

## Chapter 14

# Schools and School Personnel

School personnel are in a unique position to recognize and respond to child abuse, neglect, and dependency. Changes in a child's behavior or appearance, as well as the child's own statements, may draw a teacher's, bus driver's, counselor's, or principal's attention to a problem others have not noticed. School personnel tend to be very aware of their reporting duties and are among the most frequent reporters.<sup>1</sup>

### **Reports to Social Services by School Personnel**

The Juvenile Code does not include any special provisions relating to schools or school personnel in connection with child protection. The General Assembly, however, has emphasized the important role of school personnel by repeating the reporting mandate in Chapter 115C of the General Statutes, which contains laws relating to elementary and secondary education.

#### **§ 115C-400. School personnel to report child abuse.**

Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in Article 3 of Chapter 7B of the General Statutes [the Juvenile Code].

Although this statute does not specifically refer to cause to suspect that a child is dependent or has died as the result of maltreatment, school personnel are mandated to report in those cases as well. Indicators that a child may

be dependent—that is, in need of assistance or placement because the child has no parent, guardian, or custodian<sup>2</sup> or because those persons are not able to provide proper care and supervision—often are the same as or similar to those that create cause to suspect neglect.

A teacher's or other school official's observations about a child may create obvious cause to suspect that the child is abused or neglected and a clear duty to make a report to social services. Frequently, however, the duty is not that clear. Following are two examples of the kinds of questions school personnel may ask in trying to understand their duty to report and social services departments' responses to reports:<sup>3</sup>

*1. Is a child neglected if the child comes to school inadequately clothed, dirty, or with untreated head lice?*

Although each of these observations about a child may indicate that the child is not receiving proper care and is neglected, that is not always the case. A school's initial response to concerns about a child's hygiene, inappropriate dress, or head lice is not likely to be, and ordinarily should not be, a report to social services. If the problem occurs repeatedly, is having a harmful effect on the child, and is not being addressed appropriately by the parents, however, a report to social services is required. In a particular case, whether a report is required will depend to some extent on the child's age, whether there are additional concerns about the care the child receives, and other available information about the child and the child's family. Some county social services departments may have written policies about these kinds of reports, and in some counties the social services department and the school system or individual schools develop written protocols to provide guidance about when a report should be made.

Policies of the state Division of Social Services include screening tools to guide county social services departments in determining whether a report sufficiently alleges neglect or abuse and whether a report should be accepted for assessment.<sup>4</sup> Some of that policy guidance is summarized below:

- **Clothing.** A report should be accepted and an assessment is required when the child's clothing is not sufficient to protect the child from the elements and from health hazards.
- **Hygiene.** Depending on the child's age and needs, a report about a child's hygiene should be accepted for assessment when a serious health hazard is present and the parent (or guardian, custodian, or caretaker) is not taking appropriate action to eliminate the problem.

- Head lice. The fact that a child has head lice, by itself, does not indicate neglect and should not be reported to social services. If a report about head lice is made, the department will want additional information—such as whether and how the parents have attempted to treat the head lice and whether the local health department or other service providers have been involved—before deciding whether to accept the report for assessment.<sup>5</sup>

2. *Is a child neglected if the child is repeatedly tardy or absent from school?*

Again, answering the question requires additional information.

In two cases the North Carolina Court of Appeals has held that children whose parents failed to enroll them in school were neglected juveniles.<sup>6</sup> In one of those cases, decided in 1987, the court found that a father's insistence on home-schooling his developmentally disabled son was neglect because it deprived the child of the socialization and special education classes that public school could provide and that were critical to the child's development and welfare.<sup>7</sup> In the other case, decided in 1976, parents refused to enroll their children in school because the school failed to teach about Indians and Indian heritage and culture, and the parents did not provide a sufficient alternative education.<sup>8</sup> "It is fundamental," the court said, "that a child who receives proper care and supervision in modern times is provided a basic education."<sup>9</sup>

Social services departments and the protective services laws, however, are not the appropriate avenues for responding to most school attendance issues. A child who deliberately misses school may be an "undisciplined juvenile" and subject to juvenile justice procedures designed to address the child's behavior.<sup>10</sup> A parent who willfully fails to comply with the law requiring parents to send their children to school can be charged with a Class 1 misdemeanor.<sup>11</sup> In some counties the courts, schools, and other agencies have coordinated to operate truancy court programs or truancy councils to divert truancy problems from the court system.

The responsibility for addressing attendance issues rests first with the parents and then with the school principal and other school personnel.<sup>12</sup> Principals have very specific duties in relation to attendance problems:<sup>13</sup>

- When a child has three unexcused absences, the principal is required to notify the child's parent, guardian, or custodian.<sup>14</sup>
- When a child has up to six unexcused absences, the principal must notify the child's parent, guardian, or custodian again, in writing and

with notice of possible criminal prosecution under the compulsory attendance law.<sup>15</sup>

- If a child has ten unexcused absences in a school year, the principal must take steps to determine whether the parent has made good-faith efforts to comply with the compulsory attendance law.<sup>16</sup>
  - If the principal determines that the parent has made good-faith efforts, the principal may file a complaint with a juvenile court counselor alleging that the student is unlawfully absent from school and therefore is an “undisciplined juvenile.”<sup>17</sup>
  - If the principal determines that the parent has not made good-faith efforts to comply with the compulsory attendance law, the principal is required to notify both the local district attorney and the director of the county department of social services.<sup>18</sup> The district attorney or other prosecutor decides whether to initiate criminal charges against the parent. The social services director determines whether to treat the notification as a report of suspected neglect and undertake an assessment.<sup>19</sup>

## Cooperative Agreements

In some counties the department of social services and the local school system (and sometimes other agencies as well) have adopted procedures for working together in responding to cases of suspected child abuse, neglect, and dependency. These procedures or protocols can clarify the roles and expectations of people in both systems. They can reflect not only what the law requires, but also local conditions, resources, and needs. Just the process of developing and reviewing local procedures can increase understanding and open lines of communication in ways that have lasting effect. The initiative for developing a local protocol for responding to abuse, neglect, and dependency may come from the school system, the department of social services, the community child protection team (see Chapter 12), or elsewhere in the community.

Guidelines developed at the state level can provide a good starting point for developing local procedures. Beginning in 1984, and most recently in 2007, the state Department of Health and Human Services and the state Department of Public Instruction have agreed on recommended procedures to “facilitate cooperation and collaboration” between local school systems

and county social services departments in responding to suspected child abuse and neglect.<sup>20</sup> A local agency or group that is considering developing local policies should determine whether these recommended procedures have been revised.<sup>21</sup>

### Sample Provisions for Cooperative Agreements

Beyond ensuring compliance with the legal requirements for reporting and responding to reports, there is no one best policy or set of procedures to guide local agencies. Following are examples of the kinds of provisions a local agreement might include. Some of them are adapted from the state recommended procedures described above.

#### 1. Adoption of Policies

- Specify the group of people responsible for developing and periodically reviewing the local policies.
- Describe ways in which input will be sought from others who have an interest in the procedures.
- Indicate what persons or bodies should formally approve or adopt the policies—for example, the county social services director and local school superintendent(s), or the county social services board and the local school board(s).
- Establish a timetable and procedure for periodically reviewing the policies.
- Describe how the policies will be published and distributed or otherwise made available.

#### 2. Reports by School Personnel to Social Services

- Require that all school personnel be informed of their responsibilities relating to child abuse, neglect, and dependency; the ability of the social services department to receive reports any day and any time of day or night; and how reports should be made.
- Decide whether each local school may (or shall) designate a contact person (and a backup) to receive reports from school employees and convey them to the department of social services. If this policy is adopted, it should also make clear that
  - the designated person must transmit any report of suspected abuse or neglect to social services immediately;

- the report must identify the originator of the report and include information about how the department of social services can contact that person;
  - if a school employee believes these procedures would create a delay that would be detrimental to the child, the employee must make a report directly to the social services department and then inform the contact person; and
  - every school employee is free to contact the department of social services about a report the employee initiated and should be encouraged to cooperate with the department with respect to the report and any resulting assessment.
- Provide that school personnel should gather only enough information to validate that there is cause to suspect abuse, neglect, or dependency, since it is not the responsibility of school officials or employees to conduct investigations.
  - Describe circumstances, if any, under which a school official, at the request of the department of social services, will photograph a child or take other specified steps to aid the department in conducting an assessment; also describe any actions school officials should not be asked or expected to take.

### 3. Social Services Response

- Indicate whether the department of social services will designate a contact person (and a backup) to receive inquiries from and convey information to school officials about reported cases of abuse, neglect, or dependency.
- State how and to whom the department will provide the written notices regarding whether a report is accepted for assessment and the outcome of an assessment. Also specify when, if ever, the right to receive a written notification is or may be waived or when the notification may be given orally.
- Describe circumstances in which it is appropriate for a social worker to interview the child (or other children in the same family) at school.
- Specify procedures for a social worker to notify the principal or the school contact person to arrange a mutually convenient time that is least disruptive to the child's schedule and the school generally.

- Specify criteria and procedures for determining whether and how a parent, guardian, or custodian will be notified about the interview or invited to be present for it.
- Establish criteria for determining which if any school or law enforcement personnel should be present when a social worker interviews a child at school, making clear that the social worker always has authority to insist on seeing the child alone.<sup>22</sup>

#### 4. Cooperation between Schools and Social Services

- Describe ways in which school personnel will cooperate with the social worker in the assessment, such as
  - giving the social worker any information that could help establish whether abuse or neglect has occurred or the child is dependent;
  - allowing the social worker to interview the child alone;
  - allowing the social worker to photograph any evidence, such as marks or bruises;
  - allowing the social worker to remove the child from the school if the social worker determines that the child is at immediate risk. (This will require a court order unless the statutory conditions for temporary custody without a court order exist. See “Immediate Removal of Child” in Chapter 11.)
- Acknowledge that, within any federal law constraints, social services personnel and school personnel may share with each other confidential information relating to the child when the information will be used
  - for the protection of the child,
  - for the protection of others, or
  - to improve the child’s educational opportunities.<sup>23</sup>
 (See “When Disclosure Is Allowed” in Chapter 11.)

#### 5. Follow-up

- Describe procedures for the notifications that the social services department provides to the school contact person to be shared promptly with the individual who initiated the report.
- Describe ways in which the two agencies will collaborate in planning consistent services for the child and the child’s family.

- Establish policies and procedures for enabling a child to remain in the same school, if at all possible, when the child is placed in foster care or other out-of-home placement.

#### 6. General

- Provide for joint training and learning opportunities for school personnel and social services personnel, including opportunities for each to become better informed about the role of the other.
- Describe how the department of social services and the school system will use their participation in the community child protection team to improve their responses to child abuse, neglect, and dependency. (See “Community Child Protection Teams” in Chapter 12.)

## Reporting in Relation to License Suspension and Revocation

Mistreatment of children at school by teachers or other school personnel is not “abuse” or “neglect” within the Juvenile Code definitions because those people are not the child’s caretakers or custodians.<sup>24</sup> (See Chapters 4 and 5.) Although social services departments do not have a role in investigating and responding to the mistreatment of children at school, school administrators certainly do.

A rule of the State Board of Education requires local school administrators<sup>25</sup> to report to the state superintendent of public instruction any time they know, or have reason to believe, that a certified school employee has engaged in behavior that

1. would justify revoking the employee’s certificate, and
2. involves physical or sexual abuse of a child.<sup>26</sup>

“Physical abuse” for purposes of this requirement means the infliction of non-accidental physical injury by means that are not in self-defense.<sup>27</sup> Corporal punishment, by contrast, is the “intentional infliction of physical pain” for purposes of discipline and should never result in injury.<sup>28</sup> The term “sexual abuse” means the commission of a sexual act on a student or causing a student to commit a sexual act. Neither the student’s age nor whether the student consented is relevant.<sup>29</sup> An administrator’s failure to make a required report is, in itself, a ground for suspending or revoking



the administrator's certificate.<sup>30</sup> Local school boards may have policies that impose similar internal reporting requirements on other school personnel.

## Reporting Certain Criminal Acts

Another reporting requirement applies to some instances of abuse or neglect of a child, as well as a number of other criminal or delinquent acts, that occur at school. A school principal is required to report immediately to the appropriate local law enforcement agency any time the principal has personal knowledge or actual notice from school personnel that one of the following acts has occurred on school property:

- assault resulting in serious personal injury,
- sexual assault,
- sexual offense,
- rape,
- kidnapping,
- indecent liberties with a minor,
- assault involving the use of a weapon,
- unlawful possession of a firearm,
- unlawful possession of a weapon, or
- unlawful possession of a controlled substance.<sup>31</sup>

This reporting requirement applies regardless of the age or status of the offender or the victim (if the offense involves a victim). The act could be committed either by or against a student, a teacher or other employee, a parent, a trespasser, or anyone else. The report to law enforcement is required only if the act occurs on school property, which includes any public school building, bus, campus, grounds, recreational area, or athletic field in the principal's charge.<sup>32</sup>

When a principal makes a required report to law enforcement, the principal (or his or her designee) also must notify the superintendent (or his or her designee) of the report. The notification may be given in writing or by electronic mail. It should be made the same day the incident occurred, if possible, but must be made no later than the end of the following workday. The superintendent then must provide the information to the local school board.<sup>33</sup> Every local board of education is required to have a policy on notifying the parent or legal guardian of any student who is alleged to be the victim

of any of the acts the principal is required to report to law enforcement and the superintendent.<sup>34</sup>

## Notes

1. Conditions that require reporting by school personnel are discussed in Chapter 5.
2. The terms “parent,” “guardian,” and “custodian” are discussed in Chapter 4.
3. See Chapter 11 for a related discussion of screening—the process by which social services departments decide whether to accept reports for assessment.
4. N.C. Department of Health & Human Services, Division of Social Services, “Instructions for Completion of Structured Intake Report/CPS Intake Report Tool, DSS-1402,” in Section 1407.V., Chapter VIII, of the Division of Social Services’ online *Family Support and Child Welfare Manual* (hereinafter *State Manual*), <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1407-04.htm#TopOfPage>.
5. “Instructions for Completion of Structured Intake Report/CPS Intake Report Tool, DSS-1402,” in Section 1407.V., Chapter VIII, *State Manual*, cited in full in note 4.
6. *In re Devone*, 86 N.C. App. 57, 356 S.E.2d 389 (1987); *In re McMillan*, 30 N.C. App. 235, 226 S.E.2d 693 (1976).
7. *Devone*, 86 N.C. App. at 60–61, 356 S.E.2d at 391.
8. *McMillan*, 30 N.C. App. at 236, 226 S.E.2d at 694.
9. *Id.* at 238, 226 S.E.2d at 695.
10. These procedures are set out in Subchapter II of the Juvenile Code, North Carolina General Statutes (hereinafter G.S.) §§ 7B-1500 through -2827. The North Carolina General Statutes can be viewed online at [www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl](http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl).
11. G.S. 115C-380. The compulsory attendance laws, G.S. 115C-378 through -383, require “[e]very parent, guardian or custodian in this State having charge or control of a child between the ages of seven and 16 years [to] cause the child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session.” G.S. 115C-378(a). The likelihood that violations of the compulsory attendance law will be prosecuted varies substantially among judicial and prosecutorial districts.
12. *See* G.S. 115C-379.
13. *See* G.S. 115C-378.
14. G.S. 115C-378(e).
15. *Id.*
16. G.S. 115C-378(f).
17. *Id.* “Undisciplined juvenile” is defined in G.S. 7B-1501(27).
18. G.S. 115C-378(f).
19. *Id.*
20. The most recent untitled agreement, which became effective January 22, 2007, was signed by Sherry Bradsher, Director, Division of Social Services, and Dr. June

Atkinson, State Superintendent, Department of Public Instruction. The agreement is available at [www.ncdhhs.gov/dss/dcdl/famsupchildwelfare/fscw-08-2007a.pdf](http://www.ncdhhs.gov/dss/dcdl/famsupchildwelfare/fscw-08-2007a.pdf).

21. Additional guidance for reporting by school personnel can be found in N.C. Department of Health & Human Services, School Health Unit, North Carolina Public Health, North Carolina Healthy Schools, *North Carolina School Health Program Manual*, 5th ed. (2010), B1-1 to B1-15, [www.ncdhhs.gov/dph/wch/doc/lhd/nc\\_school\\_health\\_program\\_manual\\_2010.pdf](http://www.ncdhhs.gov/dph/wch/doc/lhd/nc_school_health_program_manual_2010.pdf).

22. Refusing to allow the social services director (which includes the director's representative) to see a child alone constitutes obstructing or interfering with a protective services assessment. G.S. 7B-303(b).

23. G.S. 7B-3100(a). The sharing of school information must be in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

24. See G.S. 7B-101(3) and (8).

25. For purposes of the rule, school administrators include superintendents, assistant superintendents, associate superintendents, personnel administrators, and principals. N.C. Admin. Code (hereinafter N.C.A.C.) tit. 16, subch. 6C, § .0312(b) (Dec. 2004).

26. *Id.*

27. *Id.*

28. G.S. 115C-390.1(b)(2). See also G.S. 115C-390.4 and -391.1, which address the permissible use in schools of corporal punishment and seclusion and restraint, respectively.

29. N.C.A.C. tit. 16, subch. 6C, § .0312(b).

30. N.C.A.C. tit. 16, subch. 6C, § .0312(a)(9).

31. G.S. 115C-288(g). The statute prohibits the State Board of Education from requiring principals to report acts to law enforcement beyond those the law requires them to report. *Id.*

32. *Id.*

33. G.S. 115C-288(g).

34. G.S. 115C-47(56).