

Abuse of Students by School District Employees

An individual who has knowledge an employee has physically or sexually abused a student must immediately report it to the District's Level One investigators. "Employee" means one who works for pay or as a volunteer under the direction and control of the District. The report shall be written, signed, and witnessed by a person of majority age. The witness may be the Level One investigator. The reporter is the individual filing the report. The report shall contain the following:

- The full name, address, and telephone number of the person filing.
- The full name, age, address, telephone number, and attendance center of the student.
- The name and place of employment of the employee who allegedly committed the abuse.
- A concise statement of the facts surrounding the incident, including date, time, and place of occurrence, if known.
- A list of possible witnesses by name, if known.
- Names and locations of persons who examined, counseled or treated the student for the alleged abuse, including the dates on which those services were provided, if known.

Upon request, the Level One investigator may assist the reporter in completing the report. An incomplete report shall not be rejected unless the missing information would render the investigation futile or impossible. An unsigned, anonymous or unwitnessed report may be investigated, but the designated investigator has no duty to report findings and conclusions to the reporter. An employee receiving a report of alleged abuse of a student by an employee will pass the report to the investigator and will keep the report confidential to the maximum extent possible. In performing the investigation, the investigator will have access to the educational records of the alleged student victim as well as access to the student for interviewing purposes.

In order for the District to have jurisdiction over the acts and to constitute a violation of the law, acts of the employee must be alleged to have occurred on school grounds, on school time, at a school-sponsored activity or in a school-related context. However, the student need not be a current student in the District. The student can be a former student or can be from another school district. To be investigable, the written report must include basic information showing that the victim of the alleged abuse is or was a student at the time of the incident, that the alleged act of the employee resulted in injury or otherwise meets the definition of abuse in these rules, and that the person responsible for the act is currently an employee. If the report is not investigable due to lack of jurisdiction, the investigator will dismiss the complaint and inform the reporter of other options available. Other options available to the reporter include contacting law enforcement authorities, private counsel, or the Board of Educational Examiners in the case of a licensed employee.

If the Level One investigator determines a written complaint is investigable, the school employee who is the subject of the investigation will be placed on administrative leave.

The Level One investigator will have access to the educational records of the student and access to the student for purposes of interviewing the student about the report.

Physical Abuse Allegations

When physical abuse is reported, the Level One investigator will make copies of the report and give a copy to the person filing the report, the student's parents and the immediate supervisor of the employee named in the report. The employee named in the report will not receive a copy of the report until the employee is initially interviewed.

The Level One investigator will use discretion in handling the information received regarding an investigation of abuse by an employee, and those persons involved in the investigation will not discuss information regarding the complaint outside the investigation. The entire investigative procedure will be thoroughly explained, including the confidential nature of the proceedings, to the student and other persons involved in the investigation.

Within five days of receipt of an investigable report, the Level One investigator will complete an informal investigation. The informal investigation will consist of interviews with the student, the employee, and others who may have knowledge of the alleged incident. If the Level One investigator determines that the allegations in the report are founded and that immediate and professional investigation is necessary, the Level One investigator may defer further investigation and contact appropriate law enforcement officials, the student's parents, and the person filing the report.

Within fifteen days of receipt of the report, the Level One investigator will complete a written investigative report, unless the investigation was temporarily deferred.

The written investigative report will include:

1. The name, age, address, and attendance center of the student named in the report.
2. The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
3. The name and work address of the employee named in the report as allegedly responsible for the abuse of the student.
4. An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.
5. A general review of the investigation.
6. Any actions taken for the protection and safety of the student.
7. A statement that, in the investigator's opinion, the allegations in the report are either:
 - Unfounded. (It is not likely that an incident, as defined in these rules, took place) or
 - Founded. (It is likely that an incident took place.)
8. The disposition or current status of the investigation.
9. A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include, but are not limited to:
 - Contacting law enforcement officials.
 - Contacting private counsel for the purpose of filing a civil suit or complaint.
 - Filing a complaint with the Board of educational examiners if the employee is a licensed employee.

The investigator will retain the original and provide a copy of the written investigative report to the school employee named in the report, the employee's supervisor, and the student's parent or guardian. The person filing the report, if not the student's parent or guardian, will be notified only that the Level One investigation has been concluded and of the disposition or anticipated disposition of the case.

The Level One investigator's role is not to determine the guilt or innocence of the school employee, the applicability of the exceptions or reasonableness of the contact or force. That is the responsibility of the Level Two investigator. The Level One investigator will determine, by a preponderance of the evidence, whether it is likely that an incident took place between the student and the school employee. If the complaint has been withdrawn; the allegation recanted; or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teaching certificate or license, the Level One investigator may conclude the investigation at Level One. Upon completion of the report, if the Level One investigator determines the allegations of physical abuse are founded, the Level One investigator will refer the case on to the Level Two investigator.

The Level Two investigator will review the Level One investigator's final investigative report and conduct further investigation. The Level Two investigative report will state the conclusion as to the occurrence of the alleged incident, the applicability of exceptions, the reason for the contact or force used, and recommendations regarding the need for further investigation. In determining the applicability of the exceptions or the reasonableness of the contact or force used, the Level Two investigator will use the following definitions:

"Physical abuse" is non-accidental physical injury to the student as a result of the action of an employee. Injury occurs when evidence of it is still apparent at least twenty-four hours after its occurrence. The following do not constitute physical abuse, and no employee is prohibited from:

- a. Using reasonable and necessary force, not designed or intended to cause pain:
 - (1) To quell a disturbance or prevent an act that threatens physical harm to any person.
 - (2) To obtain possession of a weapon or other dangerous object within a pupil's control.
 - (3) For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.
 - (4) For the protection of property as provided for in Iowa Code sections 704.4 and 704.5.
 - (5) To remove a disruptive pupil from class, or any area of school premises or from school-sponsored activities off school premises.
 - (6) To prevent a student from the self-infliction of harm.
 - (7) To protect the safety of others.
- b. Using incidental, minor or reasonable physical contact to maintain order and control.

In determining the reasonableness of the contact or force used, the following factors will be considered:

- a. The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.
- b. The size and physical condition of the student.
- c. The instrumentality used in making the physical contact.
- d. The motivation of the school employee in initiating the physical contact.
- e. The extent of injury to the student resulting from the physical contact.

“Reasonable force” is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one’s life or safety or the life or safety of another or it is reasonable to believe that such force is necessary to resist a like force or threat.

Upon completion of the Level Two investigation, the Level One investigator will forward copies of the Level Two investigative report to the employee, the employee’s immediate supervisor, and the student’s parent. The Level One investigator will notify the person filing the report of the current status of the case.

If the Level Two investigator’s report or law enforcement officials conclude abuse occurred or the employee admits the violation or the employee has surrendered the employee’s certificate or license, the Level One investigator will file a complaint with the State Board of Educational Examiners. The Level One investigator will also arrange for counseling services for the student if the student or student’s parents request counseling services.

Sexual Abuse Allegations

“Sexual abuse” is defined as including sexual acts involving a student, acts that encourage the student to engage in prostitution, as well as inappropriate, intentional sexual behavior or sexual harassment by the employee toward a student. “Sexual harassment” is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a term or condition of student’s education or benefits;
2. Submission to or rejection of the conduct is used as the basis for academic decisions affecting that student; or
3. The conduct has the purpose or effect of substantially interfering with a student’s academic performance by creating an intimidating, hostile or offensive education environment.

When sexual abuse is reported, the Level One investigator will make copies of the report and give a copy to the person filing the report, the student’s parents and the immediate supervisor of the employee named in the report. The employee named in the report will not receive a copy of the report until the employee is initially interviewed. The designated investigator will not interview the school employee named in a report of sexual abuse until after a determination is made that jurisdiction exists, the alleged victim has been interviewed and a determination made that the investigation will not be deferred.

The investigator will notify the parent, guardian or legal custodian of a student in pre-kindergarten through grade six, of the date and time of the interview and of the right to be present or to see and hear the interview or send a representative in the parent’s place. The Level One investigator will interview the student as soon as possible, but in no case later than five days from the receipt of a report or notice of the allegation of sexual abuse. The Level One investigator may record the interview electronically.

The Level One investigator will exercise discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator will maintain the confidentiality of the report.

If, in the investigator’s opinion, it is likely that an incident in the nature of sexual abuse as defined by Iowa Code chapter 709 or section 728.12(1) took place, the investigator will temporarily deter further Level One investigation. In cases of deterred investigation, the investigator will immediately contact appropriate law enforcement officials, notify the student’s parent or guardian, and the person filing the report, if different from the student’s parent or guardian, of the action taken.

If in the investigator's opinion, an incident occurred that would not constitute sexual abuse as defined in Iowa Code chapter 709 or sexual exploitation as defined by Iowa Code section 728.12(1), but that was in the nature of inappropriate, intentional sexual behavior by the school employee, further investigation is warranted. The investigator may proceed to interview the school employee named in the report. Prior to interviewing any collateral sources who may have knowledge of the circumstance contained in the report, the investigator will provide notice of the impending interview of student witnesses who are in prekindergarten through grade six, to their parent, guardian or legal custodian, and may provide notice to the parent or guardian of older students, prior to interviewing those students.

Within fifteen days of receipt of the report, the Level One investigator will complete a written investigative report, unless the investigation was temporarily deferred.

The written investigative report will include:

1. The name, age, address, and attendance center of the student named in the report.
2. The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
3. The name and work address of the school employee named in the report as allegedly responsible for the abuse of the student.
4. An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.
5. A general review of the investigation.
6. Any actions taken for the protection and safety of the student.
7. A statement that, in the investigator's opinion, the allegations in the report are either:
 - Unfounded. (It is not likely that an incident, as defined in these rules, took place), or
 - Founded. (It is likely that an incident took place.)
8. The disposition or current status of the investigation.
9. A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include, but are not limited to:
 - Contacting law enforcement officials.
 - Contacting private counsel for the purpose of filing a civil suit or complaint.
 - Filing a complaint with the Board of educational examiners if the school employee is certificated.

The investigator will retain the original and provide a copy of the investigative report to the school employee named in the report, the school employee's supervisor and the named student's parent or guardian. The person filing the report, if not the student's parent or guardian, will be notified only that the Level One investigation has been concluded and of the disposition or anticipated disposition of the case.

The Level One investigator's role is not to determine the guilt or innocence of the school employee. The Level One investigator will determine, by a preponderance of the evidence, whether it is likely that an incident took place between the student and the school employee. If the complaint has been withdrawn, the allegation recanted or the employee has resigned, admitted the violation or agreed to relinquish the employee's teaching certificate or license, the Level One investigator may conclude the investigation at Level One.

If, in the Level One investigator's opinion, the allegation of sexual abuse is unfounded either because the conduct did not occur or the conduct did not meet the definition of abuse, further investigation is not warranted. The investigator will notify the student's parent or guardian, the person filing the report, if different from the student's parent or guardian, and the school employee named in the report of this conclusion in a written investigative report.

If the allegations are founded, the Level One investigation will refer the case to the Level Two investigator. The Level Two investigator will review the Level One investigator's final investigative report and conduct further investigation if necessary. The Level Two investigative report will state conclusively as to the occurrence of the alleged incident, conclusively as to the nature of the sexual abuse and recommendations regarding the need for further investigation. Upon completion of the Level Two investigation, the Level One investigator will forward copies of the Level Two investigative report to the employee, the employee's immediate supervisor and the student's parent. The Level One investigator will notify the person filing the report of the current status of the case.

If the Level Two investigator's report or law enforcement officials conclude sexual abuse occurred or the employee admits the violation or the employee has surrendered the employee's certificate or license, the Level One investigator will file a complaint on behalf of the District after obtaining the superintendent's signature with the State Board of Educational Examiners. The Level One investigator will also arrange for counseling services for the student if the student or student's parents request counseling services.

In cases involving founded physical or sexual abuse by a licensed employee, the Superintendent/designee will notify the Board of Educational Examiners. Information of unfounded abuse at Level One or Level Two will not be kept in the employee's personnel file. If the Level One investigative report is founded but Level Two is unfounded, then the Level One report will be removed from the employee's permanent file.

A complaint of sexual abuse under this policy may also be considered a complaint of sexual abuse and/or sexual harassment pursuant to Title IX. Formal complaints and informal reports of conduct constituting sexual harassment will also be subject to the Title IX grievance process set forth in Procedure 102c.

It will be the responsibility of the Board to annually identify a Level One and Level Two investigator. The Board will also designate annually an alternate Level One investigator, preferably of the opposite sex of the designated Level One investigator, to whom reports may also be made. The names and telephone numbers of the Level One investigator and the alternate Level One investigator will be included in student handbooks, annually published in the local newspaper, and prominently displayed in all school buildings.

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Abuse of Students by School District Employees Complaint of Injury to or Abuse of a Student by a School District Employee

Please complete the following as fully as possible. If you need assistance, contact the Level One investigator in your school.

Student's name and address: _____

Student's telephone no: _____

Student's school: _____

Name and place of employment of employee accused of abusing student: _____

Allegation is of _____ Physical Abuse _____ Sexual abuse*

Please describe what happened. Include the date, time and where the incident took place, if known. If physical abuse is alleged, also state the nature of the student's injury: _____

Were there any witnesses to the incident or are there students or persons who may have information about this incident? _____ Yes _____ No

If yes, please list by name, if known, or classification (for example "third grade class," "fourth period geometry class"):

*Parents of children who are in pre-kindergarten through sixth grade and whose children are the alleged victims of or witnesses to sexual abuse have the right to see and hear any interviews of their children in this investigation. Please indicate "yes" if the parent/guardian wishes to exercise this right:

_____ Yes _____ No Telephone Number _____

Has any professional person examined or treated the student as a result of the incident?

_____ Yes _____ No _____ Unknown

If yes, please provide the name and address of the professional(s) and the date(s) of examination or treatment, if known

Has anyone contacted law enforcement about this incident? _____ Yes _____ no

Please provide any additional information you have which would be helpful to the investigator. Attach additional pages if needed.

Your name, address and telephone number: _____

Relationship to student: _____

Complainant Signature

Witness Signature

Date

Witness Name (please print)

Witness Address

Be advised that you have the right to contact the police or sheriff's office, the county attorney, a private attorney, or the State Board of Educational Examiners (if the accused is a licensed employee) for investigation of this incident. The filing of this report does not deny you that opportunity.

You will receive a copy of this report (if you are the named student's parent or guardian) and a copy of the Investigator's Report within fifteen calendar days of filing this report unless the investigation is turned over to law enforcement.

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**Abuse of Students by School District Employees
Level One Investigation Report**

Student's name _____

Student's age: _____ Student's grade: _____

Student's address: _____

Student's school: _____

Name of accused school employee _____ Building _____

Name and address of person filing report: _____

Name and address of student's parent or guardian, if different from person filing report: _____

Date report of abuse was filed: _____

Allegation is of _____ Physical abuse _____ Sexual abuse*

Describe the nature, extent and cause of the student's injury, if any and if known: (Attach additional pages if needed).

Describe your investigation. Attach additional pages if needed. (Please do not use full names of student witnesses).

*Were parent(s) or guardian(s) advised of their right to see and hear any interview of their pre-kindergarten through sixth grade children who are alleged victims of or a witness in a sexual abuse investigation?

Yes _____ No _____ Was the right exercised? _____ Yes _____ No

Were audio tapes made of any interviews? _____ Yes _____ No

Were video tapes made of any interviews? _____ Yes _____ No

Was any action taken to protect the student during or as a result of the investigation? Yes _____ No

If yes, describe:

- _____ student excused from school
- _____ school employee placed on leave
- _____ student assigned to different class
- _____ other (please specify)

Level One investigator's conclusions:

The complaint is being dismissed for lack of jurisdiction.

- Physical abuse was alleged, but no evidence of injury exists.
- Physical abuse was alleged, but nature of the alleged incident makes it unlikely an injury, as defined in the rules, occurred.
- Sexual abuse was alleged, but the alleged actions of the school employee, even if true, would not meet the definition of sexual abuse in the rules.
- Alleged victim was not a student at the time of the incident.
- Alleged school employee is not currently employed by this school district or was not a school employee at the time of the alleged incident.
- Alleged incident did not occur on school grounds, on school time, at a school-sponsored activity, nor in a school-related context.

The complaint has been investigated and concluded at Level One as unfounded.

- Complaint was withdrawn or recanted.
- Insufficient evidence exists that an incident of abuse, as defined in the rules, took place.

The complaint has been investigated at Level One and is founded.

- The investigation is founded at Level One and is being turned over to Level Two for further investigation.
- The investigation is concluded at Level One because the accused school employee has admitted the violation, has resigned, or has agreed to relinquish any teaching license held.

Current status of investigation:

- Closed. No further investigation is warranted.
- Closed and referred to school officials for further investigation as a personnel matter.
- Deferred temporarily to law enforcement officials.
- Turned over to Level Two investigator.

Other comments:

I have given a copy of the report of abuse and of this investigative report to the employee named in the report, the employee's supervisor, and the student's parent or guardian and informed the person filing the report of the options of contacting law enforcement, private counsel, or the State Board of Educational Examiners, if the accused school employee holds an Iowa teacher's certificate or license.

Name of investigator (please print)

Investigator's place of employment

Signature of investigator

Date



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