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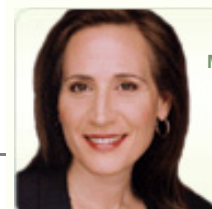
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PREMIER
DALTON MCGUINTY**Policy/Program Memorandum No. 9****Issued under the authority of the
Deputy Minister of Education****Date of Issue:** August 10, 2001**Effective:**
Until revoked
or modified**Subject:** **REPORTING OF
CHILDREN IN NEED OF
PROTECTION****Application:** Directors of Education
Secretaries of School
Authorities
Director of Provincial Schools
Principals of Elementary
Schools
Principals of Secondary
Schools
Principals of Provincial
Schools**Reference:** This memorandum replaces
Policy/Program
Memorandum N°. 9, "Child
in Need of Protection/Child
Abuse Reporting
Requirements", December
15, 1986.MINISTER OF
EDUCATION
**Sandra
Pupatello**

OFFICIAL BIOGRAPHIES

- Minister of Education
- Deputy Minister of Education

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Note: This memorandum reflects the latest version of the *Child and Family Services Act* (March 31, 2000).

Requirements for Reporting

The *Child and Family Services Act* contains provisions under Part III, Child Protection, for reporting a child who is or may be in need of protection. If any person – including a teacher, a principal, or another professional – has reasonable grounds to suspect that a child is or may be in need of protection, the act requires that the person report his or her suspicions "forthwith" to a children's aid society and provide the information on which the suspicions are based. Therefore, teachers, principals, and other professionals who, in the course of performing their professional or official duties, suspect that a child is or may be in need of protection must report this information without delay to a children's aid society. Details are given in subsection 72(1), which is quoted below in its entirety:

- 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



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on which it is based to a society:

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,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually molested 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 molestation or sexual exploitation and fails to protect the child.

4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3.
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, or refuses or is unavailable or unable to consent to, the treatment.
6. The child has suffered emotional harm, demonstrated by serious,
 - i. anxiety,
 - ii. depression,
 - iii. withdrawal,
 - iv. self-destructive or aggressive behaviour, or
 - v. 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.
7. The child has suffered emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and the child's parent or the person having charge of the child does not

provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 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.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.
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, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child has been abandoned, the child's parent has died or is

unavailable to exercise his or her 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.

12. The child is less 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, or refuses or is unavailable or unable to consent to, those services or treatment.

13. The child is less 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.

Subsection 72(3) of the act provides that every person who has reasonable grounds to suspect that a child is or may be in need of protection must make the report *directly* to a children's aid society, and *must not rely on*

anyone else to report on his or her behalf.

In addition, subsection 72(2) states that the duty to report is an ongoing obligation. If a person has made a report about a child to a children's aid society and has additional reasonable grounds to suspect that the child is or may be in need of protection, that person must make a further report to the children's aid society.

These requirements do not prevent a school board from establishing additional policies on internal reporting procedures, but the board's policies must not conflict with the reporting requirements of the act.

Consequences of Failure to Report

Subsection 72(4) of the act makes it an offence for persons performing professional or official duties with respect to children to fail to report a child who, they suspect, is or may be in need of protection. Clause 72(5)(b) expressly identifies teachers and school principals as such persons. If a teacher or principal obtains information, *in the course of performing his or her professional or official duties*, that leads him or her to suspect that a child is or may be in need of protection, he or she must report this suspicion. If such a professional or official does not

report the suspicion, he or she is liable, upon conviction for the offence, to a fine of up to \$1000.

Protection for Persons Making Reports

The duty of a professional or official to make a report overrides the provisions of any other provincial statute – that is, those provisions that would otherwise prohibit the professional or official from disclosing confidential or privileged information. In other words, a teacher or school principal must report that he or she suspects that a child is or may be in need of protection even if he or she believes that the information to be used to support the report is supposed to be confidential or privileged.

Subsection 72(7) provides that no action for making a report shall be instituted against a person who acts in accordance with the duty to report in section 72, unless the person acts maliciously or without reasonable grounds for the suspicion.

Investigation

It is the responsibility of the children's aid society and, if necessary, the police to conduct an investigation into the possibility that a child is in need of protection. School personnel who suspect that a child is or may be in need of protection should not conduct an investigation regarding their

suspensions or the disclosures of the child, and shall question the child only to clarify the nature of the complaint.

Responsibilities of Directors of Education

Directors of education are requested to ensure that:

- all staff members are aware of, and understand, the relevant sections of the *Child and Family Services Act*, particularly the requirement to report suspected cases of children in need of protection;
- school board policies and procedures on reporting suspected cases of children in need of protection conform with the provisions of the *Child and Family Services Act*.

For further details, please see the *Child and Family Services Act*.

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