headaches, nausea, abdominal pain• wetting or soiling• dressed differently from other children in the family• has substandard living conditions compared to other children in the family• may have unusual appearance, e.g., bizarre haircuts, dress, decorations | <ul style="list-style-type: none">• developmental lags• prolonged unhappiness, stress, withdrawal, aggressiveness, anger• regressive behaviours and/or habit disorders, e.g., toileting problems, thumb-sucking, constant rocking• overly compliant, too well mannered• extreme attention-seeking behaviours• self-destructive behaviour, e.g., suicide threats or attempts, substance abuse• overly self-critical• such high self-expectations that frustration and failure result, or avoids activities for fear of failure• sets unrealistic goals to gain adult approval• fearful of the consequences of one's actions• runs away• assumes parental role• poor peer relationships• discloses abuse | <ul style="list-style-type: none">• consistently rejects the child• consistently degrades the child, verbalizing negative feelings about the child to the child and others• blames the child for problems, difficulties, disappointments• treats and/or describes the child as different from other children and siblings• identifies child with a disliked/hated person• consistently ignores the child, actively refuses to help the child or acknowledge the child's requests• isolates the child, does not allow the child to have contact with others both inside and outside the family, e.g., locks the child in a closet or room• corrupts the child, teaches or reinforces criminal behaviour, provides antisocial role-modeling, exploits the child for own gain• terrorizes the child, e.g., threatens the child with physical harm or death, threatens someone or something the child treasures• forces the child to watch physical harm being inflicted on a loved one• withholds physical and verbal affection from the child• makes excessive demands of the child• exposes the child to sexualized/ violent media, e.g., videos, tv |

APPENDIX G

CHILDREN'S SEXUAL BEHAVIOUR

Children's sexual behaviour develops over time, like other areas of growth. Many behaviours are healthy and are normal for children at certain ages. On the other hand, there are some behaviours which we should be concerned about. These behaviours are 'worrisome' and should not be ignored or seen as child's play. The parent/caregiver may need to redirect the child, or consider asking for advice on what to do. Other behaviours are more serious and may even be dangerous to the child and others. These children may need professional help, and the parent/caregiver should talk with someone who understands the sexual development of children (for example, a doctor, a public health nurse, or a child protection worker).

The behaviours in the first chart are mostly seen in toddlers and preschoolers, but may also be seen in older children. The second chart looks at behaviours common in older children (adapted from Johnson, *Updated Understanding Children's Behaviours. What's Natural and Healthy*, 2004).

| TYPE OF BEHAVIOUR | OKAY | WORRISOM | GET HELP |
|------------------------------|---|--|---|
| CURIOSITY BEHAVIOURS | <ul style="list-style-type: none">• asks appropriate questions about sex, for example "where do babies come from?"• children learn to name parts of the body | <ul style="list-style-type: none">• shows fear when talking about anything to do with sex | <ul style="list-style-type: none">• does not stop asking questions about sex• knows too much about sexuality for age and stage of development |
| SELF-EXPLORATION | <ul style="list-style-type: none">• likes to be naked• has erections• is curious and enjoys exploring own body• touches own genitals as a self-soothing behaviour (for example, when going to sleep, when feeling sick, tense or afraid)• very aware of genital area during toilet training• puts objects in own genitals or buttocks without it feeling uncomfortable | <ul style="list-style-type: none">• self-stimulates on furniture, toys and uses objects to self-stimulate• imitates sexual behaviour with dolls or toys• continues to self-stimulate in public after being told that this behaviour should take place in private• puts something in genitals, buttocks even when it feels uncomfortable | <ul style="list-style-type: none">• self-stimulates in public or in private instead of playing in other activities• self-stimulates on other people• harms own genitals, buttocks |
| BEHAVIOUR WITH OTHERS | <ul style="list-style-type: none">• explores the bodies of other children when playing• if people are naked, the child like to look | <ul style="list-style-type: none">• continues to play games like "doctor" after asked not to• always wants to touch other people | <ul style="list-style-type: none">• forces, bullies other children to take their clothes off or do sexual things• sad, angry or aggressive scenes |

| | | | |
|---|--|---|--|
| | <ul style="list-style-type: none"> wants to touch genitals, to see what they feel like may show his/her genitals or buttocks to others make take off clothes in front of others sees these behaviours as fun and silly | <ul style="list-style-type: none"> tries to do adult sexual behaviours copies adult sexual activities with clothes on | <p>between people is shown in dramatic play</p> <ul style="list-style-type: none"> demands to see the genitals of other children or adults tricks or forces other children into touching genitals, adult sexual behaviours, copying sexual acts with clothes off, oral sex |
| BATHROOM TOILETING AND SEXUAL FUNCTIONS | <ul style="list-style-type: none"> interested in peeing and pooing is curious about and tries to see what people are doing in the bathroom some preschoolers want privacy in the bathroom and when changing uses unacceptable words for toileting and sexual functions | <ul style="list-style-type: none"> spreads poo purposefully pees in places they shouldn't often caught watching others who want privacy in the bathroom continues to use unacceptable words after asked not to | <ul style="list-style-type: none"> keeps on spreading poo continues to pee in places they shouldn't does not allow others privacy in the bathroom or bedroom does not care about the rules set for unacceptable language and continues to use it |
| RELATIONSHIPS | <ul style="list-style-type: none"> plays house with other children kisses and hugs people who are important to him/her may share what they have found out about sex | <ul style="list-style-type: none"> when talks about adult relationships, refers to sex a lot afraid of being kissed or hugged talks or acts in a sexual way with others uses sexual language even after asked not to talks about sex or includes sex in play instead of doing other things | <ul style="list-style-type: none"> imitates adult sexual behaviour in detail being touched causes fear talks in a sexual way even with people s/he does not know |
| BEHAVIOUR WITH ANIMALS | <ul style="list-style-type: none"> curious about how animals have babies | <ul style="list-style-type: none"> touches genitals of animals | <ul style="list-style-type: none"> sexual behaviour with animals |

SEXUAL BEHAVIOUR IN SCHOOL-AGED CHILDREN

| TYPE OF BEHAVIOUR | OKAY | WORRISOM | GET HELP |
|----------------------------|--|---|---|
| RELATIONSHIPS | <ul style="list-style-type: none"> thinks children of the opposite sex are “gross” chases children of the opposite sex with friends, talks about having a boyfriend/girlfriend older children play games with peers about sex likes telling and listening to dirty jokes | <ul style="list-style-type: none"> refuses contact with specific individual(s) uses sexual language to insult or scare others wants to play games related to sex with younger or older children continues to tell dirty jokes after asked not to makes sexual sounds | <ul style="list-style-type: none"> hurts and/or avoids certain types of people (e.g., the opposite sex, people with certain features such as facial hair) cannot seem to stop talking about sex and sexual acts sees all relationships in a sexual way forces others to play sexual games continues to tell dirty jokes even after being disciplined |
| NATURE OF SEXUAL AWARENESS | <ul style="list-style-type: none"> includes genitals on drawing of people looks at pictures of naked people makes fun of the opposite sex shows that s/he wants privacy respected | <ul style="list-style-type: none"> includes genitals in drawings of one sex and not the other genitals are the main feature in pictures, or are larger than the rest of the boy parts overly-curious with pictures of naked people wants to be the opposite sex becomes very upset when privacy is not respected | <ul style="list-style-type: none"> drawings may include adult sexual activity, sexual abuse of a child hates being a boy or girl hates own genitals demands privacy in an aggressive or overly upset way |

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 Toronto, Ontario M4W 3P)4

APPENDIX H

Glossary of Terms

ABUSE is any form of physical harm, sexual mistreatment, emotional harm, or neglect, which can result in injury or psychological damage. The four categories of **Child Abuse** are described below.

PHYSICAL ABUSE occurs when the person(s) responsible for the child's care, inflicts or allows to be inflicted any injury upon the child. Behavioural or physical indicators may be helpful in offering clues that a child may have been abused.

SEXUAL ABUSE refers to the use of a child or youth by an adult for sexual purposes whether consensual or not. Sexual abuse can also occur among children or youth where there is a lack of consent, or, among children even with consent, where there is an age gap of more than two years.

EMOTIONAL ABUSE or psychological maltreatment occurs when the person(s) responsible for the child's care either subjects the child to or permits the child to be subjected to, chronic and persistent ridiculing or rejecting behaviour.

NEGLECT is the result of serious inattention or negligence on the part of a child's care giver to the basic physical and emotional needs of the child. Child neglect may be easily confused with poverty or ignorance, or may be associated with parents who are overwhelmed with other problems. However, because chronic neglect results in physical and emotional harm to a child, it cannot be ignored, whatever its cause. Neglect occurs when the person(s) responsible for the child's care jeopardizes that care or well-being through deprivation of necessities.

APPENDIX I

Sexual Offences as Defined by the Criminal Code

1. Sexual Assault

271. (1) Every one who commits a sexual assault is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or*
- (b) an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.*

Sexual assault is an assault which is committed in circumstances of a sexual nature such that the sexual integrity of the victim is violated. The test to be applied in determining whether the impugned conduct has the requisite sexual nature is an objective one: whether viewed in the light of all the circumstances the sexual or carnal context of the assault is visible to a reasonable observer. The part of the body touched, the nature of the contact, the situation in which it occurred, the words and gestures accompanying the act, and all other circumstances surrounding the conduct, including threats, which may or may not be accompanied by force, will be relevant. The intent or purpose of that person committing the act, to the extent that this may appear from the evidence, may also be a factor in considering whether the conduct is sexual. If the motive of the accused is sexual gratification, to the extent that this may appear from the evidence, it may be a factor in determining whether the conduct is sexual. The existence of such a motive is, however, merely one of many factors to be considered.

2. Sexual Interference

151. Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

No crime is committed, however, if two young people over the age of 12 consent to sexual activity and the older teen is under 16 years and there is less than 2 years age difference between the two.

3. Invitation to Sexual Touching/Definition of "Young Person"

152. Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

4. Sexual Exploitation

153. (1) Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with*

an object, any part of the body of the young person, or

- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person,*

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.

(2) In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

5. Sexual Behaviour Problems of Children Under 12

Sexual behaviour problems are behaviour problems of a sexual nature that may put a child or children at risk of physical or emotional harm. These include any behaviours for which a young person over the age of 12 might be charged under the Criminal Code. 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.

APPENDIX J

CHILD, YOUTH AND FAMILY SERVICES ACT (ONTARIO)

DUTY TO REPORT

Duty to report child in need of protection

125 (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 immediately 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 abused 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 abuse or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 3.
5. The child requires 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 the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, the treatment on the child's behalf.
6. 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.
7. The child has suffered emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of con-

senting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, 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 6 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.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, 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 the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child's parent has died or is unavailable to exercise 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.

Note: On March 1, 2021, the day named by proclamation of the Lieutenant Governor, paragraph 11 of subsection 125 (1) of the Act is amended by striking out "to exercise custodial rights" and substituting "to exercise the rights of custody". (See: 2020, c. 25, Sched. 1, s. 26 (6))

12. The child is younger than 12 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 services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment.
13. The child is younger than 12 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.

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 the person has made previous reports with respect to the same child.

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 the person's behalf.

Duty to report does not apply to older children

(4) Subsections (1) and (2) do not apply in respect of a child who is 16 or 17, but a person may make a report under subsection (1) or (2) in respect of a child who is 16 or 17 if either a circum-

stance or condition described in paragraphs 1 to 11 of subsection (1) or a prescribed circumstance or condition exists.

Offence

- (5) A person referred to in subsection (6) is guilty of an offence if,
- (a) the person 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 the person's professional or official duties.

Professionals and officials

- (6) Subsection (5) 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, youth and recreation worker, and operator or employee of a child care centre or home child care agency or provider of licensed child care within the meaning of the *Child Care and Early Years Act, 2014*;
 - (c) a religious official;
 - (d) a mediator and an arbitrator;
 - (e) a peace officer and a coroner;
 - (f) a lawyer; and
 - (g) a service provider and an employee of a service provider.

- (7) In clause (6) (b),

“youth and recreation worker” does not include a volunteer.

Director, officer or employee of corporation

- (8) A director, officer or employee of a corporation who authorizes, permits or concurs in the commission of an offence under subsection (5) by an employee of the corporation is guilty of an offence.

Penalty

- (9) A person convicted of an offence under subsection (5) or (8) is liable to a fine of not more than \$5,000.

Section overrides privilege; protection from liability

- (10) 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.

Solicitor-client privilege

- (11) Nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer's client.

Conflict

(12) This section prevails despite anything in the *Personal Health Information Protection Act, 2004*.



CHILD ABUSE OR NEGLECT CHECKLIST

- ☐ Report suspected abuse/neglect to appropriate Children's Aid Society.
- ☐ Inform the Principal or designate of your suspicion(s)
- ☐ Obtain consultation from appropriate resource if necessary (i.e., social worker for Resource Students only or Children's Aid Society worker).
- ☐ Document details of disclosure: completed Form SHSM.001-Form 2: Record of Report of Abuse/Neglect (see also Appendix B of the procedure document PR.560)
- ☐ Complete form SHSM.001-Form 3: Notice of Report to Children's Aid Society
- ☐ Ensure that the student is prepared and supported for possible outcomes which will follow.
- ☐ Seek support for oneself or others involved.



FORM: SH - #1 – FORM 2

RECORD OF REPORT OF ABUSE OR NEGLECT

DATE OF REPORT _____ Y/M/D

CHILD'S NAME _____ DATE OF BIRTH _____ O.E.N. _____
 Last Name Given Name Y/M/D

SIBLINGS _____
 Last Name Given Name(s)

ADDRESS _____ HOME TELEPHONE _____
 Apt. Street City Postal Code

MOTHER'S FULL NAME _____ BUSINESS PHONE _____
 Last Name First Name

FATHER'S FULL NAME _____ BUSINESS PHONE _____
 Last Name First Name

RELIGION _____ MEDICAL CONCERNS _____

Details of Abuse/Neglect

- What the child said and to whom
- When and where the incident(s) occurred
- Brief description of easily visible marks or injuries or evidence of neglect
- The alleged offender(s) and relationship to the child
- Names of any other children who might be involved

Keep your consultation to the minimum. This report form and any other written records may be subpoenaed in subsequent legal proceedings.

Language(s) spoken at home _____

Name of Children's Aid Society _____ Case Worker _____
 Last Name First name

Investigation undertaken? ☐ Yes ☐ No

Principal's Signature _____

Send marked "Private and Confidential" to the Principal.



FORM: SH - #1 – FORM 3

Notice of Report to a Children's Aid Society
Place in student's OSR

REGARDING:

Child's Full Name _____

Last Name

Given Name

Date of Birth _____ **O.E.N.** _____

Y/M/D

This is to indicate that in accordance with Section 125 of *The Child, Youth and Family Services Act* a report of

☐ **abuse or neglect**

☐ **risk of abuse or neglect**

has been made on this date to: _____

Name of Children's Aid Society

concerning the above-mentioned child.

In accordance with the policies and procedures of Bloorview School Authority, a written report has been submitted to Principal.

Signature _____

Position _____

Date _____

N.B. Form is to be completed by the Principal



Reporting Child Abuse and Neglect: It's Your Duty

Your responsibilities under
the Child, Youth and Family
Services Act, 2017

The Child, Youth and Family Services Act, 2017 (CYFSA) recognizes that each of us has a responsibility for the welfare of children.

Introduction

We all share a responsibility to protect children from harm. This includes situations where children are abused or neglected in their own homes. Ontario's Child, Youth and Family Services Act, 2017 (CYFSA) provides for protection for these children.

Section 125 of the CYFSA states that the public, including professionals who work with children, must promptly report any suspicions that a child is or may be in need of protection to a children's aid society (society). The CYFSA defines the phrase "child in need of protection" and explains what must be reported to a society. It includes physical, sexual and emotional abuse, neglect, and risk of harm.

This brochure explains the "duty to report" section of the CYFSA and answers common questions about your reporting responsibilities. It also includes relevant portions of Section 125 for your reference. It does not provide specific legal advice. Please consult a lawyer or a society about any specific situation.

Who is a "child in need of protection"?

The CYFSA defines a child in need of protection and clearly specifies how you can identify these children in Section 125 (1). (See pages 8-11).

[CYFSA s.125 (1)] This includes a child who is or may be suffering from abuse or neglect.

Who is responsible for reporting a child in need of protection?

Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to a society. Section 125 (1) describes the specific circumstances that must be reported (See pages 8-11). [CYFSA s.125 (1)]

What are "reasonable grounds" to suspect child abuse or neglect?

It is not necessary for you to be certain a child is or may be in need of protection to make a report to a society. "Reasonable grounds" refers to the information that an average person, using normal and honest judgment, would need in order to decide to report.

What is the age of the children to whom the "duty to report" applies?

The duty to report applies to any child who is, or appears to be, under the age of 16 years.

On January 1, 2018, Ontario raised the age of protection from 16 to 18. A professional, or member of the public, who is concerned that a 16-or 17-year-old is or may be in need of protection may, but is not required to, make a report to a society and the society is required to assess the reported information. [CYFSA, s. 125(4)]

What does an "ongoing duty to report" child abuse or neglect mean?

Even if you know a report has already been made about a child who is under 16, you must make a further report to the society if there are additional reasonable grounds to suspect that the child is or may be in need of protection. [CYFSA s.125 (2)]

Can I rely on someone else to report?

No. You have to report directly to a society. You must not rely on anyone else to report on your behalf. [CYFSA s.125 (3)]

Do professionals and officials have any special responsibilities to report?

Professionals and officials have the same duty as the rest of the public to report their suspicion that a child is or may be in need of protection. However, the CYFSA recognizes that people working closely with children have a special awareness of the signs of child abuse and neglect, and a particular responsibility to report their suspicions. Any professional or official who fails to report a suspicion is liable on conviction to a fine of up to \$5,000, if they obtained the information in the course of their professional or official duties. Reporting is not mandatory in the case of 16- and 17- year-olds and the offence/penalty provisions don't apply. [CYFSA s.125 (5), (8), (9)]

Who does the CYFSA consider a person who performs professional

or official duties?

- health care professionals, including physicians, nurses, dentists, pharmacists and psychologists
- teachers and school principals
- social workers and family counsellors
- religious officials
- operators or employees of a child care centre or home child care agency
- youth and recreation workers (not volunteers)
- peace officers and coroners
- child and youth service providers and employees of these service providers
- any other person who performs professional or official duties with respect to a child

In addition to the professionals and officials outlined above, directors, officers or employees of a corporation also have a legislated duty to report if they have knowledge that a child who is under 16 is or may be in need of protection. [CYFSA s. 125 (8)]

These are examples only. If you are unsure whether you fall into any of these categories, ask your local society, or the legal counsel for your professional association, regulatory body, or organization. [CYFSA s.125 (6)]

What about professional confidentiality?

A professional must report that a child is or may be in need of protection, even when the information is otherwise confidential or privileged. This duty overrides any other provincial statutes, including the Personal Health Information Protection Act, 2004, and specifically overrides any

provisions that would otherwise prohibit someone from making a disclosure. Only lawyers may not divulge “privileged” information about their clients. [CYFSA s.125 (10), (11)]

Will I be protected from liability if I make a report?

The CYFSA provides that no action for making the report will be instituted against a person who makes a report unless the person acts maliciously or without reasonable grounds for the suspicion. [CYFSA s.125 (10)]

What happens when I call a society?

The society will investigate the information. The society has the responsibility and authority to investigate allegations and to protect children. The society may involve the police and other community agencies. All societies provide emergency service 24 hours a day, seven days a week.

Consistent with the best interests, protection and well-being of children, services from a society will take the following into consideration:

- respect for a child’s need for continuity of care and for stable relationships within a family and cultural environment,
- the physical, emotional, spiritual, mental and developmental needs and differences among

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- children,
- a child’s race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, dis-

ability, creed, sex, sexual orientation, gender identity and gender expression,

- a child’s cultural and linguistic needs,
- the goal of achieving permanent plans for children in accordance with their best interests, and
- the participation of a child, the child’s parents and relatives and the members of the child’s extended family and community, where appropriate. [CYFSA s.1 (2)]

How do I contact a society or get more information?

You can find your local society in your local telephone listings or, where available, by dialing 411. In some communities, the society is known as “family and children’s services” or “child and family services”.

You can also find information about all of Ontario’s societies at www.oacas.org, the web site of the Ontario Association of Children’s Aid Societies.

Anyone who has a reasonable suspicion that a child is or may be in need of protection must contact a society immediately.

If you think the matter is urgent and you cannot reach the society, call your local police.

Section 125 (1) of the Child, Youth and Family Services Act, 2017

Despite the provisions of any other Act, if a person, including a person who performs profes-

sional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall immediately report

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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. p 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. p pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually abused 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 abuse or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 3.
5. The child requires 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 the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to, the treatment on the child's behalf.
6. 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.
7. The child has suffered emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to, 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 6 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.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to, 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 the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child's parent has died or is unavailable to exercise 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 younger than 12 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 services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to treatment.
13. The child is younger than 12 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.

If someone has reasonable grounds to suspect that a child under 16 is or may be in need of protection, they must make a report directly to a society. A report may be made regarding 16- and 17- year-olds if you are concerned that they are, or may be, in need of pro

