



John B. Mattingly  
Commissioner

## MEMORANDUM

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To: New York State Office of Children and Family Services

From: John B. Mattingly, Commissioner, New York City Administration for Children's Services, and Joel Klein, Chancellor, New York City Department of Education

Date: March 1, 2010

Re: Joint Policy Statement on the Reporting and Investigating of Educational Neglect



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In response to your request, the New York City Administration for Children's Services (Children's Services) and the New York City Department of Education have developed a joint policy statement regarding the reporting and investigating of educational neglect. This joint policy statement articulates a process to ensure that educational neglect is properly reported and investigated so as to ensure the safety and well-being children.

To obtain more information on Children's Services policies and procedures for the reporting and investigation of educational neglect, please call Charles Hollander at 212-341-2731.

To obtain more information on the New York City Department of Education's educational neglect and attendance policies, please call Joshua Marquez at 212-374-0805.

**City of New York  
Administration for Children's Services**

**Policy 2010/01**

**ACS POLICY**

**SUBJECT: ACS/ DOE Joint Policy on the Reporting and Investigating of Educational Neglect**

**APPROVED: John B. Mattingly, Commissioner Administration for Children's Services  
Joel Klein, Chancellor, New York City Department of Education**

**DATE: March 1, 2010**

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**IMPLEMENTATION RESPONSIBILITY:  
Children's Service Division of Child Protection;  
Education Unit and the New York City  
Department of Education**

**PURPOSE:** As part of a statewide effort led by the New York State Office of Children and Family Services (OCFS), the Administration for Children's Services and the New York City Department of Education have developed a joint policy statement for the reporting and investigation of educational neglect allegations to ensure inter-agency coordination and a shared protocol for addressing the complex issues that such allegations present.

**SCOPE:** This joint policy statement applies to the New York City Department of Education (DOE) when reporting suspected educational neglect to the State Central Register (SCR), the Children's Services Division of Child Protection (DCP) when investigating educational neglect allegations, and the Children's Services Education Unit when identifying resources in educational neglect cases.

**POLICY:** The reporting and investigation of suspected cases of educational neglect presents a range of complex issues and challenges for social services agencies and local school districts. A collaborative approach to addressing these issues is the best way to meet the needs of the children which we serve. The following sets forth the practices and procedures that DCP and DOE follow.

I. Attendance:

- A. The tracking and follow-up of attendance is one of the Department of Education's most important responsibilities as it relates to the safety, welfare, and educational success of the students in New York City. An unexplained

absence and poor school attendance can be indicators of educational or other neglect. It is therefore DOE's policy to follow up on student absences as a way of ensuring student safety and academic progress.

B. Each minor child from six to seventeen years of age in New York City is required to attend school on a full-time basis. Children who turn six before December 31 of the school year are required to attend school at the beginning of that school year. Students who turn seventeen on or after July 1 must complete the school year in which they turn seventeen years of age. Exceptions to the age requirements for attendance are as follows:

1. minors who have graduated from high school;
2. students who have earned a high school equivalency diploma;
3. students 16 or 17 years of age who have been issued a full-time employment certificate.

C. Schools make every effort to identify and document the reasons for student absences. Parents are expected to submit a note or letter explaining the child's absence from school. A note from a doctor or other health care professional should be provided in cases of extended (3 or more days) or frequent absences due to illness. If a student has been absent from school for reasons other than illness, an explanation of the reason/s must be provided to the school.

Parents are contacted to determine the cause of a child's unexplained absence. Every effort is made to telephone the parent to follow up on any unexplained absence. If a parent cannot be contacted by telephone, a letter or postcard is to be sent home. All contacts and attempted contacts are documented and kept on file in the school.

For additional information on the New York City Department of Education attendance policy, see Chancellor's Regulation A-210, Minimum Standards for Attendance (attached).

## II. Educational Neglect and Reporting Requirements

- A. Educational neglect is considered to be the failure of a parent to ensure their child's prompt and regular attendance in school, or the keeping of a child out of school for impermissible reasons resulting in an adverse effect on the child's educational progress or imminent danger of such an adverse effect.
- B. All pedagogical and non-pedagogical school personnel are mandated reporters. Mandated reporters are required to make a report of educational neglect to the State Central Register (SCR) when there is reasonable cause to suspect educational neglect.
- C. A report must be filed whenever a parent fails to ensure his/her child's prompt attendance in school or keeps the child out of school for impermissible reasons. A report of educational neglect must be filed with the SCR when all of the following three elements exist:

- Reasonable cause to suspect that the parent(s) are aware or should have been aware of the illegal absences or lateness;
- Reasonable cause to suspect that the parent(s) contributed to the problem or is failing to take steps to effectively address the problem (i.e. failure to provide a minimum degree of care); and
- Reasonable cause to suspect an educational impairment/harm to the child or imminent danger of impairment/harm. (Proof of actual educational harm is not necessary so long as harm can be reasonably presumed.)

**NOTE:** A mandated reporter is never precluded from making a report to the SCR if he/she believes there is reasonable cause to suspect child neglect or abuse, even if the conditions set forth in these guidelines have not been met.

- D. School officials are required to make a report of educational neglect directly to the SCR by calling the Mandated Reporter Hotline at 1-800-635-1522.

Once the report is accepted by the SCR, the mandated reporter must notify the principal/designee that a report has been made and provide him/her with the “Call I.D.” number. The principal/designee is then responsible for all subsequent internal actions that must follow such a report, including, ensuring that that the LDSS 2221A, New York State Office Of Children and Family Services Report of Suspected Child Abuse or Maltreatment, (see attached form) is completed and submitted to the County Department of Social Services where the alleged neglected/abused child resides within 48 hours of the oral report made to the SCR.<sup>1</sup> The mandated reporter making the report to the SCR can request to be informed of the outcome of the investigation by checking the appropriate box on the LDSS 2221A.

For additional information on the New York City Department of Education’s educational neglect policies, please refer to Chancellor’s Regulation A-750, Child Abuse Prevention.

### III. Children’s Services Investigation of Educational Neglect Cases

#### A. Contacting the Source of the SCR report

Once a report of educational neglect has been made and reported by the SCR to Children’s Services, an investigation by a Children’s Services Child Protective Specialist (CPS) worker will begin. As in all child protective investigations, the CPS worker should immediately contact the source of the report to obtain further clarification and information regarding the allegation.

If the source of the SCR report is not a school official, the CPS worker must contact the child’s school as soon as possible to obtain information about the child’s attendance, school performance and overall functioning. CPS workers in New York City have been given access to the DOE’s Automate the Schools (ATS) system which can be utilized to confirm school enrollment, attendance, and performance of all children enrolled in New

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<sup>1</sup> New York State Social Services Law 415, Chancellor’s Regulation A-750.

York City public schools, including home schooled children. For additional information on home schooled children, the CPS worker can contact the Office of Home Schooling at 917-339-1748.

**NOTE:** Although DOE reporters are mandated reporters, CPS workers may not disclose the name of the reporter to the subject of the report.

B. Contacting the DOE Designated Liaison or Other School Resources

In addition to contacting the source of the report, the CPS worker may also contact the DOE designated liaison or another resource at the school. The designated liaison will collect and provide all relevant school documentation including the school's efforts to contact the family regarding the absence. The designated liaison will also assist in facilitating communication between the CPS worker and any persons or agencies that can provide information on the case. The list of the DOE school based "Designated Liaisons" may be accessed at: <http://schools.nyc.gov/StudentSupport/NonAcademicSupport/ChildAbuse/default.htm>, and then click the Child Abuse link.

For children who are reported to be home schooled, the CPS worker can access the ATS system to verify that the child is home schooled. The CPS should be able to confirm that the child is registered as a home-schooled child if the school code is 444 on the "Display Student and Adult" screen. The official class for home schooled students should always be 000. If a CPS worker needs to confirm the family is in compliance with home schooling reports and evaluations, the CPS worker can call the Office of Home Schooling at 917-339-1748. It is important for the CPS worker to confirm that the student is officially registered in a 444 coded school. If this code cannot be confirmed the student may not be considered to be home schooled.

C. Continuing Investigation

After the source of the report and the DOE designated liaison are contacted, the Children's Services investigation will proceed with the necessary steps to determine whether or not to substantiate the allegation of educational neglect.

If, in the course of conducting the investigation, there is reasonable cause to suspect additional underlying abuse or maltreatment in the home, the CPS worker must notify the SCR.

While investigating educational neglect allegations, the CPS worker must make sure to distinguish educational neglect from truancy. Truancy is a situation where a child is refusing to attend school despite the parent or caretaker's appropriate and reasonable attempts to ensure that the child attend school on a regular basis.

D. Children's Services/DOE Collaboration during an Investigation

School personnel, as in all other investigations, are legally obligated to cooperate with Children's Services in investigations of educational neglect,

whether or not they are the source of the allegations<sup>2</sup>. The CPS worker may share information within the extent of the New York State Social Services Law.<sup>3</sup>

E. Investigation Conclusion

Once the CPS worker has gathered sufficient information regarding the allegation of educational neglect, the CPS worker will determine whether or not the allegation has been substantiated. In making this determination, the CPS worker must consider whether the student absences are a result of the parent's or caretaker's actions and must consider any other relevant information obtained during the investigation.

CPS must also consider whether the absences have adversely affected the child's educational progress or have created imminent danger of such an adverse effect.<sup>4</sup> Assessing adverse effect on a child's education due to absences can be a difficult task. Each child is different and the potential for educational harm varies according to the age, developmental abilities and intellectual capacity of the child, as well as the knowledge of, or potential encouragement of the absences by the parent.

Examples of adverse effect are:

- (a) Failure to acquire basic skills for the grade level in question (e.g. functional illiteracy);
- (b) Retention at the same grade level due to failure to acquire basic skills;
- (c) Failing grades at the end of a marking period. If the CPS worker identifies service needs for the child and family, the CPS worker must make appropriate service referrals.

It is important to note that although a child may return to school during the course of the investigation, the CPS worker must continue to fully investigate the allegation to determine if the cause of the prior absence is still present and therefore creating a continuing risk of harm. The return of the child to school does not mean that the allegation should be unsubstantiated. If the investigation reveals that some credible evidence<sup>5</sup> of neglect or abuse exists, the allegation must be substantiated and the SCR report indicated.

For additional information on Children's Services policies and procedures for the reporting and investigating of educational neglect, refer to the Casework Practice Guide, June 2007 and all current policies related to CPS investigations.

For additional information on this policy, contact Michael Hopson, Senior Writer, Children's Services Policies and Procedures Unit at 212-341-2858.

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<sup>2</sup> New York City Board of Education, Regulation of the Chancellor, Number A-750 Child Abuse Prevention

<sup>3</sup> Social Service Law §422-4A0

<sup>4</sup> New York State Office of Children and Family Services, Model Policy on Educational Neglect

<sup>5</sup> Credible evidence is evidence that is worthy or capable of belief.

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