



INDEPENDENT PROCEDURE

Title: **REPORTING SUSPECTED CHILD
NEGLECT AND ABUSE**

Procedure No.: **5005a**
Effective Date: **2006 June 27**

Department: Organizational Support Services – Human Resources

Reference(s):

- Attendance & Social Work Services
- *Child and Family Services Amendment Act (Proclaimed 2000 March 31)*
- *Child, Youth and Family Services Act, 2017*
- Education Act
- *Ontario College of Teachers Act*
- Ontario Ministry of Education Policy/Program Memorandum No. 9 entitled, Child in Need of Protection/Child Abuse Reporting Requirements (1996 December 15)
- *Municipal Freedom of Information and Protection of Privacy Act*

Introduction

The protocol developed in partnership with the London and Middlesex Children's Aid Society, the Children's Aid Society of Oxford County and the Family and Children's Services of St. Thomas and Elgin County outlines the roles, responsibilities and procedures to be followed in situations where there is a suspicion that a child is in need of protection.

Procedures in the protocol ensure adherence to personal and professional obligations as defined in the *Child, Youth and Family Services Act, 2017* and the *Education Act*. This protocol will outline preferred practices, and support consistency in reporting practices and responses, including internal procedures for school board employees. A consistent, co-ordinated response will offer the best possible protection for the children in our communities.

The procedure will be reviewed on an annual basis with all Thames Valley District School Board (TVDSB) employees.

1.0 General Principles

- 1.1 Children have the right to be protected from neglect and abuse.
- 1.2 All members of a family are affected by child abuse and will be treated by professionals in a manner that is sensitive to their issues.
- 1.3 Addressing child neglect and child abuse is a responsibility shared by many professionals including TVDSB employees and child protection workers.

Administered By: **Organizational Support Services – Human Resources**

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- 1.4 Children have the right to be protected from further victimization. The investigation process will be consistent with this principle in regards to procedures such as number of interviews and timing of response.
- 1.5 The school system has an important role to play in the prevention and identification of child neglect/abuse and the linking of appropriate services. It is the responsibility of TVDSB employees to approach the child who may be in need of protection with the same commitment and thoroughness with which they have approached children with learning problems, disabilities and handicaps.
- 1.6 The Thames Valley District School Board, the Children's Aid Society of London and Middlesex, the Children's Aid Society of Oxford County and the Family and Children's Services of St. Thomas and Elgin County have agreed to work co-operatively to address suspected child abuse and neglect and share all information that is relevant to an investigation within legal confines.
- 1.7 Reporting child neglect/abuse will take place **immediately**. The investigation by the Society will take place in a timely, organized and impartial manner. The immediate safety of the child will determine the timeliness of the investigation.
- 1.8 The Children's Aid Societies are responsible for the investigation of allegations of child abuse and neglect. Investigations will be conducted in a manner that is child-centred and child-sensitive.

2.0 Statement of Roles

- 2.1 Children's Aid Societies and Family and Children's Services are child protection agencies legislated under the *Child, Youth and Family Services Act, 2017*. The legislation defines the functions of a Children's Aid Society, defines when a child may be in need of protection and the responsibilities of the society to investigate and provide services to children in need of protection from abuse or neglect.

The Children's Aid Societies have protocols for referral and joint investigations with police forces in each jurisdiction. The Societies and the police have reciprocal reporting responsibilities and protocols. When possible the Children's Aid Societies have agreed to inform the TVDSB of the plan to involve the police.

- 2.2 The Thames Valley District School Board is charged with the responsibility under the Education Act of providing education and educational supports to children living in the counties of Elgin, Middlesex and Oxford. The Board is responsible for ensuring that policies and procedures regarding child abuse reporting conform to legislative provisions of the *Education Act* and the *Child, Youth and Family Services Act, 2017*.
- 2.3 Police Services have a responsibility to investigate allegations of abuse which may also constitute offences under the Criminal Code of Canada and other statutes.

The working relationship between the police and the Children's Aid Societies is such that the police become involved when an abuse allegation may also indicate a criminal offence on the part of the alleged abuser. This involvement could include situations where the alleged abuser is an employee of the TVDSB or the Society. The TVDSB will fully cooperate with any police investigation provided that valid authorization under applicable legislation is presented to the TVDSB to access the relevant information prior to disclosure by the TVDSB.

3.0 Definition of a Child

The *Child, Youth and Family Services Act, 2017*, part V, Child Protection, defines a child as a person actually or apparently younger than sixteen (16) years of age. A person subject to a protection order, for example an order of supervision or wardship, is considered to be a child until they attain eighteen (18) years of age. A child protection investigation may be undertaken with regards to a sixteen (16) or seventeen (17) year old and may become the subject of a child protection order. Allegations of neglect/abuse involving such young people ages 16 or 17 are to be reported to the society for determination on next steps, which may include an investigation by the police under the assault or sexual assault provisions of the Criminal Code

4.0 Definitions of Child Abuse and Neglect

Note: Any amendments to the *Child, Youth and Family Services Act, 2017* will take effect upon a day to be named by proclamation of the Lieutenant Governor and will apply to this procedure.

The Child, Youth and Family Services Act, 2017 Section 74(2) defines the circumstances in which a child would be found to be "in need of protection":

4.1 Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion and the information on which it is based to a society:

4.1.1 The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,

4.1.1.1 Failure to adequately care for, provide for, supervise or protecting the child, or

4.1.1.2 Pattern of neglect in caring for, providing for, supervising or protecting the child.

4.1.2 There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or accused by or resulting from that person's,

4.1.2.1 Failure to adequately care for, provide for, supervise or protecting

- the child, or
 - 4.1.2.2 Pattern of neglect in caring for, providing for, supervising or protecting the child.
- 4.1.3 The child has been sexually abused or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child.
- 4.1.4 There is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 4.1.3.
- 4.1.5 The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, the treatment on the child's behalf.
- 4.1.6 The child has suffered emotional harm, demonstrated by serious,
 - 4.1.6.1 anxiety;
 - 4.1.6.2 depression;
 - 4.1.6.3 withdrawal;
 - 4.1.6.4 self-destructive or aggressive behavior; or
 - 4.1.6.5 delayed development.

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
- 4.1.7 The child has suffered emotional harm of the kind described in subparagraph 4.1.6.1 to 4.1.6.4 or 4.1.6.5 of paragraph 4.1.6 and the child's parent or the person having charge of the child does not provide services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the harm.
- 4.1.8 There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 4.1.6.1 to 4.1.6.4 or 4.1.6.5 of paragraph 4.1.6 resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
- 4.1.9 There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 4.1.6.1 to 4.1.6.4 or 4.1.6.5 of paragraph 4.1.6 and that the child's parent or the person having charge of the child does not

provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to prevent the harm.

- 4.1.10 The child suffers from a mental, emotional, or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refused or is unavailable or unable to consent to treatment to remedy or alleviate the condition.
- 4.1.11 The child's parent has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
- 4.1.12 The child is younger than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment.
- 4.1.13 The child is younger than 12 years old and has, on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.
- 4.1.14 The child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is 12 or older, with the child's consent, for the matter to be dealt with under this Part; or
- 4.1.15 The child is 16 or 17 and a prescribed circumstance or condition exists.

5.0 Legislative Duty to Report

- 5.1 The *Child, Youth and Family Services Act* (CYFSA (section 125)) states that:

“Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, who has

reasonable grounds to suspect that a child is in need of protection shall immediately report the suspicion and the information upon which it is based to a society”.

All reports and suspicions of abuse and neglect must be reported *immediately* to the appropriate child welfare agency regardless of whether the alleged perpetrator is a family member, a community member, school board staff or volunteer.

- 5.2 The duty to report is personal and can only be carried out by the person who has “reasonable grounds to suspect” that a child is in need of protection. This duty cannot be delegated to, or assumed by, anyone else, including a principal, professional support staff, or senior administrator.
- 5.3 Professional persons and officials have a higher duty to report than a member of the public. As such, where there are reasonable grounds to suspect that a child is in need of protection, a person, including a person with professional or official duties, must report the suspicion and the information on which the suspicion is based to a Society (CFSa 125 (6)).
- 5.4 The duty to report applies regardless that the information reported may be confidential or privileged and no action for making the report shall be instituted against a person who acts in accordance with the legislation unless the person acts maliciously or without reasonable grounds for suspicion as the case may be (CFSa 125 (10)).
- 5.5 TVDSB employees are advised that their failure to report where there are “reasonable grounds to suspect” that a child is in need of protection can lead to a conviction of an offence which is subject to a fine of not more than \$5,000.

Note: A failure to comply with the *Child, Youth and Family Services Act, 2017* is a defined ground of professional misconduct under the *Ontario College of Teachers Act 1996*.

- 5.6 It is important to note that the duty to report is an ongoing one, such that where “additional reasonable grounds” arise to suspect that a child is in need of protection, a further obligation to report arises despite the fact that the person may have made one or more previous reports.

6.0 Access to Information

- 6.1 In accordance with the *Child, Youth and Family Services Act, 2017* and the *Municipal Freedom of Information and Protection of Privacy Act* the Society and the school should share as much information as is necessary to ensure the child’s safety and well-being and to enable school personnel to support the child.

- 6.2 It is preferred that the sharing of information is done with written parental consent if the child is under 18 years of age. When it is not possible, or there is risk that the child's well-being and safety may be endangered if parental consent is obtained, then information will be shared to the extent necessary to ensure the child's well-being and safety.

At no time shall the attempt to share information and/or to obtain parental consent obstruct the duty to report that a child is in need of protection.

7.0 Investigation on School Premises

In certain situations it may be necessary for investigations of suspicions to occur on school premises. Where a child is to be interviewed at school, it is recommended that the Society and the police adopt the following procedures:

- 7.1 Where there is a suspicion that a child is in need of protection and there is a risk of harm to the safety and/or well-being of the child if the parent has prior knowledge of the interview and is permitted to participate, the Society may direct and the principal shall permit an interview to take place without parental consent and in the absence of the parents on school premises.
- 7.2 Where the Society and/or the police do not object to the presence of at least one parent at the interview of the child at school, the Society would seek prior parental consent to the interview, encourage the parent to attend, and give the principal of the school sufficient notice of their visit.
- 7.3 Where a parent is unavailable and the Society and/or the police do not object, the school shall arrange for a support person who is over 18 years of age and with whom the child is comfortable with.
- 7.4 The removal of a child from the school property without parental consent by an agent of the Society or the police will constitute an "apprehension", as defined under the *Child, Youth and Family Services Act*, 2017, of that child and will thereby fall within the legal jurisdiction of the Society or the police.

8.0 Students with Special Needs

- 8.1 The Thames Valley District School Board recognizes the particular vulnerability of children with special needs. Procedures following the report of a suspicion of abuse/neglect or a disclosure will be followed with consideration of additional and appropriate assistance to a child whose disability affects the ability to communicate.
- 8.2 The reporting person and/or the principal will ensure that the investigating agency or police are aware of whatever needs and accommodations are necessary for the

child. Such accommodations may include the presence of a known adult during the investigation process.

9.0 Detailed Procedures

Detailed procedures for specific situations are outlined in the appendices to this procedure as set out below:

Appendix A - Reporting Suspected Child Neglect and Abuse by a Parent, Caregiver or Community Member.

Appendix B - Reporting Suspected Child Neglect and Abuse by Board Employee.

Appendix C - Reporting Suspected Child Neglect and Abuse by Employee of the Children's Aid Society/Family & Children's Services.

Report of Suspected Child Neglect and/or Abuse (available on the Electronic Forms on the Employee Portal)

Appendix A

Procedure No. 5005a - Reporting Suspected Child Neglect and Abuse

REPORT OF CHILD ABUSE OR NEGLECT

BY A PARENT, CAREGIVER OR COMMUNITY MEMBER

1. In situations where a TVDSB Employee at a TVDSB school/site suspects a parent, caregiver or community member of conduct which places a child in need of protection, they shall **immediately** report the suspicion and the information on which it is based to the Society in the **jurisdiction** where the child normally resides.

London and Middlesex County Children's Aid Society (CAS) 519-455-9000

*Family and Children's Services of St. Thomas
and Elgin County (F&CS)* 519-631-1492

Children's Aid Society (CAS) of Oxford County 519-539-6176

2. The TVDSB employee who suspects that a child is in need of protection has a legislated and a professional duty to report directly to the Society. That duty cannot be delegated to or assumed by anyone else, including a Principal, Supervisor, or Senior Administrator. The employee may wish to consult and discuss the situation with the site Principal or Supervisor. **Consultation should be available; but, it does not remove the reporting obligation from the employee, nor should it impede the timeliness of the report.** It is important to note that the duty to report is an on-going one, such that when additional information is received it must be reported to the Society (refer to Section 5.6 of Procedure 5005a re: Legislative Duty to Report).
3. When a TVDSB Employee contacts the Society, they are required to complete the form titled "*Report of Suspected Child Neglect and/or Abuse*" for submission to the site Principal/Supervisor (available on the Electronic Forms on the Employee Portal). The report is reviewed and signed by the Principal/ Supervisor who sends a copy to the School Superintendent of Student Achievement. The original report is retained in the Principal/Supervisor's office in a confidential file marked "CAS/F&CS Reports". Both the original and the copy are to be retained for two years from the date of issue.
4. The suspecting person may need to ask questions of the child to clarify information. **Questioning should occur only to the point where the TVDSB Employee has a suspicion that the child is in need of protection.** Any further questioning constitutes investigation which is the responsibility of the Society. Assessing the validity of a suspicion is also the responsibility of the Society. Once a child has disclosed, they must not be subjected to further questioning by any other TVDSB Employees to avoid

interfering with the investigative process.

5. If advised by the Society that the suspicion or disclosure does not warrant an investigation, the Principal/Supervisor will record the worker's name, the date, and the time of the consultation on the report that was submitted by the TVDSB Employee.
6. Once a report is received by the Society, the Child Protection Worker and the Principal/Supervisor will develop a strategy for informing the parents. TVDSB Employees shall not inform parents that a report has been made without consultation with the Society.

The Child Protection Worker will keep the Principal/Supervisor advised of the strategy for responding to the report such that TVDSB employees may assist where required. Any investigative role is clearly the mandate of the Society. The strategy will include consideration of appropriate timelines such as when the child is expected at home or when a parent may arrive to pick up their child from school. The strategy should also include provisions for supporting the child prior to and during the initial interview and/or investigation. A support person should be a person of the child's choosing (refer to Section 7.3 of Procedure 5005a re: Investigation on School Premises).

7. In situations where there is a suspicion that a child is in need of protection and there is a risk of imminent physical or emotional harm, the Society will make arrangements to interview the child at the school in a safe environment. In situations where the immediate safety of the child and of other children is of concern, the Society will take the necessary steps to ensure the child(ren)'s safety (refer to Section 7.0 of Procedure 5005a re: Investigation on School Premises).
8. The Society will obtain the information necessary to complete the investigation from the referring source and the school, including the student's identifying information, family data and the context of the situation within legal confines.

Appendix B

Procedure No. 5005a - Reporting Suspected Child Neglect and Abuse

REPORT OF CHILD ABUSE OR NEGLECT

BY BOARD EMPLOYEE

(Note: If the suspected TVDSB Employee is a Principal/Supervisor, then replace all references to “Principal/Supervisor” in this procedure with “Associate Director, Organizational Support Services or Designate”.

1. In situations where a TVDSB employee suspects another TVDSB employee of conduct which places a child in need of protection, they shall **immediately** report the suspicion and the information on which it is based to the Society in the **jurisdiction** where the child normally resides.

London and Middlesex County Children’s Aid Society (CAS) 519-455-9000

*Family and Children’s Services of St. Thomas 519-631-1492
and Elgin County (F&CS)*

Children’s Aid Society (CAS) of Oxford County 519-539-6176

2. The Principal or Supervisor of the employee who is suspected of child neglect or abuse will be notified when a report to a Society has been made. The Principal or Supervisor will notify the Associate Director, Organizational Support Services or Designate and the School Superintendent of Student Achievement regarding the report.

When a TVDSB employee contacts the Society, they are required to complete the form titled “*Report of Suspected Child Neglect and/or Abuse*” for submission to the site Principal/Supervisor (available on the Electronic Forms on the Employee Portal). The report is reviewed and signed by the Principal/ Supervisor who sends the original to the Associate Director, Organizational Support Services or Designate. The original report is retained in the Human Resources Department. No copies will be retained in any other location.

3. The suspecting person may need to ask questions of the child to clarify information. **Questioning should occur only to the point where the TVDSB Employee has a suspicion that the child is in need of protection.** Any further questioning constitutes investigation which is the responsibility of the Society. Assessing the validity of a suspicion is also the responsibility of the Society. Once a child has disclosed, they must

not be subjected to further questioning by any other TVDSB Employees to avoid interfering with the investigative process.

4. If advised by the Society that the suspicion or disclosure does not warrant an investigation, the Principal/Supervisor will record the worker's name, the date, and the time of the consultation on the report that was submitted by the TVDSB employee.
5. Under no circumstances should the implicated employee be contacted regarding an allegation or disclosure until specific instructions are received from the investigating police or Society.

Notwithstanding section 18 (1) (b), Regulation Made under the *Teaching Profession Act*, a teacher shall NOT report to a fellow teacher that an allegation or disclosure has occurred. This procedure is designed to secure the safety of the student, to ensure that the rights of the victim and the accused person are protected and to prevent possible destruction of evidence.

6. The Thames Valley District School Board will undertake to ensure the safety of any other alleged or potential victims through whatever means deemed appropriate, including interim suspension of the employee or removal from the school setting. TVDSB employees are expected to be supportive of a student who has come forward, and will respect and protect the confidentiality of the disclosure within legal confines. Only the people who need to know and who will in no way jeopardize the investigation will be informed of the disclosure.
7. The Thames Valley District School Board will fully cooperate with the Society and the police in any investigation and provide access to any relevant information within legal confines.
8. In instances involving employees, it must be remembered that the Thames Valley District School Board has two key areas of responsibility:
 - i. Acting "in loco parentis" for the children registered within their school system
 - ii. Serving as the employer of the person who is the alleged abuser. It is the Associate Director, Organizational Support Services or Designate's determination whether the accused employee shall be relieved of duties or re-assigned during an investigation.
9. Where an allegation of neglect and/or abuse involving a TVDSB employee is reported to a Society or the police, and they decide not to pursue the matter, the matter shall be

reviewed by the Associate Director, Organizational Support Services or Designate in order to establish whether further action is warranted.

10. The Associate Director, Organizational Support Services or Designate will be responsible for ensuring that an internal investigation of circumstances is conducted in relation to the suspicious conduct of a TVDSB employee. The investigation shall be coordinated in consultation with the investigating Society and the police.
11. The Associate Director, Organizational Support Services or Designate will determine if a follow-up meeting is required with the TVDSB employee who has been alleged to have been involved in a suspected child abuse/neglect incident in order to discuss the results of the investigation and to confirm that the allegations were or were not verified.
12. In instances where TVDSB employees are suspected to have conducted themselves in personal situations outside the Board, which place a child in need of protection, there is a very delicate balance between the individual's right to privacy versus the employer's need to know to protect possible victimization in the workplace. In these instances, the Associate Director, Organizational Support Services or Designate will be notified by the Society only in cases where there is a potential risk to children.

Appendix C

Procedure No. 5005a - Reporting Suspected Child Neglect and Abuse

REPORT OF CHILD ABUSE OR NEGLECT

BY EMPLOYEE OF CHILDREN'S AID SOCIETY/FAMILY & CHILDREN'S SERVICES

1. In situations where a disclosure has been made to a TVDSB employee regarding a suspicion which involves an employee of the Society, a report will be made to the appropriate Children's Aid Society or Family and Children Services Designate in the region in which the child normally resides.
2. When a TVDSB Employee contacts the Society, they are required to complete the form titled "Report of Suspected Child Neglect and/or Abuse" for submission to the site Principal/Supervisor (available on the Electronic Forms on the Employee Portal). The report is reviewed and signed by the Principal/ Supervisor who sends a copy to the school Superintendent of Student Achievement. The original report is retained in the Principal/Supervisor's office in a confidential file marked "CAS/F&CS Reports". Both the original and the copy are to be retained for two years from the date of issue.