

# Domestic Violence and Schools

## What School Officials Can Do

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By Ann McColl

Domestic violence has been a part of society for—perhaps—forever. And children have been scarred by it for just as long. Other writers have exposed the extent of the problem and advocated for the victims.<sup>1</sup> This article serves a different purpose. It is designed to help school officials address domestic violence that affects students and the school community.

So why write about it now? In part because, unfortunately, domestic violence just doesn't go away. Most school administrators can expect to deal with domestic violence at some point in their careers, and some will deal with it many times in a school year. Among educators at all levels there is growing awareness of the detrimental effects on children exposed to domestic violence.

Even though domestic violence persists, laws and the state agencies charged with implementing them have developed new tools for dealing with the problem. In 1999 Governor James B. Hunt established a permanent Domestic Violence Commission to analyze and recommend policy changes. In 2002 the Attorney General's Office initiated the Address Confidentiality Program. The General Assembly clarified the process for obtaining temporary child custody as part of a vast rewrite of domestic violence laws in July 2004.<sup>2</sup> In September 2004 the North Carolina Division of Social Services (DSS) issued a new policy on domestic violence as it relates to child protective services, a policy based on the work of the Child Well-Being and Domestic Violence

Task Force. In December 2004 the Administrative Office of the Courts (AOC) published updated court forms for domestic violence that reflect the legislative changes. In January 2005 the State Board of Education (State Board) and the Department of Public Instruction (DPI) submitted their final report on domestic violence to the General Assembly.<sup>3</sup> And in its 2005 session, the General Assembly again refined laws related to domestic violence, including provisions that directly affect schools. The forms issued by the AOC in March 2006 reflect these changes. School officials need to be familiar with all these important changes to meet their legal duties and safeguard the children in their care.

This article uses a question-and-answer format to help school personnel—administrators, school district officials, teachers, counselors, school resource officers, and after-school coordinators—find the information they need quickly. It focuses on understanding laws and legal processes in order to maintain a safe school and develop processes to address particular situations. It does not attempt to address all issues related to the curriculum or personnel training. Female pronouns are used throughout to describe the victim, for the reality is that women are far more likely to suffer partner abuse than men are.<sup>4</sup>

### 1. What is domestic violence?

Domestic violence is about control and fear, physical injuries and emotional harm. It occurs in intimate relationships when one person uses abusive behavior to control the

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The author, an attorney, is associate professor of educational leadership in the College of Education of the University of North Carolina at Charlotte

1. See, for example, "the Greenbook," one of the most important documents on partner violence that also relates to children: Susan Schechter and Jeffrey Edlesen, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* (Reno, Nev.: National Council of Juvenile and Family Court Judges, 1999). The Web site for the book, [www.thegreenbook.info](http://www.thegreenbook.info), also contains references to other resources.

2. N.C. GEN. STAT. 50B-2, -3 (hereinafter G.S.) as amended by S.L. 2004-186 (effective October 1, 2004).

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3. See further discussion of this report in Question 4, footnote 13. The report is also referenced in the Resources list at the end of this article.

4. Nationally, 84 percent of the victims of partner violence in 2003 were women. Shannon Catalano, "Criminal Victimization, 2003," in *National Crime Victimization Survey* (Washington, D.C.: Bureau of Justice Statistics, 2004). These statistics have been stable for years: in 1998, 85 percent of victims were women. Callie Marie Rennison and Sarah Welchans, *Intimate Partner Violence*, Bureau of Justice Statistics Special Report (Washington, D.C.: U.S. Department of Justice, 2000).

**G.S. 50B-1. Domestic violence; definition.**

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties. . . .

other. The abuse may be physical, sexual, or emotional and may take the form of social isolation, economic oppression, threats, degradation, or mistreatment of children.<sup>5</sup> While the pattern of abuse may vary in form and intensity, domestic violence typically escalates over time and may lead to serious physical injury, child kidnapping, severe psychological stress, and death.

While domestic violence is not a crime, per se, in North Carolina many of the acts committed in partner abuse—for example, assault, battery, stalking, and homicide—are crimes. An abuser can be prosecuted for any crime committed in the context of domestic violence. A victim also can pursue civil remedies for protection against the abuser. North Carolina civil law defines domestic violence as attempting or intentionally causing bodily injury, committing criminal sexual offenses, placing the victim in fear of serious bodily injury, or harassment that inflicts substantial emotional distress. The law extends protection against these acts to former spouses or others who have been in intimate relationships with the abuser, including minor children. The statute (see sidebar) also applies to dating violence, in which minors may be the victim or the abuser.

5. North Carolina Division of Social Services, *Family Services Manual*, Volume I: *Children's Services*, Chapter VIII, Child Protective Services, Section 1409, "Domestic Violence," p. 3 (revised 2004), available at <http://149.168.11.112/olm/manuals/dss/csm-60/man/index.htm>.

## 2. How often does domestic violence occur in North Carolina?

There are different ways to track domestic violence. In 2003–2004 state-funded domestic violence programs across North Carolina provided services to 45,211 individuals.<sup>6</sup> In the same year, state courts issued 11,954 domestic violence protective orders (DVPOs).<sup>7</sup> In 2004 fifty-eight women were killed by current or former boyfriends or husbands and ten men were killed by current or former wives or girlfriends.<sup>8</sup>

6. North Carolina Department of Administration, N.C. Council for Women/Domestic Violence Commission, Domestic Violence Program, *Program Summary Report for 7/01/2003—6/30/2004* (Raleigh, 2004). For detailed information by county, contact the commission at 919.733.2455 or 1320 Mail Service Center, Raleigh, N.C. 27699-1320. The local domestic violence programs are funded through the Council for Women/Domestic Violence Commission pursuant to G.S. 50B-9. To receive funding, programs must provide the services specified by the statute.

7. Chart from Patrick Tammer, N.C. Judicial Department, AOC Research and Planning, "District Court Civil (CVD) Cases with a Domestic Violence Issue by Order Result of the Domestic Violence Issues, Order Results During FY 2003/2004" (Raleigh, 2004) (on file with author).

8. Data compiled by author from North Carolina Coalition against Domestic Violence, "Domestic Violence Homicides in North Carolina from January 1–December 26, 2004," at [www.nccadv.org](http://www.nccadv.org) (accessed June 27, 2005). A total of eighty-one murders

### 3. How often are children affected?

Children are frequently present in environments where there is domestic violence. Nationally, almost half of female victims of partner violence lived in households with children under the age of 12.<sup>9</sup> In North Carolina, about half of those served in domestic violence shelters are children.<sup>10</sup> Even more troubling, children who live in these homes are at a much higher than average risk of child abuse.<sup>11</sup>

### 4. How does domestic violence affect schools?

Domestic violence has an immediate impact on the safety of the child and on the school community. Because children living in homes where domestic abuse is present are at higher risk for suffering child abuse, school personnel must be alert to their duty to report suspected abuse. Teachers and counselors need to be aware of how living in an abusive situation may affect a child's ability to do well academically, emotionally, and socially.

Administrators and school boards must have safety procedures and policies in place for dealing with volatile parents who come onto a campus or into school building. And schools must be prepared to work with various court documents, including DVPOs and temporary custody orders.

In addition, in cases of suspected dating violence, in which both victim and abuser may be students, school personnel may need to take steps to keep them separated while at school. Teaching all students about healthy relationships can also help to break the generational cycle of domestic violence that may begin in dating violence.<sup>12</sup> The

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are reported for this time period, including other murders in family settings.

9. Nationally, 45 percent of the women who were victims of intimate partner violence between 1993 and 1998 had children under the age of twelve in their household and 39 percent had no children. No information on the remaining 16 percent is available. Rennison and Welchans, *Intimate Partner Violence*. By comparison, 27 percent of households in the general population include children under twelve.

10. In 2003–2004, shelter services were provided in North Carolina for 5,865 children aged birth to 17 years old (49.4 percent) and 6,014 adults (50.6 percent). Data compiled by author from N.C. Council for Women/Domestic Violence Commission, *Program Summary Report* (2004).

11. S. M. Ross, "Risk of physical abuse to children of spouse-abusing parents," *Child Abuse and Neglect* 20 (July 1996): 589–98; M. A. Straus and C. Smith, "Family patterns and child abuse," in *Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families* (New Brunswick, N.J.: Transaction Publishers, 1992); Straus, M. A. *Beating the Devil Out of Them: Corporal Punishment in American Families*, ed. M. A. Straus and R. J. Gelles (New York: Lexington Books, 1994), 230, 238.

12. Miriam K. Ehrensaft and Patricia Cohen et al., "Intergenerational Transmission of Partner Violence: A 20-Year Prospective Study," *Journal of Consulting and Clinical Psychology*

North Carolina General Assembly has recognized this cycle and has requested the State Board to study antiviolenace programs and the training needed by school personnel. In response, the State Board has submitted recommendations to the General Assembly, including a set of objectives for the Healthful Living Curriculum.<sup>13</sup>

School employees can also be the victims or perpetrators of domestic violence. As in any working environment, it is important to have in place personnel policies and safety procedures to address situations that may arise as a result of domestic violence.

### 5. What are Domestic Violence Protective Orders?

Domestic violence protective orders, also called DVPOs, restraining orders, or 50-B orders, are issued by a district court upon finding that the defendant—the abuser—has committed domestic violence. This civil (not criminal) court process is intended to prevent the defendant from having the opportunity to commit further domestic violence by specifying the kind of contact, if any, he or she may have with the victim or other members of the household; such an order can also include restrictions on the ownership of firearms.<sup>14</sup>

### 6. How may DVPOs affect schools?

DVPOs directly affect schools if (1) the order bars the defendant from the children's school; (2) it orders the defendant not to interfere with the children; and (3) a temporary custody order specifies arrangements between the parents that relate to the school. It is critical for school administrators to understand the provisions of the DVPO or custody order as they affect a parent's legal rights. Some DVPOs also contain information that is helpful for assessing a child's need for counseling or other services from the school.

### 7. What must the victim do to get a DVPO?

The victim fills out forms, describing the abuse and requesting relief. These forms are available in the office of the

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71 (2003):741–53; see also Vangie A. Foshee, Karl E. Bauman et al., "Safe Dates Project," *Prevention Researcher* 7 (2000): 5–7.

13. House Bill 1354, S. L. 2004-186; Report to the Joint Legislative Education Oversight Committee, State Board of Education, Department of Public Instruction (DPI), January 15, 2005, Report #12. This report includes examples of how to incorporate domestic violence and dating violence into specific core curriculum components at each grade level. The report also recommends collaboration between DPI and other state and local agencies to ensure the coordination and funding necessary for effective training. Margaret Peebles, section chief, DPI, reported that a committee last met on these issues in March 2005. Meetings have not yet been scheduled for 2006. Telephone interviews with author, June 28, 2005, January 27, 2006.

14. G.S. 50B-2, -3.1.

county clerk of court or online from the Administrative Office of the Courts.<sup>15</sup> The victim simply submits the forms to the clerk's office in her county of residence. She need not hire a lawyer, and there are no filing fees. Local domestic violence programs, which maintain offices and shelters in nearly every county, can help individuals through the hearing process described in the next question.<sup>16</sup> (For more information on local domestic violence programs, see Question 9.)

### 8. How long is a DVPO in effect?

There are two types of DVPOs. An *emergency DVPO*, or *ex parte order*, can be issued by a judge and some magistrates (depending on local court policies) and lasts up to ten days.<sup>17</sup> The defendant does not have to receive notice of the hearing or the opportunity to be heard before the order is issued. The purpose is to provide a temporary order to take effect immediately until a *full hearing* can be scheduled. The defendant will receive notice of the full hearing and have the opportunity to be heard at that time. By law, the hearing on the *ex parte order* must be held within either seventy-two hours of the filing for relief or by the end of the next day on which the district court is in session, whichever is earlier. Typically, a hearing is held right away if a judge is available.<sup>18</sup>

A full hearing must be held within ten days of entry of the *ex parte order*. The defendant receives reasonable notice of the full hearing and has the opportunity to be heard by a judge. The judge can issue an order valid for up to one year; prior to its expiration, the court can renew this order for up to two years if there is good cause.<sup>19</sup> The county clerk of court's office or the local domestic violence program (see question below) can provide more information on local court practices.

### 9. If a parent tells school personnel about domestic violence and wants the abuser kept away from the school, what should she be told?

School personnel can tell her about DVPOs and her right to legally request that the defendant be kept away from the school. They can refer her to the local domestic violence

program as well as provide her with the contact information and location of the county clerk of court's office. Local domestic violence programs provide extremely valuable resources for victims. Staff members of these programs can explain civil and criminal remedies, assist the parent to decide whether a DVPO is likely to help in her situation, and help her develop a plan to be safe and regain control over her circumstances. School officials can find information about the nearest domestic violence program on the Web site of the North Carolina Coalition Against Domestic Violence.<sup>20</sup>

### 10. If a DVPO can provide important protection and is accessible, shouldn't all victims obtain a DVPO?

Although the law is designed to make a DVPO accessible to any victim who needs it, in some situations seeking one may escalate the violence. And if the relationship enters a "honeymoon" period during which the abuser stops committing domestic violence, the victim may not want to risk ending this period of relative calm by seeking the order. Some victims seek the ten-day *ex parte order* but do not pursue the longer order because confronting the abuser in a hearing is intimidating—especially if he has made threats since the *ex parte order* was issued. Or the abuser may have convinced the victim that he will no longer harm her or the children.

### 11. What should school officials look for in a DVPO?

To determine whether the parent has a valid DVPO that affects the school, school personnel need to look at the form carefully.<sup>21</sup>

- First, make sure that the order is still in effect. The expiration date is on the first page of the order about two-thirds of the way down. It states, "The terms of this order shall be effective until . . ." followed by three boxes for insertion of the expiration date.
- Second, see if the DVPO specifically orders the defendant to stay away from the children's school. The details of the "Order" begin on page 3, where number 8 reads "the defendant shall stay away from the following places," and includes a checkbox (b) for "the child(ren)'s school."
- Third, in the same section of the order, see if number 2 has been checked; this provision includes a phrase forbidding the defendant to

assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor

15. Complaint and Motion for Domestic Violence Protective Order available at <http://www.nccourts.org/Forms/Documents/696.pdf>. Forms for the orders also are available from [www.nccourts.org/Forms/Documents](http://www.nccourts.org/Forms/Documents).

16. Contact information on domestic violence centers across the state is available at [http://www.nccadv.org/service\\_providers.htm](http://www.nccadv.org/service_providers.htm).

17. Complaint and Motion for Domestic Violence Protective Order (AOC-CV-303) is available online at [www.nccourts.org/Forms/Documents/809.pdf](http://www.nccourts.org/Forms/Documents/809.pdf).

18. G.S. 50B-2.

19. G.S. 50B-3(b) as amended by S.L. 2005-423.

20. [http://www.nccadv.org/service\\_providers.htm](http://www.nccadv.org/service_providers.htm).

21. See form AOC-CV-306, available online at [www.nccourts.org/Forms/Documents/810asp](http://www.nccourts.org/Forms/Documents/810asp).

child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision.

This is a clear indication that the child has been affected by the domestic violence. To gain a better understanding of how the child's safety and well-being have been affected, school personnel can more closely review other parts of the order, including the "Additional Findings."

- Fourth, check to see if a "Temporary Child Custody Addendum" is attached to the DVPO. If it is, review the section on the second page identified as the "Order" to determine whether it contains anything that may involve the school. For example, it may include visitation rights that relate to the school or may specify who will make education decisions for the child. In addition, the "Findings" will give information about the child's circumstances that may be helpful in providing counseling services.

The foregoing are the main points school officials need to check to determine how the order affects the legal rights of each parent. Other parts of the DVPO enumerate the court's findings of fact, which will give school personnel a sense of how severe the domestic violence has been and how it has affected the child. These findings may be important in considering the possibility of child abuse or the child's need for counseling services. These issues are discussed more fully in the answers to questions 24 and 25 below.

## 12. Does the copy need to be certified?

No. The school can rely on a photocopy of the order as long as it is readable and there is nothing to suggest it has been forged or altered.

## 13. Who needs to know about the DVPO?

School administrators and the school resource officer need to know about all DVPOs so that they can be alert to potential safety issues. If a parent is barred from school property, security personnel or administrators should have a description of the abusive parent and his or her vehicle. Other personnel who might possibly be in a position to release the child from school or to screen visitors must also have access to information from the DVPO. Depending on the organization of the school, this can include administrative assistants, after-school program coordinators, and anyone working in the office temporarily (for example, during lunch breaks or meetings). And, even though schools have adopted procedures so that teachers do not themselves release students from school, it is important

to alert teachers in case a parent successfully by-passes procedures.

In addition to school personnel who need to know what it contains for safety reasons, those who provide supportive services to children should review the DVPO. As school counselors or social workers often have responsibilities for interacting with other agencies, it makes sense for them to review the order. They can then determine whether others—such as teachers or the school health nurse—may need some of the information it contains to work effectively with the child. The key issue is making sure that the forms are reviewed both for issues related to safety and to the child's well-being.

## 14. What if the DVPO relates to dating violence and the victim and perpetrator are both students at the school?

If both students remain in school, administrators need to determine specifically what aspects of the order relate to the school setting. If the perpetrator cannot have any contact with the victim, school officials must devise a way to keep the students apart. Steps taken to do so will necessarily vary depending on the school's physical layout and the students' classroom assignments. Local boards of education also have the authority to transfer the perpetrator to another school.<sup>22</sup>

## 15. How does the school obtain a copy of the DVPO?

The General Assembly's 2005 amendment to the domestic violence laws directs the sheriff to deliver to the principal a copy of all orders that include a provision ordering the defendant to stay away from the school.<sup>23</sup> In addition, the parent can provide a copy of an existing order, or school officials can obtain one through the clerk of court's office.

## 16. What happens if the order on file has expired?

Once the order has expired, it can no longer be enforced. Even though the school has no specific legal duty to find out whether a new order has been issued, it is disturbing to think of situations that could put a child in harm's way because the school did not know that a new order had been issued. Given the 2005 amendment to domestic violence laws, this should be less likely, because the sheriff will deliver a copy of all new or renewed orders to the principal. But it is still possible that there will be some delay in

22. G.S. 115C-366(b), -367.

23. The law now states: "If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order." G.S. 50B-3(c) as amended by S. L. 2005-423.

receiving the order and that the defendant will appear at the school during this time. The best practice is to have a tickler system to alert school officials when an expiration date is near; they can then contact the parent or the clerk's office to determine whether a new order has been issued or the original order has been renewed.<sup>24</sup>

**17. What if the parent-victim tells school personnel to ignore the DVPO and allow the defendant to come to the school campus?**

Even if the parent-victim says that it is all right for the defendant to come to the school, administrators must follow the order. The victim does not have the authority to modify the court's order. This is clearly stated on the first page of the DVPO (underlined and in boldface type).

**WARNINGS TO THE RESPONDENT/DEFENDANT:**

Only the Court can change this order. **The plaintiff cannot give you permission to violate this order.**

**18. What if the abuser comes on campus even though the DVPO orders the defendant to stay away from the school?**

The initial concern must be the safety of the child and the school community. While procedures may vary from school to school, administrators or other personnel should alert the school resource officer and the police or sheriff immediately. Depending on the situation, the principal also may need to implement the lockdown procedures adopted by the school or school district.

In some cases, the defendant's action may be an indication that the court order is not working to protect the child and may, depending on the circumstances, trigger the duty to report suspected child abuse. (See Question 25 below.) Failure to comply with a DVPO is both a civil and criminal violation. Involving law enforcement may also lead to the arrest of the abuser for violating the DVPO. If school officials inform the parent-victim of the violation of the DVPO, she can pursue enforcement of the DVPO through the courts.

**19. If there is an expired DVPO or no DVPO, can school officials keep an abusive parent off school property?**

Schools have authority to maintain a safe and orderly campus and can insist on appropriate behavior by third parties—including parents. A parent has a liberty interest

in the care, control, and custody of his or her child under the Fourteenth Amendment of the U.S. Constitution. And in North Carolina parents also have common law rights recognized by the courts and rights specified by statutes.<sup>25</sup> But none of these rights are absolute: under certain circumstances courts can take away these rights. The courts have recognized in several cases that school officials do not have to give parents unlimited access to the school; indeed these cases suggest that there is no constitutional right of access to a school.<sup>26</sup> Given the school's recognized responsibility to provide a safe environment, courts have reasoned that a school does not violate parental rights by keeping an abusive parent away.<sup>27</sup>

In most of these cases, schools have judged a parent's behavior on the basis of his or her past behavior at the school. A more difficult situation arises when the only information about a parent's potentially abusive behavior comes from the other parent. For example, the mother may call and explain that the father has abused her for years and she is now fearful that he will come to the school to kidnap the children. Under these circumstances, the urgency and credibility of the complaining parent may influence school officials' decision to allow or deny access. An even more difficult issue arises when the parent comes to the school to pick up the child, a situation that relates to the parent's constitutional interests in the control and custody of his or her child. Nonetheless, these parental interests can be balanced

25. See *Petersen v. Rogers*, 445 S.E.2d 901 (1994); *G.S. 50-13.2*; *Pierce v. Society of Sisters*, 268 U.S. 510, 534 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

26. As described in a recent district court decision, "[h]owever, no court has ever interpreted the due process clause to create a parental right of unfettered access to school facilities. To the contrary, courts have consistently upheld the authority of school officials to control activities on school property. This includes barring third parties, including parents, from access to the premises when necessary to maintain order and prevent disruptions to the educational environment." *Rodgers v. Duncanville Independent School District*, 2005 WL 770712 (N.D. Tex., April 5, 2005).

27. See *Lovern v. Edwards*, 190 F.3d 648, 655-56 (4th Cir. 1999) ("School officials have the authority to control students and school personnel on school property, and also have the authority and responsibility for assuring that parents and third parties conduct themselves appropriately while on school property."); *Carey v. Brown*, 447 U.S. 455, 470-71 (1980) (Constitutional rights do not prevent schools from maintaining safety.); *Goss v. Lopez*, 419 U.S. 565, 582-83, (1975) (upholding authority of school to maintain safety and order, including by removing persons from campus); *Van Deelen v. Shawnee Mission Unified School Dist. # 512*, 316 F. Supp. 2d 1052, 1057 (D. Kan. 2004) (Abusive parent had no constitutional right to enter school.); *Ryans v. Gresham*, 6 F. Supp. 2d 595, 601 (E.D. Tex. 1998) (No caselaw even "remotely" guarantees access to child's classroom.).

24. Question 19 addresses a situation in which no new order has been issued but there is reason to believe that the defendant might harm the child.

against the school's interest in maintaining safety for the individual child and the school community.

Given these legal complexities, it is wise for school administrators to consult the school board attorney, who can provide advice about what actions are likely to be supportable in a particular situation. If there are immediate safety concerns, the school resource officer, police, or sheriff should be notified. The superintendent or other central office personnel also can provide guidance during potentially dangerous situations. And local school boards can play an important part by establishing a policy that gives clear authority to the principal to make decisions about restricting access to the school campus on the grounds of safety and order.

## 20. What if a valid DVPO orders the defendant to stay away from the school but the defendant requests a copy of the child's educational records?

If the defendant is a parent or legal guardian of the child, he or she has a right to review the child's educational records unless a court order specifically takes this right away.<sup>28</sup> Thus, the school must work out some arrangement for the defendant to review records if requested.

## 21. What can be done if the victim wants to keep her home address confidential?

If the victim has moved, she may be trying to keep the estranged husband or boyfriend from finding her and her children. The abuser may try to get the new address from the school. Schools often publish student home addresses as "directory information."<sup>29</sup> Although the victim can withhold consent for publishing her address, it will still be on the child's education records and accessible to the abuser if he is the father.

To keep the address from being available in the education records, the victim can participate in the Address Confidentiality Program (ACP), which is administered by the North Carolina Attorney General's Office. The victim applies to the program through a local domestic violence program and is given a secure substitute address. The ACP then forwards first class mail to the confidential address.<sup>30</sup>

## 22. How does the Address Confidentiality Program affect schools?

A program participant submits a current and valid ACP authorization card to the school, which must use the substitute address for all purposes (including published school

directories) except student assignment and admission. Schools are required to maintain the confidentiality of the actual address and telephone number of any student participating in the program.<sup>31</sup> Thus, even though the abuser-parent may still have a right to review education records, he will only have access to the substitute address used in the student records.

It is crucial for schools to have procedures in place for meeting these requirements. In addition to its importance for the safety of the child and victim, failure to fulfill these requirements may violate the federal Family Educational Rights and Privacy Act as well as state law. Intentional violation of the state law is a misdemeanor and is punishable by a fine.<sup>32</sup>

## 23. What are the possible issues for the school if the abused parent and child leave the home and stay in a shelter or temporarily live with family or friends to get away from the abuser?

The child will be considered "homeless" and have a number of rights under the McKinney-Vento Homeless Assistance Act's Education for Homeless Children and Youths Program (commonly referred to as the McKinney-Vento Act).<sup>33</sup> These rights include remaining at the school of origin and being provided with school transportation from the shelter or other temporary housing. Or, if the parent prefers, she can request a different school placement, perhaps to keep the abuser from knowing where to find the child during the school day. The school district must grant her placement request to "the extent feasible" and must provide transportation.<sup>34</sup> The two schools must work together to transfer records.<sup>35</sup>

## 24. When is domestic violence likely to be considered child abuse or neglect?

Child abuse and child neglect are terms defined in G.S. 7B (see sidebar). *Child abuse* includes inflicting or allowing others to inflict serious physical injury or emotional

28. G.S. 50-13.2(b).

29. 20 U.S.C. 1232g(a)(5).

30. G.S. Ch. 15C.

31. G.S. 115C-402.

32. Any person who knowingly and intentionally obtains or discloses information in violation of this requirement is guilty of a Class 1 misdemeanor and will be assessed a fine not to exceed two thousand five hundred dollars. G.S. 15C-9(f).

33. 42 U.S.C. 11431 *et seq.*

34. Sec. 722(g)(3)(B).

35. For a more extensive discussion of educational rights of homeless children and youths, see Joseph Ableidinger, "Educational Rights of Homeless Children and Youths: The McKinney-Vento Act and Its Impact on North Carolina Schools," 35 *School Law Bulletin* (Fall 2004): 1-11. The full text of Subtitle B is available at [www.nationalhomeless.org/ehcylaw.html](http://www.nationalhomeless.org/ehcylaw.html) (last visited August 12, 2005).

**G.S. 7B-101. Definitions.**

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) **Abused juveniles.** – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
  - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
  - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
  - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
  - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178 and G.S. 14-179; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1, regardless of the age of the parties;
  - e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile’s severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or
  - f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.

...
- (15) **Neglected juvenile.** – A juvenile who does not receive proper care, supervision, or discipline from the juvenile’s parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile’s welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home. . . .

damage on a child; *child neglect* includes failing to provide proper care and supervision and allowing a child to live in an environment injurious to his or her welfare.

Not all domestic violence situations will also be considered child abuse or neglect. For example, in some circumstances a child may have little awareness of abusive behavior that occurs between adults. In other cases, an abuser may mistreat the child intentionally in order to cause fear in the partner and gain control over her. Domestic violence becomes child abuse or neglect as well when the child suffers bodily injury, is in fear of bodily injury, or reacts with extreme emotional distress to living with domestic violence. Situations in which the child witnesses the domestic violence or tries to intervene place the child at greater risk of child abuse or neglect.<sup>36</sup>

## 25. How does domestic violence affect a school’s duty to report child abuse or neglect?

Any person who has cause to suspect child abuse or neglect must report it to the county DSS.<sup>37</sup> Domestic violence is a context in which child abuse or neglect may occur and does not in any way alter the duty to report. While not all domestic violence gives rise to an overt “cause to suspect,” school personnel need to be attuned to information or signs of abuse from children.

Because the courts may also be involved in these situations through issuance of DVPOs, it is important to know how the DSS, the courts, and the schools communicate about situations that might include child abuse or neglect. Schools should not automatically report to DSS every time they receive a DVPO that orders the defendant away from the school, as the circumstances may not involve child abuse or neglect. It is a closer call for school administrators, though, if the court’s order includes factual findings that clearly point to elements of child abuse or neglect.

Even when the findings suggest abuse or neglect, there may be no duty to report, because the court order has

36. See, e.g., *DSS Family Services Manual*, Child Protective Services, Chapter VIII, Section 1409: Domestic Violence, XI. Case Decision, <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/index.htm>.

37. G.S. 115C-400.



presumably removed the risk of harm to the child; alternatively, schools may reasonably assume that court officials, who also have a duty to report, have done so if appropriate. Because this assumption relies on a relationship between the courts and DSS, the best practice is to establish a Memorandum of Understanding (MOU) between DSS, the local courts, and the school district. The North Carolina Division of Social Services has encouraged this kind of communication and collaboration.<sup>38</sup> Such a MOU can address various situations related to domestic violence and child abuse and provide guidance for school personnel about whether, or under what circumstances, to report possible child abuse in the following situations:

- when concern about abuse is based solely on information contained in the DVPO;
- when information in the DVPO is augmented by knowledge of a violation of the DVPO that relates to the child, such as the abuser visiting the school or the child's home in violation of the order; and
- when the parent-victim mentions a pattern of partner abuse and states that she is concerned for the safety of the child(ren) but school personnel do not know whether she has obtained a DVPO.

### Conclusion—Where to now?

The particular issues addressed in the foregoing questions are those school officials can expect to confront in situations involving domestic violence. Some general recommendations for schools and policy makers emerge from this discussion.

For schools, the primary safety issue is being as prepared as possible to address these situations. Any particular circumstance can be extremely urgent, volatile, and even life threatening. To prepare for such possibilities, school officials should work with the Safe Schools assistance team or other collaborative body to develop a plan that addresses all the issues touched on in this article as well as others that arise from the discussion. These issues are summarized in the "Checklist for Schools" on page 12.

38. *Family Services Manual*, IX. Collaterals, <http://149.168.11.112/olm/manuals/dss/csm-60/man/index.htm>

Domestic violence also should be a part of teachers' and administrators' conversations about child well-being and the curriculum. The school improvement team should address domestic violence as it relates to curriculum, training, and the needs of individual children.

For policy makers, the focus must continue to include communication and collaboration. This article has referenced the need for memoranda of understanding. This measure is also recommended in the final report of the Child Well-Being and Domestic Violence Task Force and in the revised section on domestic violence of the DSS *Family Services Manual*. As MOUs are developed, they should be shared with others across the state.<sup>39</sup>

In the 2005 session, the General Assembly created a joint legislative committee on domestic violence.<sup>40</sup> This committee has a broad charge to examine issues related to domestic violence and could address providing electronic access to DVPOs to schools and other agencies. Currently, only a limited amount of information in DVPOs is entered into an electronic data base. Adding more information would greatly enhance the ability to analyze domestic violence patterns in North Carolina. Allowing school officials electronic access to DVPOs would address serious gaps in information sharing. If, for example, a school had an expired order on file, school personnel could quickly check electronic records to see if it had been renewed. This issue should be a part of a larger effort to update the Administrative Office of the Courts' information system and should not be overlooked as the state pursues plans for modernizing access to electronic information.

Ultimately, the goal should be to end this tragedy in our society. But until then, schools can lessen the impact on children. By understanding their roles in addressing domestic violence, school administrators, counselors, and teachers can provide the safe and caring environment that all children need. ■

39. According to JoAnn Lamm, Program Administrator, DSS Family Support and Child Welfare Services Section, and Teresa Pell, Executive Director of the North Carolina Council on Women/Domestic Violence Commission, neither the Family Services Division nor the Commission had copies of any MOUs. Telephone conversations with author, July 7, 2005.

40. See S.L. 2005-356.

**CHECKLIST FOR SCHOOLS****Safe School Plan/Crisis/Emergency Plan**

- Determine whether these issues will be addressed by the Safe School/emergency team. The safe school team also includes many of the people who could have important perspectives on these issues.
- Identify whether the Safe School team (or other planning body) includes all of the personnel, agencies, and representative community members who may have important perspectives and information.

**Management of DVPOs**

- Identify who will screen DVPOs for information.
- Identify all personnel who need information from the DVPOs for (1) screening visitors allowed on campus and individuals who can pick up children, (2) information that may relate to child abuse/neglect, (3) other information helpful for assessing a child's well-being and need for school services.
- Create a system for recording DVPOs that alerts staff (1) when there is an order for the defendant to stay away from the school and (2) when orders are about to expire.
- Develop a system for contacting the parent or court when an order is about to expire.

**Referral Sheet for Domestic Violence**

Develop a referral sheet for parent-victims that includes the following:

- location and contact information for the county clerk of court's office.
- a reminder to check the box on the Complaint and Motion for Domestic Violence Protective Order to request that the abuser stay away from the school.
- a statement that the home address can be kept confidential by participation in the Address Confidentiality Program. To participate, individuals apply at the local domestic violence program.
- contact information for the local domestic violence program. (See Resources.)
- Web links to court forms. (See Resources.)

**Communication with Other Agencies**

- Develop understandings (including MOUs) with the county social services department about when school personnel should report possible child abuse when the court system may be involved.
- Discuss with the sheriff the expected process and timeframe for delivering copies of DVPOs to principals.
- Discuss with the school resource officer, police, and/or sheriff the expectations for response if a volatile parent comes on school campus and if a DVPO is violated.

**Local Board Policy**

Develop a local board policy to address the principal's authority to limit access to campus (including parents) based upon safety and order.

**Training**

Identify who needs training on issues related to domestic violence and temporary custody orders, including administrative staff, after-school staff, teachers, counselors, and school resource officers. Different agencies, including the Department of Public Instruction, state and local social services, and professional associations may be available to provide the training. The DPI Final Report referenced in the Resources section may provide useful information.

**Address Confidentiality Program**

- Provide information about ACP on the referral sheet for parent-victims.
- Establish a process to make sure the confidentiality requirements of 115C-402 are met.

**RESOURCES**

Address Confidentiality Program, North Carolina Department of Justice. Information available online at [http://www.ncdoj.com/about/about\\_division\\_address\\_confidentiality\\_program.jsp](http://www.ncdoj.com/about/about_division_address_confidentiality_program.jsp).

Administrative Office of the Courts forms available online

- Complaint and Motion for Domestic Violence Protective Order [documents for victim to complete] (amended 2/06): <http://www.nccourts.org/Forms/Documents/696.pdf>.
- Domestic Violence Order of Protection and Temporary Custody (amended 2/06): <http://www.nccourts.org/Forms/Documents/810.pdf>.
- Ex parte Domestic Violence Order of Protection [hearings without defendant receiving notice] (amended 2/06): <http://www.nccourts.org/Forms/Documents/809.pdf>.

Department of Public Instruction, *Final Report: Study of Anti-violence Education in Schools and Training for School Personnel*, January 15, 2005. Report as required by H1354. Available at [http://www.ncpublicschools.org/sbe\\_meetings/0412/0412\\_SS.pdf](http://www.ncpublicschools.org/sbe_meetings/0412/0412_SS.pdf).

I. Beverly Lake, Carmen Hooker Odom, and Leslie Staroneck, *Child Well-Being and Domestic Violence Task Force: Final Report*, February 2003. Available online at [www.doa.state.nc.us/cfw/cwb&dvtf.pdf](http://www.doa.state.nc.us/cfw/cwb&dvtf.pdf).

North Carolina Coalition Against Domestic Violence Web site. Provides contact information for all local domestic violence programs at [http://www.nccadv.org/service\\_providers.htm](http://www.nccadv.org/service_providers.htm).

North Carolina Division of Social Services, *Family Services Manual*, Volume I: *Children's Services*, Chapter VIII: Child Protective Services, Section 1409: Domestic Violence, September 7, 2004. Addresses determining whether there is child abuse or neglect in homes with domestic violence. Available at <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/index.htm>.

Susan Schechter and Jeffrey Edlesen, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*, Recommendations from the National Council of Juvenile and Family Court Judges Family Violence Department (Reno, Nev., 1999). The Web site for the book also contains citations to other articles, at <http://www.thegreenbook.info>.