



New Jersey Department of Children and Families
Division of Youth and Family Services

Questions and Answers on Child Abuse for School Personnel

The Department of Children and Families (DCF) values the very important role that school personnel play in identifying and helping to prevent abuse and neglect of New Jersey's children.

This document reflects questions frequently asked by school administrators, teachers, and support staff. Basic information concerning definitions and procedures related to child abuse can be found in the law (N.J.S.A. 9:6-1 et seq.) and the Department of Education section of the N.J. Administrative Code (N.J.A.C. 6:29-9)

Q. Some teachers and school staff are hesitant about calling the Division of Youth and Family Services (DYFS). Can school personnel report the suspected child abuse to the school administrator, school nurse, or principal so that the staff member does not have to make the actual call?

A. By law (N.J.S.A. 9:6-8.10), and Department of Education regulations (N.J.A.C. 6:29-9), any person having a reasonable cause to believe that a child has been abused or neglected in any environment (e.g. home, school, institution, foster home, etc.) is required to immediately notify DYFS by calling the Child Abuse Hotline 1-877-NJ ABUSE. Reporting through a secondary source creates unnecessary delays in reporting, possibly resulting in further harm to the child, and does not satisfy the statutory requirement to report directly to DYFS. In addition, the DYFS screener may need information known only to the person who suspected the abuse.

Q. Should school personnel not touch children to be safe from child abuse allegations?

A. It is not the position of DYFS that school personnel should not touch children, but any contact or interaction, including verbal, should be within established professional practice for school personnel.

Q. Can a staff member decline to accompany a child during an interview conducted by a DYFS caseworker, if the child has asked for that staff person to be present?

A. Yes. A staff member may decline to accompany a child during the DYFS interview. However, it is important that DYFS interviewers know that the staff member will not be participating in the interview. The sole purpose for including them in the interview is to provide comfort and support to the child.

Q. Does the DYFS caseworker have the right to exclude the principal from an interview?

A. Yes. The DYFS caseworker conducting the investigation has the authority to exclude the principal or his designee from an interview. Such exclusion generally occurs if the student is intimidated by the presence of the principal or designee, or if that person is involved in the allegation. If the principal or designee is involved in the allegation, that investigation would be conducted by the Department of Children and Families' Institutional Abuse Investigation Unit (IAIU).

Q. Can an individual alleged to have abused a child be present while the child is being interviewed by DYFS?

A. No. The presence of the individual alleged to have committed the child abuse could intimidate the child and interfere with the investigation. Credible evidence is obtained through independent statements, not collaborative ones.

Q. Are school personnel entitled to legal counsel while being questioned about an abuse incident?

A. An accused person is entitled to legal counsel at his or her own expense. Union representation is also allowed, but union staff may not advise or participate except as an observer to the interview. However, witnesses to the alleged child abuse are not specifically entitled to such representation during interviews.

Q. Can a school staff member or any employee refuse to be interviewed by DYFS without counsel present?

A. Yes. An accused (alleged perpetrator) staff member may refuse to be interviewed by an investigator from DCF's Institutional Abuse Investigation Unit (IAIU), unless his counsel is present. Department of Education regulations call for cooperation by other staff.

Q. What is the difference between an IAIU investigator and a DYFS caseworker?

A. The DCF Institutional Abuse Investigation Unit investigates allegations of child abuse and neglect that occur in institutions and other out-of-home settings that serve children, such as day care centers, foster homes and schools. DYFS caseworkers investigate allegations of child abuse and neglect that occur in the children's homes. As such, DYFS investigators would interview teachers and school personnel as part of an investigation of possible abuse and neglect in the child's home, while IAIU would interview school officials if the abuse and neglect were suspected to have occurred in the school or by school officials and other students.

Q. Are Miranda warnings given by DYFS?

A. DYFS only interviews witnesses and alleged child abusers with their consent. Miranda warnings are necessary when a suspect is in police custody, and would be given by the police, not by DYFS.

Q. What is the appeal process for a school employee when the finding of child abuse has been substantiated by IAIU?

A. The alleged child abuser may appeal Department of Education disciplinary administrative action through the school system. The alleged abuser may appeal the DYFS child abuse substantiation through an administrative review.

Q. If a person is falsely accused of child abuse, can he or she sue for defamation of character?

A. Yes. However, the person who believes that he or she has been falsely accused must demonstrate that the report of child abuse was made maliciously. The reporter has immunity from civil or criminal liability under N.J.S.A. 9:6-8.13, if there was "good faith" reporting based upon "reasonable cause to believe" abuse had occurred. There are also other legal proofs required to prove defamation of character when the defamation is outside the purview of child abuse and neglect.

Q. If a group of students becomes angry with the bus driver or teacher and falsely accuses the adult of abuse, what recourse does the accused person have?

A. The law provides protection from civil or criminal liability for a person who makes a report in “good faith.” However, in a malicious report, the falsely accused person may have a legal course of action.

Q. If a school district board of education is making a determination regarding teacher assignment and/or suspension, can the board conduct its own investigation, or must it act upon the child abuse investigation report?

A. Whenever it is reported that an alleged incident of child abuse has occurred in an institutional setting, the Institutional Abuse Investigation Unit (IAIU) investigates the incident and provides the district with a confidential report, which contains findings, conclusions and, in some instances, recommendations. Upon receipt of the report, the board of education determines what action it will take.

While the IAIU investigation must be kept confidential, information from the report may be disclosed to the following:

“An agency authorized to care for, treat, or supervise a child who is the subject of a child abuse report when the information is needed in connection with the provision of care, treatment, or supervision to such child...”[N.J.S.A. 9:6-8.10a(5)]

Any person or entity conducting a disciplinary, administrative, or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services to children. The information may be disclosed to another person only if such disclosure is necessary to make a determination [N.J.S.A. 9:6-8.10a(14)].

The IAIU child abuse report may be used as the basis for teacher reassignment to protect the victim(s) or to initiate formal action against the teacher for violating a school law such as corporal punishment. School districts may conduct an investigation, but must not interfere with the IAIU investigation.

If IAIU determines that a child abuse or neglect complaint against a school employee is “unfounded,” the school administrators must remove such complaint information from the employee’s personnel file (N.J.S.A.18A:6-7a).

Q. If an allegation is “unfounded,” are the DYFS records expunged of all information on the incident?

A. When an allegation of child abuse is received by the Statewide Central Registry (SCR), confidential written and computer files are kept of DYFS’s intervention and investigation findings. These files are only consulted by authorized DYFS staff.

When the finding in an incident of child abuse or neglect is either “substantiated”¹ or “unfounded,”² the name and identification of the individual(s) involved are entered into the computer file. When abuse and/or neglect is “unfounded,” the identity of the alleged perpetrator and/or responsible party is not entered into the perpetrator file, and may be subject to rules which require expunging the information from DYFS’s records.

Only information in substantiated cases is used for background checks or employment related screenings, such as for Family Day Care Provider registration and adoption. Information in “unfounded” cases is not used.

Q. Will the results of the IAIU investigation become part of the child’s school records regardless of the case disposition?

A. Yes. However, in accordance with N.J.S.A.9:6-8.10a(5), the child’s school records contain only that part of the IAIU investigation record which is necessary to ensure that proper care, treatment, or supervision are provided to the student.

Q. When does the county prosecutor become involved in a child abuse case?

A. The DYFS case worker or IAIU investigator refers to the county prosecutor in the following specific instances of abuse by a parent, caretaker, or person having custody and control of a child: the death of a child; the subjecting or exposing of a child to unusual or inappropriate sexual activity; any type of injury or condition resulting in hospitalization or more than superficial emergency room treatment; any type of injury or condition that requires more than superficial medical attention; repeated instances of physical violence committed against a child or substantially depriving a child of necessary care over a period of time; or abandonment of a child. In addition, many counties have agreements with the DYFS Local Offices, which extend this reporting requirement to other situations. Prosecutors have discretion as to what cases they will accept.

Q. What are the education and experience requirements for a DYFS caseworker and an IAIU investigator?

¹ When the available information, as evaluated by the DYFS representative, indicates that a child was abused or neglected as defined by law.

² When there is no evidence of conduct that would pose risk to the child by a parent, caretaker, temporary caretaker, institutional caretaker, or where the actions were necessary and reasonable, and the incident was an accident.

A. Beginning DYFS caseworkers and IAIU investigators are required to have a B.A. degree or equivalent³. IAIU investigators also are required to have a minimum of two years experience with high-risk children and families. DYFS provides both pre and in-service training for both categories of staff.

Q. Are criminal history checks done on DYFS caseworkers and IAIU investigators?

A. Yes. They are fingerprinted for a criminal history check.

Q. Who investigates abuse allegations in facilities under DYFS supervision?

A. DYFS residential facilities and any allegations made against DYFS staff are investigated by the Office of the Public Defender, Law Guardian Program.

Q. Who has access to DYFS records and under what circumstances?

A. Under the state confidentiality statute, N.J.S.A. 9:6-8 10a, reports and records concerning child abuse and neglect are confidential and only may be released under very limited circumstances⁴. Any person who willingly permits or

³ While not common, individuals may be hired who do not possess the required degree, but have additional relevant experience, which may be substituted on a year for year basis.

⁴ DYFS may, and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L. 1997, c175 (C.9:6-8.83 et al) to: (1) a public or private child protective agency investigating a report of child abuse or neglect; (2) a police or other law enforcement agency investigating a report of child abuse or neglect; (3) a physician who has before him /her, a child, whom he reasonably suspects may be abused or neglected, or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center, which is involved with a particular child who is the subject of the request; (4) a physician, a hospital director, or his or her designee, a police officer or other person authorized to place a child in protective custody, when such person has before him or her, a child whom he or she reasonably suspects may be abused or neglected, and requires the information in order to determine whether to place the child in protective custody; (5) an agency, whether public or private, including any other division or unit in the Department of Children and Families, authorized to care for, treat, or supervise a child, who is the subject of a child abuse report, or a parent, guardian, or other person, who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, or supervision to such child, or such parent, guardian, or other person; (6) a court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law, in whole or in part to the law guardian, attorney, or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law; (7) a grand jury, upon its determination that access to such records is necessary in the conduct of its official business; (8) any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose; (9) (Deleted by amendment, P.L. 1997, c175); (10) a family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L. 1993,

encourages the release of contents of any records or report protected by law (N.J.S.A. 9:6-8. 10a and b) is guilty of a misdemeanor and may be subject to a fine of \$1,000 or to imprisonment for not more than three years, or both. In accordance with the statute, however, information can be released to the chief school administrator to help ensure that proper care, treatment, or supervision is provided not only to the specific child or children involved, but also to all children under the care and supervision of the school or facility. All child abuse records sent to the school must be maintained and secured in accordance with N.J.A.C. 6:3-5.2(a)7vi. The chief school administrator is responsible for the security of pupil records maintained in the school and the procedures for assuring that access to these records is limited to authorized persons according to N.J.A.C. 6:3-2.4(a).

c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a central registry search; (11) the Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971", P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the of subject such report; (12) any person appealing a division service or status action or a substantiated finding of child abuse or neglect, and his attorney or authorized lay representative upon a determination by the division or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal; (13) any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check, or employment related screening of an individual employed by or seeking employment with an agency or organization providing services to children;(14) any person or entity conducting a disciplinary, administrative, or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination; (15) the members of a county multi disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect; (16) a person being evaluated by the division or the court as a potential caregiver to determine whether that person is willing and able to provide the care and support required by the child; (17) the legal counsel of a child , parent, or guardian, whether court appointed or retained, when information is needed to discuss the case with the division in order to make decisions relating to or concerning the child; (18) a person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation; (19) a parent or legal guardian, when the information is needed in a division matter in which the parent or guardian is directly involved. The information may be released only to the extent necessary for the requesting parent or guardian to discuss services or the basis for the division's involvement or to develop, discuss, or implement a case plan for the child; (20) a federal, State, or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect; (21) citizen review panels designated by the State in compliance with the federal "Child Abuse Prevention and Treatment Act Amendments of 1996." Pub.L.104-235 ;(22) the Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c. 175 (C.9:6-8.83 et al.).