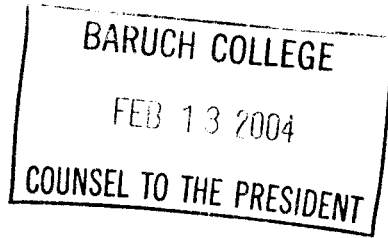


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**PERSONNEL ADVISORY MEMORANDUM**

February 10, 2004

To: College Presidents

From: Vice Chancellor Frederick P. Schaffer 

Re: Reporting Suspected Child Abuse and Maltreatment

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This memorandum updates and replaces our 1994 memorandum on the subject of suspected child abuse and maltreatment reporting requirements. On occasion, college officials have consulted the Office of General Counsel in connection with a suspected case of child abuse. A suspected perpetrator of abuse may be the parent or guardian of the child, or a college or child care center employee. The purpose of this memorandum is to highlight the obligations of certain individuals to report incidents of abuse and to set forth the reporting procedure mandated by law.

Social Services Law Section 413 requires that certain individuals must report incidents of child abuse and maltreatment that they learn of in the course of their employment to a state-wide central registry of child abuse and maltreatment. Individuals who must report such incidents include, among others: school officials, registered nurses and registered physician's assistants, psychologists, day care center personnel, and peace officers.<sup>1</sup> Any other person who has reasonable cause to believe that a child less than eighteen years of age has been abused or

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<sup>1</sup>A peace officer acting pursuant to his or her special duties is required by Social Services Law Section 417 to take all appropriate measures to protect a child's life and health including, when appropriate, taking or keeping a child in protective custody.

maltreated may report such abuse or maltreatment.

Since most CUNY colleges provide child care and health care facilities, and many have collaborative programs with the New York City Public School System, it is appropriate for college employees, in particular staff of child care and health care centers, who come in contact with children in the course of their employment to be aware of their responsibilities under the law.<sup>2</sup> The following are definitions of what constitutes abuse and maltreatment under the law (Section 412 of the NYS Social Services Law and Section 1012 of the NYS Family Court Act).

**Definitions:**

Abused child means a child less than eighteen years of age whose parent or other person legally responsible for the child's care:

- (i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- (ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- (iii) commits or allows to be committed a sex offense against such child or allows, permits or encourages such child to engage in acts defined as sex offenses.

Maltreated child means a child less than eighteen years of age:

- (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the parent or other person legally responsible to exercise a minimum degree of care:
  - (A) in supplying the child with adequate food, clothing, shelter, or education or medical, dental, optometrical or surgical care, although financially able to do so or offered financial or other reasonable means to do so; or
  - (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial

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<sup>2</sup>These rules also apply to employees of separately incorporated related entities that provide child care and health care services to the colleges or otherwise come in contact with children in the course of employment.

risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that the parent or guardian loses control of his or her actions; or by any other acts of a similarly serious nature requiring the aid of the Family Court;

- (ii) who has been abandoned by his or her parents or other person legally responsible for his or her care.
- (iii) who has had serious physical injury inflicted upon him or her by other than accidental means.

### **Reporting Procedure**

College employees who have reasonable cause to suspect that a child is being or has been abused or maltreated must notify their supervisor immediately. The supervisor has the primary responsibility for making an oral report immediately to the New York State Central Registry (SCR) for Child Abuse and Maltreatment in Albany by telephoning the toll-free number: **1-800-635-1522**. If the supervisor fails to report a case, the staff member, as a mandated reporter, must call in the report to the SCR. After making the oral report, the supervisor or staff member will be given a "Call I.D." number by the SCR staff member who took the report. This number is needed for the required written report described below.

Oral reports must be followed within 48 hours by a written report on Office of Children and Family Services (OCFS) form LDSS-2221-A (copy attached). The Call I.D. number should be written in the appropriate box on the form. The report must be mailed to the Administration for Children's Services (ACS) field office in the borough where the child's custodial parent or guardian lives. Copies of the report should also be given to the college's chief student affairs officer and the Office of General Counsel.

Addresses of the respective ACS borough field offices are:

Bronx ACS Field Office  
1775 Grand Concourse, 8<sup>th</sup> Floor  
Bronx, NY 10451  
(718) 716-0300

Brooklyn ACS Field Office  
1274 Bedford Avenue  
Brooklyn, NY 11217  
(718) 623-4500

Manhattan ACS Field Office  
150 William Street, 2<sup>nd</sup> Floor  
New York, NY 10038  
(212) 676-7055

Queens ACS Field Office  
165-15 Archer Avenue, 4<sup>th</sup> Floor  
Jamaica, NY 11433  
(718) 481-5700

Staten Island ACS Field Office  
350 St. Marks Place, 5<sup>th</sup> Floor  
Staten Island, NY 10301  
(718) 720-2765

### **Confidentiality**

Reports made to SCR are confidential. However, the individual making the report must identify him or herself to the SCR. Neither the name or other identifying information of the person making the report can be released to the subject of the report or the parent or person in parental relationship unless the reporting individual has given written permission to do so. The source of a report may be given to court officials, police, district attorneys, and certain government agencies in limited circumstances permitted by the Social Services Law. The SCR may refer a report to the New York City Police Department, when deemed necessary.

### **Penalties for Failure to Report**

Pursuant to the Social Services Law, the willful and/or knowing failure by a mandated reporter to report suspected child abuse and maltreatment may result in criminal action or civil liability if the employee had reasonable cause to suspect it. It may also result in disciplinary action against the employee.

### **Immunity from Liability and Legal Assistance**

Any college employee participating in good faith in the making of a report, the taking of photographs, or the removal or keeping of a child, pursuant to Title 6 of the Social Services Law, will have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions. The good faith of persons required to report cases of child abuse or maltreatment is presumed, provided such persons are acting in the discharge of their duties, within the scope of their employment, and that liability does not result from the willful misconduct or gross negligence of such persons. Legal representation will be provided to college employees who are good faith mandated reporters and are sued for reporting, in the course of their employment, a suspected case of child abuse and maltreatment. Any college employee who receives a subpoena in connection with such a case may call the Office of General Counsel for further information or assistance.

### **Special Reporting Procedures for Cases Involving College Employees**

Where the person suspected of abusing a child is not the parent or person in parental relation but an employee of a college, a report to the SCR is not required. Such conduct must, however, be brought to the attention of the appropriate supervisory personnel and to the police authorities. In these instances, the University Director of Security and Public Safety must be notified of the suspected case of child abuse to enable the University to coordinate its

investigation with the local police precinct and to assist the police, as appropriate, as it conducts its investigation.

**Additional Resources**

Additional information regarding reporting requirements may be found at these web sites:

NYS Child Protective Services < [www.ocfs.state.ny.us/main/cps/](http://www.ocfs.state.ny.us/main/cps/)>

OCFS Guide for Mandated Reporters < [www.ocfs.state.ny.us/main/publications/Pub1159.pdf](http://www.ocfs.state.ny.us/main/publications/Pub1159.pdf)>

OCFS Form LDSS-2221-A < [www.ocfs.state.ny.us/main/Forms/cps/LDSS-2221a.pdf](http://www.ocfs.state.ny.us/main/Forms/cps/LDSS-2221a.pdf)>

NYC Administration for Children's Services < <http://www.nyc.gov/html/acs/>>

**Attachment**

- c: Chancellor's Cabinet
- University Director of Security and Public Safety
- Chief Academic Affairs Officers
- Chief Administrative Affairs Officers
- Chief Student Affairs Officers
- Child Care Council
- Health Services Advisory Council
- Labor Designees
- Legal Affairs Designees

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**REPORT OF SUSPECTED  
CHILD ABUSE OR MALTREATMENT**

Report Date	Case ID	Call ID
Time AM/PM :	Local Case #	Local Dist/Agency

SUBJECTS OF REPORT									
List all children in household, adults responsible and alleged subjects.									
Line #	Last Name	First Name	Aliases	Sex (M, F, Unk)	Birthday or Age Mo/Day/ Yr	Ethnic Code	Relation Code	Role	Lang.
1.									
2.									
3.									
4.									
5.									
6.									
7.									

MORE

List Addresses and Telephone Numbers (Using Line Numbers From Above)	Telephone No. ( ) - -
	( ) - -
	( ) - -

**BASIS OF SUSPICIONS**

Alleged suspicions of abuse or maltreatment. Give child(ren)'s line number(s). If all children, write "ALL".

<input type="checkbox"/> DOA/Fatality	<input type="checkbox"/> Child's Drug/Alcohol Use	<input type="checkbox"/> Swelling/Dislocation/Sprains
<input type="checkbox"/> Fractures	<input type="checkbox"/> Poisoning/Noxious Substances	<input type="checkbox"/> Educational Neglect
<input type="checkbox"/> Internal Injuries (i.e. Subdural Hematoma)	<input type="checkbox"/> Choking/Twisting/Shaking	<input type="checkbox"/> Emotional Neglect
<input type="checkbox"/> Lacerations/Bruises/Welts	<input type="checkbox"/> Lack of Medical Care	<input type="checkbox"/> Inadequate Food/Clothing/Shelter
<input type="checkbox"/> Burns/Scalding	<input type="checkbox"/> Malnutrition/Failure to Thrive	<input type="checkbox"/> Lack of Supervision
<input type="checkbox"/> Excessive Corporal Punishment	<input type="checkbox"/> Sexual Abuse	<input type="checkbox"/> Abandonment
<input type="checkbox"/> Inappropriate Isolation/Restraint(Institutional Abuse Only)	<input type="checkbox"/> Inadequate Guardianship	<input type="checkbox"/> Parent's Drug/Alcohol Misuse
<input type="checkbox"/> Inappropriate Custodial Conduct(Institutional Abuse Only)	<input type="checkbox"/> Other specify) _____	

State reasons for suspicion, including the nature and extent of each child's injuries, abuse or maltreatment, past and present, and any evidence or suspicions of "Parental" behavior contributing to the problem. (If known, give time/date of alleged incident)

MO  
DAY  
YR

The Mandated Reporter Requests Finding of Investigation  YES  NO

CONFIDENTIAL		SOURCE(S) OF REPORT		CONFIDENTIAL	
NAME	TELEPHONE ( ) -	NAME	TELEPHONE ( ) -		
ADDRESS		ADDRESS			
AGENCY/INSTITUTION		AGENCY/INSTITUTION			

**RELATIONSHIP ( ✓ = REPORTER, X = SOURCE)**

Med. Exam/Coroner     Physician     Hosp. Staff     Law Enforcement     Neighbor     Relative     Instit. Staff  
 Social Services     Public Health     Mental Health     School Staff     Other Specify)

<b>For Use By Physicians</b>	Medical Diagnosis on Child	Signature of Physician who examined/treated child <b>X</b>	Telephone No. ( ) -	
	Hospitalization Required: <input type="checkbox"/> None <input type="checkbox"/> Under 1 week <input type="checkbox"/> 1-2 weeks <input type="checkbox"/> Over 2 weeks			
Actions Taken Or	<input type="checkbox"/> Medical Exam	<input type="checkbox"/> X-Ray	<input type="checkbox"/> Removal/Keeping	<input type="checkbox"/> Not. Med Exam/Coroner
About To Be Taken	<input type="checkbox"/> Photographs	<input type="checkbox"/> Hospitalization	<input type="checkbox"/> Returning Home	<input type="checkbox"/> Notified DA
Signature of Person Making This Report		Title	Date Submitted Mo. Day Yr.	

## NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

**TO ORDER MORE LDSS-2221A FORMS:** Internet : **Error! Bookmark not defined.** ,

Intranet: **Error! Bookmark not defined.** choose OCFS-4627 "County Forms Request. Difficulty accessing the order form? Call (518) 473-0971.

**TO ACCESS FORM LDSS-2221A** electronically: Internet : **Error! Bookmark not defined.** ,

Intranet: **Error! Bookmark not defined.** choose LDSS-2221A. YOU MUST SUBMIT A PAPER COPY, ORIGINALLY SIGNED LDSS-2221A FORM to the local child protective services.

### KEY TO CODES ON THE FRONT PAGE OF FORM LDSS-2221A

ETHNICITY CODES	RELATION CODES FAMILIAL REPORTS	ROLE CODES	LANGUAGE
AA: African-American AS: Asian CW: Caucasian HL: Hispanic UK: Unknown XX: Other	AU: Aunt/Uncle CH: Child GP: Grandparent FM: Other Fam. Member FP: Foster Parent DC: Daycare Provider  <b>IAB REPORTS ONLY</b> AR: Administrator CW: Child Care Worker DO: Director/Operator	XX: Other Parent PS: Parent Substitute UH: Unrelated Home Mem. UK: Unknown  IN: Instit. Non-Prof IP: Instit. Pers/Vol. PS: Psychiatric Staff	PA: AB: Abused Child MA: Maltreated Child AS: Alleged Subject (Perpetrator) NO: No Role UK: Unknown  KR: Korean MU: Multiple PL: Polish RS: Russian SI: Sign SP: Spanish VT: Vietnamese XX: Other JP: Japanese

### Abstract Sections from Article 6, Title 6, Social Services Law

#### Section 412. Definitions

1. **Definition of Child Abuse** (see N.Y.S. Family Court Act Section 1012(e))

An "abused child" is a child less than eighteen years of age whose parent or other person legally responsible for his care:

- 1) Inflicts or allows to be inflicted upon the child serious physical injury, or
- 2) Creates or allows to be created a substantial risk of physical injury, or
- 3) Commits or allows to be committed against the child a sexual offense as defined in the penal law.

2. **Definition of Child Maltreatment** (see N.Y.S. Family Court Act, Section 1012(f))

A "maltreated child" is a child under eighteen years of age whose physical, mental or emotional condition has been impaired or is in danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care:

- 1) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
- 2) in providing the child with proper supervision or guardianship; or
- 3) by unreasonable inflicting, or allowing to be inflicted, harm or a substantial risk thereof, including the infliction of excessive corporal punishment; or
- 4) by using a drug or drugs; or
- 5) by using alcoholic beverages to the extent that he loses self-control of his actions; or
- 6) by any other acts of a similarly serious nature requiring the aid of the Family Court.

**Section 415. Reporting Procedure.** Reports of suspected child abuse or maltreatment shall be made immediately by telephone\* and followed in writing (on LDSS-2221A) within 48 hours after such oral report.

#### **NYS CHILD ABUSE AND MALTREATMENT REGISTER:**

**1-800-635-1522 (For Mandated Reporters Only)      1-800-342-3720 (For Public Callers)**

**Section 419. Immunity from Liability.** Any person, official or institution participating in good faith in the making of a report, the taking of photographs, or the removal or keeping of a child pursuant to this title shall have immunity from any liability, civil or of any person required to report cases of child abuse or maltreatment shall be presumed.

#### **Section 420. Penalties for Failure to Report.**

1. Any person, official, or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.
2. Any person, official, or institution required by this title to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

**TO SUBMIT FORM LDSS-2221A:** A paper copy originally signed, must be submitted to the County Department of Social Services where the subject(s) of the report reside. See Section 415 above.

**Residential Institutional Abuse Reports:** A paper copy of the form LDSS 2221A, originally signed, must be submitted directly to the State Central Register, P.O. Box 4480, Albany, New York 12204-0480. See Section 415 above.