

State of Delaware
Child Protection Accountability Commission



**Guidelines for Responding to Teen Dating and Sexual
Violence in Delaware Schools**

**Updated
June 2014**

**Child Protection Accountability Commission
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I. Purpose

This document provides guidelines to Delaware schools for responding to teen dating and sexual violence and references the applicable laws and statutes. The purpose of this document is to provide a blueprint for creating a comprehensive and effective response to violence and/or abuse in accordance with the School Teen Dating Violence and Sexual Assault Act.¹

This document also provides guidance on applicable Delaware laws regarding the mandatory reporting of child abuse, neglect, and unlawful sexual contact with minors, and threats of harm to self or others. As a general rule, anyone who reasonably suspects child abuse, neglect, unlawful sexual contact with minors or threats of harm to self or others must report these matters to the proper authorities in a timely manner. Throughout this document, guidance will be provided on who the proper authorities are depending on the circumstances.

II. Definitions

A. Dating Violence

Involves assaultive and controlling behaviors (often evolving into a pattern of behaviors) that one person uses against another in order to gain or maintain power in a current or past relationship. The abuser intentionally behaves in ways that can cause fear, degradation, humiliation, injury or harm or uses any other coercive behaviors to control the other person. Abuse can occur in both heterosexual and same-sex or serious and casual relationships and covers a wide range of behaviors that include harassment, verbal, emotional and economic abuse, sexual abuse, stalking and physical abuse.²

- i. **Economic Abuse:** Involves behaviors that control one's ability to acquire, use, and maintain economic resources, thus threatening one's economic security and ability to be self-sufficient.
- ii. **Verbal Abuse:** Includes withholding, bullying, defaming, defining, trivializing, harassing, diverting, interrogating, accusing, blaming, blocking, countering, lying, berating, taunting, put downs, abuse disguised as a joke, discounting, threatening, name-calling and yelling.
- iii. **Emotional Abuse:** Includes yelling, name-calling, making victim feel worthless, making victim feel crazy, telling victim they are stupid, embarrassing victim in front of others, making victim feel bad about himself or herself, using technology to stalk, harass, or embarrass the victim.
- iv. **Physical Abuse:** Can include pushing or shoving, being held down, biting, kicking, slapping, punching, strangling (choking), hair pulling,

¹ See [14 Del. C. § 4112E](#)

² Definition was developed by members of Delaware's Teen Dating Violence Task Force.

being thrown against the wall or on the ground, being stabbed or shot, being tied up, throwing things at the victim, being kept from food/water/sleep, etc.

- v. **Stalking:** When a person knowingly engages in a course of conduct directed at a specific person causing that person to either fear physical injury to himself or herself or that of another person; or suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.³

B. Sexual Violence

Any unwanted sexual behavior, including actions committed by a perpetrator who is a stranger to the victim and by a perpetrator who is known or related by blood, marriage or civil union to the victim. Behaviors that fall under this definition include but are not limited to: incest, unlawful sexual contact, molestation, rape, and child sexual abuse.⁴

- i. **Sexual Harassment:** Threatening a person to engage in behavior which would result in a sexual offense, or suggests or otherwise attempts to induce another person to have sexual contact with the perpetrator, knowing that the perpetrator is thereby likely to cause annoyance, offense or alarm to the other person.⁵
- ii. **Sexual Contact:** Any intentional touching by a person of the anus, breast, buttocks or genitalia of another person; or any intentional touching of another person with the person's anus, breast, buttocks or genitalia; or intentionally causing or allowing another person to touch the person's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing.⁶
- iii. **Sexual Intercourse:** Any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or any act of cunnilingus (oral contact with the female genitalia) or fellatio (oral contact with the male genitalia) regardless of whether penetration occurs. Ejaculation is not required.⁷
- iv. **Sexual Penetration:** The unlawful placement of an object (any item, device, instrument, substance or any part of the body) inside the anus or vagina of another person; or the unlawful placement of the genitalia or any sexual device inside the mouth of another person.⁸

³ See [11 Del. C. § 1312](#)

⁴ Definition was adapted from *A Guide to Addressing Dating Violence in Texas Schools*.

⁵ See [11 Del. C. § 763](#)

⁶ See [11 Del. C. § 761\(f\)](#)

⁷ See [11 Del. C. § 761\(g\)](#)

⁸ See [11 Del. C. § 761\(i\)](#)

- v. **Child Sexual Abuse:** The deliberate exposure of a minor to sexual activity that the minor cannot comprehend or consent to. This means a minor is forced or coerced into sex or sexual activities by another person. This behavior includes acts such as inappropriate touching of a minor's breasts or genitalia, someone exposing their genitalia to a minor, fondling, oral-genital contact, genital and anal intercourse, as well as exhibitionism, voyeurism, and exposure to pornography.⁹ See Appendix A: How to Determine Age of Consent for Sexual Contact as well as Appendix B: Sexual Behaviors vs. Abusive Sexual Behaviors.

C. Child Abuse and Neglect

The Child Abuse Prevention and Treatment Act (CAPTA) defines child abuse and neglect as any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.¹⁰

D. Teen Pregnancy

In and of itself, pregnancy that occurs in girls, ages 12 to 17, is not child abuse. However, teen pregnancy is a risk factor of abuse and in some instances, which will be described later in this document, may be the result of sexual abuse.

E. Youth-Produced Sexual Images

Nude, sexually suggestive, or explicit images possessed and/or transmitted by way of cell phone, electronic device or online.

F. School Environment:

Shall mean within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at extra-curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.¹¹

G. School Employee:

Includes all persons by a school district, attendance zone or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.¹² This includes school-based wellness center staff and volunteers.

⁹ Definition was taken from the Circle of Life Counseling Center, P.L.L.C.

¹⁰ See also [10 Del.C. § 901](#) & [11 Del.C. § 468](#)

¹¹ See [Delaware Administrative Code, Title 14: 600](#)

¹² See [14 Del. C. § 4112](#)

H. Student:

Any student enrolled in school grades preschool to 12.

I. Child:

Means an individual who has not reached his or her 18th birthday.

J. Minor:

Means an individual who has not attained the age of 18 years.

III. Confidentiality

A. School Counselors, Mental Health & Medical Professionals

These professions are bound by their professional licensure and code of ethics and as such they are required to maintain confidentiality. HIPAA (the Health Insurance Portability and Accountability Act of 1996) provides for confidentiality. However, certain information can be released in particular circumstances such as; law enforcement investigations, mandatory reporting (such as child abuse) and in the course of certain judicial or administrative proceedings.¹³ Additionally, students may give informed consent to release their information. Mental health and medical professionals are required to maintain confidentiality of all information acquired from clients in a professional capacity (including information regarding teen dating violence) **except in the following situations: a student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim or victims (including themselves), or any suspicion of child abuse**, or in a case when the student presents with serious burns or respiratory tract burns, non-accidental poisoning, stab wounds, bullet wounds, gunshot wounds, powder burns, or other injury caused by the discharge of a gun, pistol, or other firearm.¹⁴

B. Other School Employees, Including Teachers & Administrators

These professions are not bound by confidentiality. However, once a school employee knows or reasonably should know of possible sexual violence of a minor and/or any sexual violence that could have occurred in the school environment, the school employee must take immediate and appropriate action to explore the incident and keep the student victim safe.¹⁵ The next section will address in what specific

¹³ See [45 CFR §164.512 \(b\), \(c\), \(e\), \(f\)](#)

¹⁴ See [16 Del.C. § 5402](#), [16 Del.C. §903](#) and [909](#), [24 Del.C. §1762](#), [16 Del.C. § 6601B](#), [24 Del.C. §1762](#).

¹⁵ See [14 Del.C. § 4112](#)

circumstances reports to the Division of Family Services (DFS) and/or law enforcement are mandated.

Title IX of the Education Amendments of 1972 guarantees that “no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal financial assistance.”¹⁶

Title IX prohibits harassment of both male and female students regardless of the sex of the harasser (i.e., even if the harasser and target members are of the same sex). It also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity. Title IX also prohibits sexual harassment and gender-based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.

School districts are liable for student-on-student sexual harassment, and accordingly acts of teen dating violence that constitute sexual harassment, when: (1) a student has been sexually harassed, (2) the school has actual knowledge of the harassment, (3) the harassment was severe, pervasive, and objectively offensive, (4) the harassment caused the student to be deprived of access to educational opportunities or benefits, and (5) the school is deliberately indifferent to the harassment.

Failure to adopt and implement policies on sexual harassment and teen dating violence that qualifies as sexual harassment exposes school districts to civil liability under Title IX. As result, each district is required to have a Title IX Coordinator; however, many schools may have a Title IX designee at the school level as well.

IV. What Must be Reported and To Whom

Certain school crimes, threats of harm to self or others, child abuse, and sexual violence of a minor and/or any sexual violence that could have occurred in the school environment require mandatory reports to either law enforcement and/or DFS. In and of themselves, teen dating violence, sexual behaviors, and teen pregnancy do not require mandatory reports. See below for clarification on when these reports are required. (See also Appendix B: Sexual Behaviors vs. Abusive Sexual Behaviors).

¹⁶ See 20 U.S.C. § 1681 (a) 2007.

A. School Crimes

Pursuant to 14 Del.C. § 4112, an immediate report shall be made by the school principal or designee to the appropriate police jurisdiction when a school employee has a reasonable suspicion that one of the following offenses occurred to a student in the school environment: a violent felony offense, unlawful sexual contact or assault. Violent felonies are designated in § 4201(c) of Title 11. (See Appendix C: Police Non-Emergency Numbers).

A mandatory report to law enforcement is also required if a school employee commits a violent felony offense, assault or any sexual offense against a student regardless of where the incident takes place.¹⁷ This offense also requires an immediate report to the DFS Child Abuse and Neglect Report Line at 1-800-292-9582. Any school employee who witnessed or who has first-hand knowledge of the incident shall report.

B. Sexual Violence

Any **abusive** sexual behavior that is committed against a minor by another minor or adult, regardless of where the incident takes place, by statute must be immediately reported to DFS.¹⁸ However, if a student, 18 years of age or older, is a victim of sexual violence that occurs outside of the school environment, then the incident does not require a mandatory report (unless the perpetrator is a school employee). In cases of sexual violence, in addition to calling DFS, law enforcement should also be contacted. This report must be made by any school employee who witnessed or was given information about the incident. See Appendix A: How to Determine Age of Consent for Sexual Contact as well as Appendix B: Sexual Behaviors vs. Abusive Sexual Behaviors.¹⁹ It is important to note that a report to DFS is not mandated for Sexual Harassment. Reports of this nature shall be reported to the school principal or designee.

C. Teen Dating Violence

In general, teen dating violence is not a mandatory report except under certain circumstances. These circumstances include:

- **Violent Felony in the school environment**²⁰ (includes Assault in the First and Second Degree, Unlawful Sexual Contact in the First and Second Degree and Stalking);
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- **Assault III in the school environment**

¹⁷ See [14 Del.C. § 4112](#), [11 Del.C. § 4201\(c\)](#), [11 Del.C. § 611](#), [11 Del.C. § 767](#), [11 Del.C. § 761\(g\)](#)

¹⁸ See [16 Del. C § § 903, 904](#)

¹⁹ See [16 Del.C. § 903](#)

²⁰ See [11 Del.C. § 4201\(c\)](#)

- An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- **Unlawful Sexual Contact III in the school environment;**
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- **Abusive Sexual Behaviors Against a Minor regardless of where the incident occurs** (See Appendix A: How to Determine Age of Consent for Sexual Contact as well as Appendix B: Sexual Behaviors vs. Abusive Sexual Behaviors);
 - An immediate report shall be made to DFS. Law enforcement should also be contacted.
- **Abusive Sexual Behaviors Against a Student 18 Years of Age or Older in the school environment** (See Appendix A: How to Determine Age of Consent for Sexual Contact as well as Appendix B: Sexual Behaviors vs. Abusive Sexual Behaviors); and
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- **Threats of Harm to Others (Mental Health providers only)**
 - An immediate report shall be made to the appropriate police jurisdiction.

Throughout this document, teen dating violence refers to the behaviors that occur between minors and/or students. However, if the alleged perpetrator is a school employee, then please refer to Section A: School Crimes.

Once a school employee has knowledge of an incident of teen dating violence requiring a mandatory report, the incident shall be reported to the school administrator/designee or counselor in the school. See Section V: How to Respond to Teen Dating and Sexual Violence for more clarification. Sexual Harassment can occur in a teen dating relationship, but does not require a mandatory report. In cases that do not require a mandatory report, an effort should be made to offer resources to the student, such as a counselor in the school and referrals to community-based advocates (see Resources Section V-H below).

D. Threats of Harm to Others (Mental Health Providers only)

An immediate report shall be made to the appropriate police jurisdiction if a student communicates an explicit and imminent threat to: kill or seriously injure a clearly identified victim or victims; or commit a specific violent act or to destroy property under circumstances which could easily lead to serious personal injury or death

(e.g., setting fire to a residence); and the student has an apparent intent and ability to carry out the threat.²¹

E. Child Abuse and Neglect

An immediate report shall be made by any and all persons who have reason to suspect child physical, sexual abuse and neglect to the 24 Hour Division of Family Services (DFS) Child Abuse & Neglect Report Line at 1-800-292-9582. Online Reporting is also available at Iseethesigns.org. A report should be made by the school employee who has first-hand knowledge of the abuse or neglect (i.e. child discloses to the employee or employee witnesses it), and this person must provide the names and contact information for every person at that entity who has information regarding the report/incident in order to fulfill the organization's mandate to report child abuse. The police may also be contacted but not in lieu of contacting DFS.²²

V. How to Respond to Teen Dating & Sexual Violence²³

A. Protocol for Responding to Teen Dating Violence – Mandatory Report Not Required

In and of itself, teen dating violence does not require a mandatory report to DFS or law enforcement. Please refer to the circumstances outlined in Section IV. C. above for situations that do require such mandatory reports. However, this protocol is intended for teen dating violence situations that occur (in the school environment or outside the school environment) and do not require a mandatory report to DFS or law enforcement.

Any school employee who learns that a student may be a victim of teen dating violence **not requiring a mandatory report** shall take the following steps:

- Separate the victim from the alleged perpetrator. **Do not, under any circumstances, meet with the victim and alleged perpetrator together.**
- Refer to the school code of conduct based on the behavior but consider additional responses, such as providing outside resources to the student (see Resources in Section H below).
- Refer the victim to the counselor in the school for services and safety planning.

²¹ See [16 Del.C. § 5402](#)

²² See [16 Del.C. § 903](#) & [10 Del.C. § 901](#)

²³ Adapted from *A Guide to Addressing Dating Violence in Texas Schools & A Guide to Preventing Bullying, Teen Dating Violence and Sexual Violence in Rhode Island Schools*

Any counselor in the school who learns from another school employee that a student may be a victim of teen dating violence **not requiring a mandatory report** shall take the following steps:

- Inform the victim of school and community resources as needed, including their right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Monitor the victim's safety as needed. Assist the victim with safety planning for the school day and for after-school activities (i.e., class scheduling and transportation considerations).

Please refer next to Resources (Section H).

B. Protocol for Responding to Teen Dating Violence – Mandatory Report Required

Any school employee who learns that a student may be a victim of teen dating violence **requiring a mandatory report** shall take the following steps:

- Separate the victim from the alleged perpetrator. **Do not, under any circumstances, meet with the victim and alleged perpetrator together.**
- Report incidents that fall under the mandatory reporting obligations (as outlined above in Section IV. C.) to the appropriate police jurisdiction. DFS must also be notified if sexual violence occurs in the teen dating relationship. The school resource officer may also be notified if applicable.
- Refer to the school code of conduct based on the behavior but consider additional responses, such as providing outside resources to the student (see Resources in Section H below).

The School Administrators or Designee shall take the following steps:

- Speak with the alleged victim and alleged perpetrator separately **if approved by the investigating agency**. The alleged perpetrator should be told that any statements made may be part of any future disciplinary, delinquency, PFA, civil, or criminal proceedings.
- Speak with any bystanders who may have been present or involved. Encourage them to speak up directly on behalf of the victim if they should witness further incidents, or to get help from school personnel.
- Administer disciplinary consequences to the alleged perpetrator per the district's code of conduct regarding this type of behavior when appropriate,

including but not limited to making a discipline referral and a counseling referral.

- Inform the victim of her/his right to file a Protection from Abuse Order and/or school-based complaint of sexual harassment, dating violence, or sexual violence with any counselor or administrator. Support the victim in documenting the incident. Encourage the victim to seek medical attention.
- Develop a plan with the victim regarding how to increase safety, e.g., changes to class or lunch schedules, route to/from classes, etc. Monitor the victim's safety. Increase supervision of the alleged perpetrator as needed.
- Contact the parents/guardians of the victim to inform them that an incident of dating violence or sexual violence has occurred. The investigating agency will be responsible for contacting the parents/guardians of the alleged perpetrator.
- Document actions taken and any follow up steps as described in Section G: Documentation of Incidents Requiring a Mandatory Report.

Please refer next to Protocol for Working with Victims (Section E).

C. Protocol for Responding to Sexual Violence – Mandatory Report Not Required

Mandatory reports are required in all instances of sexual violence except for when a student, 18 years of age or older, is a victim of sexual violence that occurs outside of the school environment (unless the perpetrator is a school employee). This protocol is intended for those instances that do not require a mandatory report.

Any school employee who learns that a student, 18 years of age or older, may be a victim of sexual violence **not requiring a mandatory report** shall take the following steps:

- Separate the victim from the alleged perpetrator. **Do not, under any circumstances, meet with the victim and alleged perpetrator together.**
- Refer to the school code of conduct based on the behavior but consider additional responses, such as providing outside resources to the student (see Resources in Section H below).
- Refer the victim to the counselor in the school for services and safety planning.

Any counselor in the school who learns from another school employee that a student may be a victim of teen dating violence **not requiring a mandatory report** shall take the following steps:

- Inform the victim of school and community resources as needed, including their right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Encourage the victim to seek medical attention. The victim will not be responsible for out of pocket costs of obtaining a sexual assault exam.
- Monitor the victim's safety as needed. Assist the victim with safety planning for the school day and for after-school activities (i.e., class scheduling and transportation considerations).

Please refer next to Resources (Section H).

D. Protocol for Responding to Sexual Violence – Mandatory Report Required

Regardless of where the incident takes place, any abusive sexual behavior against a minor by another minor or adult requires an immediate report to DFS. This should also be reported to the appropriate police jurisdiction.

Any school employee who learns that a student may be a victim of sexual violence **requiring a mandatory report** shall take the following steps:

- Separate the victim from the alleged perpetrator. **Do not, under any circumstances, meet with the victim and alleged perpetrator together.**
- Report incidents that fall under the mandatory reporting obligations (as outlined above in Section IV.B.) to the appropriate police jurisdiction and DFS when appropriate and notify the school resource officer if applicable.
- Refer to the school code of conduct based on the behavior but consider additional responses, such as providing outside resources to the victim (see Resources in Section H below).

The School Administrator or Designee shall take the following steps:

- Speak with the victim and alleged perpetrator separately **if approved by the investigating agency**. The alleged perpetrator should be told that any statements made may be part of any future disciplinary, delinquency, PFA, civil or criminal proceedings.
- Speak with any bystanders who may have been present or involved. Encourage them to speak up directly on behalf of the victim if they should witness further incidents, or to get help from school personnel.

- Administer disciplinary consequences to the alleged perpetrator per the district's code of conduct regarding this type of behavior when appropriate, including but not limited to making a discipline referral and a counseling referral.
- Inform the victim of her/his right to file a Protection from Abuse petition and/or school-based complaint of sexual harassment, dating violence, or sexual violence with any counselor or administrator. Support the victim in documenting the incident.
- Develop a plan with the victim regarding how to increase safety, e.g., changes to class or lunch schedules, route to/from classes, etc. Monitor the victim's safety. Increase supervision of the alleged perpetrator as needed.
- Contact the parents/guardians of the victim to inform them that an incident of dating violence or sexual violence has occurred. The investigating agency will be responsible for contacting the parents/guardians of the alleged perpetrator.
- Document actions taken and any follow up steps as described in Section G: Documentation of Incidents Requiring a Mandatory Report

Please refer next to Protocol for Working with Victims (Section E).

E. Protocol for Working with Victims

In working with the victim, the safety and well-being of the victim is paramount. Administrators may consider adopting the following methods of intervention with the victim, as/when approved by the investigating law enforcement agency AND as long as the victim's emotional state enables him/her to participate in the process:

- School administrators shall conference with the victim.
- Identify immediate actions that can be taken to increase the victim's safety and ability to participate in school without fear or intimidation, including positive behavior support interventions. Include victim in determining safety precautions.
- Inform the victim and parent/guardian of school and community resources as needed, including their right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Encourage the victim to seek medical attention. The victim will not be responsible for out of pocket costs of obtaining a sexual assault exam.

- Encourage the victim to report further incidents.
- Inform the victim of his or her right to request an in-school Stay-Away Agreement or another school-based alternative to a protective order. See Appendix E: Stay-Away Agreement Form. If the victim declines, this should be documented.
- For situations also involving sexual harassment, inform the victim of his or her right to file a complaint alleging sexual harassment directly with the Title IX Coordinator. A complaint may also be filed with the U.S. Department of Education's Office for Civil Rights.
- Monitor the victim's safety as needed. Assist the victim with safety planning for the school day and for after-school activities (i.e., class scheduling and transportation considerations).
- Document the meeting and any action plans as described in Section G: Documentation of Incidents Requiring a Mandatory Report.

Administrators may advise the victim of his/her right to have a support person present during all stages of the investigation.

Please refer next to Protocol for Working with Alleged Perpetrators (Section F).

F. Protocol for Working with Alleged Perpetrator

In working with the alleged perpetrator, districts shall require schools to make every reasonable effort to protect the due process rights of the alleged perpetrator. Administrators may consider adopting the following methods of intervention with the alleged perpetrator, **as/when approved by the investigating law enforcement agency:**

- Conference with the alleged perpetrator and parent/guardian.
- The alleged perpetrator should be told that any statements made may be part of any future disciplinary, delinquency, PFA, civil, or criminal proceedings.
- Emphasize expectations for positive behavior.
- Identify and implement disciplinary and other actions and consequences that will be taken to prevent further incidents.
- Discuss implications of Stay-Away Agreement, school-based alternative to a protective order, or Protection from Abuse Order.

- Inform the alleged perpetrator and parent/guardian of help and support available at school or in the community as needed, e.g. domestic abuse intervention services.
- Address the seriousness of retaliation against the victim for reporting the incident or cooperating with the investigation. Inform the alleged perpetrator that retaliation or threats of retaliation in any form designed to intimidate the victim, or those who are witnesses, or those investigating an incident shall not be tolerated.
- Increase supervision of the alleged perpetrator as needed.
- Document the meeting and any action plans as described in Section G: Documentation of Incidents Requiring a Mandatory Report

Please refer next to Protocol for Documentation of Incidents Requiring a Mandatory Report (Section G).

G. Protocol for Documentation of Incidents Requiring a Mandatory Report

Districts shall develop and implement a system for documenting mandatory reports of teen dating violence and sexual violence. This will ensure that all victims and alleged perpetrators receive consistent, fair treatment. Each incident of teen dating or sexual violence shall be documented by a School Administrator or Designee. See Section IV above for reporting requirements.

School districts shall establish and prominently publicize to students, school employees, volunteers, school-based wellness centers, school resource officers, and parents, how an incident of teen dating or sexual violence in the school environment will be addressed. School districts should incorporate the following protocol to document teen dating violence and sexual violence into their policies.

The School Administrator or Designee shall:

- A. Maintain teen dating and sexual violence complaints in a file separate from academic records. This practice is recommended to prevent inadvertent disclosure of confidential information. See Appendix D: Example of a Complaint Form.
- B. The documentation of teen dating and sexual violence shall include the following:
 - Obtain minimal facts about incident(s): who assaulted the victim, what is the nature of the incident, when the incident occurred, where the incident occurred, known witnesses or other victims;

- Victim and alleged perpetrator information, including class schedules, group and club memberships, and school activities;
- Disciplinary and accommodation recommendations, including changes to class schedules;
- Response actions taken, including safety planning, referrals for services and counseling, and disciplinary actions; and
- Incident updates, including response to disciplinary actions, alleged perpetrator compliance, utilization of referrals for services, reviews of safety plans, and status reports from the victim, including further referrals for services.

Please refer next to Resources (Section H) and Information/Referrals & Training (Section I).

H. Resources

- Break the Cycle: 1-202-824-0707 or 1-310-286-3383;
<http://www.breakthecycle.org/>
- Contact Lifeline Rape Crisis:
 - New Castle County: 302-761-9100
 - Kent & Sussex Counties: 1-800-262-9800
- Division of Prevention and Behavioral Health Services 24-Hour Child Priority Response (CPR): 1-800-969-4357
- Domestic Violence Hotline
 - New Castle County: 302-762-6110
 - Kent & Sussex Counties: 302-422-8058
 - Bilingual Hotline (Sussex): 302-745-9874
- National Dating Abuse Helpline: 1-866-331-9474; TTY 1-866-331-8453;
www.loveisrespect.org.
- National Sexual Violence Research Center: <http://www.nsvrc.org/>
- Useful Websites
 - http://www.doe.k12.de.us/infosuites/staff/ci/content_areas/health.shtml
Under Model Instructional Units, scroll down to “Healthy Relationships 9-12” and you can download a Word or PDF file.
 - www.safeandrespectful.org

This website is completely integrated with the curriculum, and is where teachers can go to submit student projects that come out of the unit, as well as download rules and regulations and consent/release forms. See this specific page for all of the details:

http://www.safeandrespectful.org/teachers/showcase_home.html

I. Information/Referrals & Training

- Delaware Coalition Against Domestic Violence
 - New Castle County: 302-658-2958
 - Kent & Sussex Counties: 1-800-701-0456

- Domestic Violence Coordinating Council
 - New Castle County: 302-255-0405
 - Kent & Sussex Counties: 302-424-7238

VI. How to Respond to Child Abuse and Neglect

A. Protocol for Responding to Child Abuse and Neglect – Mandatory Report Always Required

All suspected child abuse and neglect of any minor in the State of Delaware shall be reported to the Division of Family Services Child Abuse & Neglect Report Line at 1-800-292-9582. Online reporting is also available at Iseethesigns.org. In addition, DFS also accepts reports of dependent minors (e.g. minors without a parent or caretaker, or minors living with a non-relative).²⁴

Any school employee who reasonably suspects child abuse or neglect shall take the following steps:

- Do not interview or probe a victim to obtain details about the abuse or neglect. Ask the following questions to obtain minimal facts needed to make a report: 1) how the victim was abused or neglected or why the victim is afraid he/she will be abused or neglected; 2) who is the alleged abuser; and 3) when and where the alleged abuse occurred.

- Do not take photographs of the injuries or ask the victim to undress.

Within 72 hours of making an oral report, the reporter should complete and fax or mail the Mandatory Reporting Form to the Division of Family Services to the fax number or address on the front page of the form. The form is available at www.Iseethesigns.org and attached to this document in Appendix F: Child Abuse and Neglect Mandatory Reporting Form.

²⁴ See [10 Del.C., § 901](#) & [16 Del.C., § 905](#)

- Maintain a record of any report made to DFS.

B. Protocol for Working with Victims

- Listen to and support the victim.
- Allow the victim to tell you the abuse scenario if they have begun to do so – do not interrupt them.
- Do not ask the victim questions if you have enough information to suspect abuse or neglect.
- Tell the victim that you will need to tell another person about the suspected abuse (i.e. DFS).
- If the victim has access to the alleged perpetrator, monitor the victim's safety.

C. Protocol for Working with Alleged Perpetrators

- Do not confront the alleged perpetrator or discuss the victim's disclosure.
- Do not tell the alleged perpetrator that you are making a report.
- If the alleged perpetrator has access to the victim, increase supervision of the alleged perpetrator as needed or call the police if the perpetrator attempts to remove the victim and the victim is in danger.

D. Resources for Families and Victims

- Children and Families First Strengthening Families Program: 1-800-734-2388
- Delaware Department of Justice – Family Division: 302-577-8400
- Department of Services for Children, Youth and Their Families: 302-633-2500.
- Division of Family Services Child Abuse & Neglect Report Line: 1-800-292-9582
- Division of Prevention and Behavioral Health Services 24-Hour Child Priority Response (CPR): 1-800-969-4357
- Office of the Child Advocate: 302-255-1730

E. Information/Referrals & Training

- Child Welfare Information Gateway: <http://www.childwelfare.gov/>

- For training on the identification and reporting of child abuse, please contact the Child Protection Accountability Commission: 302-255-1730.
- For training on child sexual abuse prevention, contact the Child Protection Accountability Commission: 302- 255-1730.
- National Center for Missing and Exploited Children: www.missingkids.com
- Useful Websites
 - Darkness to Light - Child Sexual Abuse Prevention - www.d2l.org
 - Mandatory Reporting and Resources - www.Iseethesigns.org
 - Prevent Child Abuse Delaware - www.pcadelaware.org

VII. How to Respond to Teen Pregnancy

A. Protocol for Responding to Teen Pregnancy When Abuse or Neglect is Not Suspected

Teen pregnancy, in and of itself, is not a mandatory report. However, it is important to be aware that research has consistently demonstrated that teen pregnancy is a risk factor for dating abuse in that there is an elevated presence and severity of abuse among pregnant teens. In addition, professionals must be alert to the possibility that a teen pregnancy may be the result of abuse. Again, any suspicion of child abuse or neglect is required to be reported to the Division of Family Services.

Minors, age 12 and older, have the right to seek certain medical care without parental consent when they say they are pregnant, exposed to the risk of becoming pregnant, or afflicted with a contagious, infectious or communicable disease.²⁵ Services may be available based on a Local Education Agency policy. As such, a child accessing these services does not require a professional to report child abuse or neglect, unless there is also a reasonable suspicion of child abuse or neglect.

Please refer next to Resources (Section C).

B. Protocol for Responding to Teen Pregnancy When Abuse or Neglect is Suspected

As with any minor where abuse or neglect is suspected, school employees working with pregnant teens shall take the following steps **when child abuse or neglect is suspected**:

²⁵ See 13 Del.C. § 710

- A report shall be made to the 24 Hour Division of Family Services (DFS) Child Abuse & Neglect Report Line at 1-800-292-9582 when abuse or neglect is suspected (i.e. the pregnancy is a result of rape or incest, or the minor was unable to consent to sex due to her age). Online reporting is also available at www.Iseethesigns.org . (See Appendix A: How to Determine Age of Consent for Sexual Contact for the specific age ranges permissible by law).
- See Section VI for How to Respond to Child Abuse and Neglect.

Please refer next to Resources (Section C).

C. Resources

- Children and Families First - The Adolescent Resource Center (ARC): 1-800-924-6977.
- Delaware Adolescent Program, Inc.: <http://www.dapi.org/>
- Henrietta Johnson Medical Center: 302-655-6187
- La Red Health Center, Inc: 302-855-1233
- Planned Parenthood of Delaware: 302-655-7296
- Safe Arms for Babies - Toll-free 24-hour hotline: 1-800-262-9800
<http://www.dhss.delaware.gov/dhss/dph/chca/dphahsab01.html>

VIII. How to Respond to Youth-Produced Sexual Images (often referred to as Sexting)

A. Protocol for Responding to Youth-Produced Sexual Images

In this section, the material referred to as youth-produced sexual images are: nude, sexually suggestive, or explicit images possessed and/or transmitted by way of cell phone, electronic device or online and are done so with the intent to cause harm. Furthermore, the taking of nude or explicit photos or sending nude/explicit pictures of someone under the age of 18 can be considered child pornography.

Any school staff member who witnesses or learns of any youth-produced sexual images shall take the following steps:

- Confiscate both the victim's and the alleged perpetrator's cell phones or electronic device. Do not view contents of the phone or electronic device. The phones should be given to the responding law enforcement agency if it is suspected that a crime has been committed.

- **A report shall be made** to the school administrator who will report it to the appropriate police jurisdiction if it is suspected a crime has been committed.
- Refer to the school code of conduct based on the behavior but consider additional responses, such as providing outside resources to the student (see Resources section below).
- Separate the victim from the alleged perpetrator. **Do not, under any circumstances, meet with the victim and alleged perpetrator together.**
- Speak with any bystanders who may have seen the image or heard about the images. Encourage them to speak up on behalf of the victim, if they should witness further incidents, or to get help from school staff members.

B. Protocol for Working with the Victims

In working with the victim, the safety and well-being of the victim is paramount. Administrators may consider adopting the following methods of intervention with the victim, as/when approved by the investigating law enforcement agency AND as long as the victim's emotional state enables him/her to participate in the process.

- School Administrators shall conference with the victim.
- Identify immediate actions that can be taken to increase the victim's safety and ability to participate in school without fear or intimidation, including positive behavior support interventions. Include victim in determining safety precautions.
- Inform the victim of school and community resources as needed, including their right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Encourage the victim to report further incidents.
- Refer the victim to the counselor in the school for services and safety planning.

Administrators may provide the victim with the right to have a support person present during all stages of the investigation.

C. Protocol for Working with Alleged Perpetrator

In working with the alleged perpetrator, districts shall require schools to make every reasonable effort to protect the due process rights of the alleged perpetrator.

Administrators shall consider adopting the following methods of intervention with the perpetrator **with approval of law enforcement**:

- Conference with the alleged perpetrator and parent/guardian.
- The alleged perpetrator should be told that any statements made may be part of any future disciplinary, delinquency PFA, civil or criminal proceedings.
- Identify and implement disciplinary and other actions and consequences that will be taken to prevent further incidents.
- Inform the alleged perpetrator and parent/guardian of help and support available at school or in the community as needed.
- Increase supervision of the alleged perpetrator as needed.

D. Resources

- Adults Guide to Preventing "Sexting"
- Delaware Child Predator Task Force: 302-739-2030
- National Center for Missing and Exploited Children: 1-800-843-5678
- Teens Guide to Preventing "Sexting"

E. Information/Referrals & Training

- Delaware Department of Justice – Family Division: 302-577-8400

APPENDIX A: How to Determine Age of Consent for Sexual Contact

- Consensual sexual contact between two minors does not require a mandatory report, even if that sexual contact results in a pregnancy. However, there are certain instances where sexual contact requires a mandatory report. These instances are dependent on the age of the minor and are outlined below.
- **Any suspected, abusive sexual behavior against a minor** (even by another minor) must be reported.²⁶
- 18 years and older: Can consent to sexual contact with other adults. Except when the victim suffers from a cognitive disability, mental illness or mental defect which renders the victim incapable of appraising the nature of the sexual conduct or incapable of consenting. There is no Mandatory Reporting unless there is knowledge that perpetrator of sexual abuse has access to child victims.
- Even if the victim was 18 or older, if force or coercion occurred on school grounds or at a school function, or if sexual contact occurred between a student and a school employee, then a school employee must report to the school administrator or designee.²⁷
- 16 and 17 year-olds: Can consent to sexual contact with someone who is under 30 years of age. However, 16 and 17 year-olds can NOT legally consent to sexual contact with anyone who is in a position of authority (e.g. family member, babysitter, coach, teacher, doctor, clergy, etc.). If the person is in a position of authority or trust, you MUST report. If the perpetrator has immediate access to the victim, report as soon as possible (e.g. perpetrator is with them, or lives in the household).
- 12-15 year-olds: Can ONLY consent to sex with someone who is no more than 4 years older than the child. (For example, a 13 year-old can consent to have sexual contact with a 15 year-old. A 13 year-old can NOT consent to have sexual contact with an 18 year-old.) However, 12-15 year olds can NOT legally consent to sexual contact with anyone who is in a position of authority or trust. If the person is in a position of authority or trust, you MUST report. If the perpetrator has immediate access to the victim, report as soon as possible (e.g. perpetrator is with them, or lives in the household).
- Under 12 years-old: Children under 12 years old can NOT legally consent to sexual contact. All of these cases MUST be reported. If the perpetrator has immediate access to the victim, you must report immediately (e.g. perpetrator is with them, or lives in the household).
- *Note: Verbal consent by the victim (e.g. saying “yes” to sexual activity) without satisfying the criteria above is still “Without Consent” and must be reported.²⁸

²⁶See [11 Del. C. § 761, 767-778\(a\), 780](#).

²⁷See 11 Del.C. § 4112D.

²⁸See [11 Del.C. § 761](#).

APPENDIX B: Sexual Behaviors vs. Abusive Sexual Behaviors²⁹

Sexual Behaviors	Abusive Sexual Behaviors
A Child Aged 0–5	
<ul style="list-style-type: none"> ● Masturbation as self-soothing behavior ● Touching self or others in exploration or as a result of curiosity ● Sexual behaviors are done without inhibition ● Intense interest in bathroom activities 	<ul style="list-style-type: none"> ● Curiosity about sexual behavior becomes obsessive preoccupation ● Exploration becomes re-enactment of specific adult sexual activity ● Behavior involves injury to self or others ● Children’s behavior involves coercion, threats, secrecy, violence, aggression or developmentally inappropriate acts.
A Child Aged 6–10	
<ul style="list-style-type: none"> ● Child continues to fondle and touch own genitals and masturbate ● Child becomes more secretive about self touching ● The interest in other’s bodies becomes more game playing than exploratory curiosity (e.g., “I’ll show you mine if you show me yours”) ● Boys may begin comparing size of penis ● An extreme interest in sex, sex words, and dirty jokes may develop ● Child begins to seek information or pictures that explain bodily functions ● Touching may involve stroking or rubbing 	<ul style="list-style-type: none"> ● Sexual penetration ● Genital kissing ● Oral copulation ● Simulated intercourse ● Children’s behavior involves coercion, threats, secrecy, violence, aggression or developmentally inappropriate acts.
A Child Aged 11–12	
<ul style="list-style-type: none"> ● The continuation of masturbation ● A focus on establishing relationships with peers ● Sexual behavior with peers, e.g., kissing and fondling ● Primarily heterosexual activity but not exclusively ● An interest in other’s bodies particularly the opposite sex that may take the form of looking at photos or other published material 	<ul style="list-style-type: none"> ● Sexual play with younger children ● Any sexual activity between children of any age that involves coercion, bribery, aggression or secrecy or involves a substantial peer or age difference

²⁹ Adapted from material presented in Araji, 2004 cited in Boyd, C (2006) and cited in Kambouropoulos et al (2005)

Sexual Behaviors	Abusive Sexual Behaviors
An Adolescent Aged 13–17	
<ul style="list-style-type: none"> ● Masturbation in private ● Mutual kissing ● Sexual arousal ● Sexual attraction to others ● Consensual sexual activity amongst peers ● Behavior that contributes to positive relationships 	<ul style="list-style-type: none"> ● Masturbation causing physical harm or distress to self and others ● Public masturbation ● Unwanted kissing ● Voyeurism, stalking, sadism (gaining sexual pleasure from others' suffering) ● Non-consensual groping or touching of others' genitals ● Coercive sexual intercourse/sexual assault ● Coercive oral sex ● Behavior that isolates the young person who displays the sexually abusive behavior and is destructive of their relationships with peers and family

APPENDIX C: Police Non-Emergency Numbers

NEW CASTLE COUNTY:	
Delaware State Police: Troop 1	(302) 761-6677
Delaware State Police: Troop 2	(302) 834-2620
Delaware State Police: Troop 6	(302) 633-5000
Delaware State Police: Troop 9	(302) 378-5218
Delaware City Police	(302) 836-6344
Elsmere Police	(302) 998-1173
Middletown Police	(302) 573-2800
New Castle City Police	(302) 322-9800
New Castle County Police	(302) 573-2800
Newark Police	(302) 366-7111
Newport Police	(302) 995-1411
Wilmington Police	(302) 654-5151

KENT COUNTY:	
Cheswold Police	(302) 734-2202
Clayton Police	(302) 653-8186
Dover Police	(302) 736-7111
Delaware State Police: Troop 3	(302) 697-4454
Felton Police	(302) 284-8441
Frederica Police	(302) 335-4345
Harrington Police	(302) 398-4495
Milford Police	(302) 422-8081
Smyrna Police	(302) 653-9217
Wyoming Police	(302) 697-7960

Sussex County:	
Bethany Beach Police	(302) 539-1000
Blades Police Department	(302) 629-7329
Bridgeville Police	(302) 337-8302
Dagsboro Police	(302) 732-3777
Delaware State Police: Troop 4	(302) 856-5850
Delaware State Police: Troop 5	(302) 337-1090
Delaware State Police: Troop 7	(302) 644-5020
Delmar Police	(302) 846-2320
Dewey Beach Police	(302) 277-1110
Ellendale Police	(302) 422-3584

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Fenwick Island Police	(302) 539-2000
Georgetown Police	(302) 856-6613
Greenwood Police	(302) 349-4822
Laurel Police	(302) 875-2244
Lewes Police	(302) 645-6264
Millsboro Police	(302) 934-8174
Milton Police	(302) 684-8547
Ocean View Police	(302) 539-1111
Rehoboth Beach Police	(302) 227-2577
Seaford Police	(302) 629-6644
Selbyville Police	(302) 436-5085

APPENDIX D: Example of Complaint Form

Student Complaint Form for documenting
MANDATORY REPORTS OF
DATING VIOLENCE and SEXUAL VIOLENCE

District: _____ School: _____ Date: _____

Person Preparing Report: _____

Time of Incident: _____

Date of Report: _____ Time of Report: _____

Name(s) of the alleged victim(s):

Name(s) of the alleged perpetrator(s) of dating violence, or sexual violence:

Brief description of incident:

Date Contacted:

Police: _____ Name of Police Agency contacted:

Fire Department: _____ Ambulance: _____

Department of Education: _____

Will Charges be filed? (circle) YES or NO

Action taken by school at this time: In school suspension: _____ Number of days: ____

Out of school suspension: ____ Number of days: ____

Other Actions: _____

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Date/Time parent contacted: Date: _____ Time: _____

If this is a repeat suspension, what action was taken by staff to prevent subsequent actions:

Administrator working with incident:

APPENDIX E: Example of School-Based Stay-Away Agreement

The intent of this agreement is to increase safety for students who have been the victim of sexual harassment, dating violence, or sexual violence. It is to be administered in a conference with the **alleged perpetrator** and his or her parent/guardian.

Name of student: _____

Date of most serious incident: _____

Description of behaviors involved in incident: _____

Date of assessment: _____

Date of parent/guardian notification: _____

In order to protect the rights and safety of all members of our school community, you are required to stay away from (name of victim) _____ at all times during the school day and at any school-sponsored event. This means that you may not approach, talk to, sit by, or have any contact with (name of victim) _____ at school or on school property, school buses, and bus stops.

In addition, the following actions are effective immediately:

Arrival/Departure

Time: _____ Entrance: _____

Bus/Parking: _____

Current Schedule

New Schedule

Current Schedule	New Schedule

Lunch: _____

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Locker: _____

Extracurricular Activities: _____

Other disciplinary actions: _____

Violations of this agreement and acts of retaliation directly or indirectly toward the victim or the victim's friends or family members will be taken seriously and will result in further disciplinary actions. Your compliance will be monitored by (name and staff title): _____

_____.

Agreement is valid from _____ to _____.

This agreement will be reviewed on _____.

Signatures

Student: _____ Date: _____

Parent/Guardian: _____ Date: _____

Administrator: _____ Date: _____

cc: Principal * Assistant Principal * Counselor * School Resource Officer

APPENDIX F: Child Abuse and Neglect Mandatory Reporting Form



State of Delaware
The Department of Services
For Children, Youth and
Their Families

Division of Family Services
CHILD ABUSE/NEGLECT MANDATORY REPORTING FORM
(Title 16, Delaware Code, Chapter 9, Subsections 901-914)
Toll Free 24-Hour Report Line 1-800-292-9582

INSTRUCTIONS: As required by, 16 Del. C, § 903 and 904 "Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title. For purposes of this section, 'person' shall include, but shall not be limited to, any physician, any other person in the healing arts including any person licensed to render services in medicine, osteopathy or dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner, hospital, health care institution, the Medical Society of Delaware or law enforcement agency. In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition. Any report of child abuse or neglect required to be made under this chapter shall be made to the Department of Services for Children, Youth and Their Families. An immediate oral report shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, shall be made in accordance with the rules and regulations of the Division, or in accordance with the rules and regulations adopted by the Division.

Within 72 hours after the oral report, mail or fax (302-577-5515) a completed Child Abuse/Neglect Mandatory Reporting Form to the address below. Please type or print the information and sign the form on the back.

DIVISION OF FAMILY SERVICES - STATE OF DELAWARE

3601 North Dupont Highway
New Castle, DE 19720-6315

IDENTIFYING INFORMATION

Child's Name (Last, First, Initial)	Date of Birth/ Age	Sex	Race	Victim (Yes / No)
--	-----------------------	-----	------	----------------------

1. _____

Current Address: _____

2. _____

Current Address: _____

3. _____

Current Address: _____

4. _____

Current Address: _____

5. _____

Current Address: _____

Parents'/Custodians'/Caretakers' Names (Last, First, Initial)	Date of Birth/ Age	Sex	Race	Perpetrator (Yes / No)
--	-----------------------	-----	------	---------------------------

Mother _____

6. _____

Current Address: _____

Father _____

7. _____

Current Address: _____

Custodian/Caretaker (Relationship) _____

8. _____

Current Address: _____

Please specify for numbers 1-8 above:
Foreign language spoken: #s _____ Specify type: _____

Disabilities: #s _____ Specify type: _____

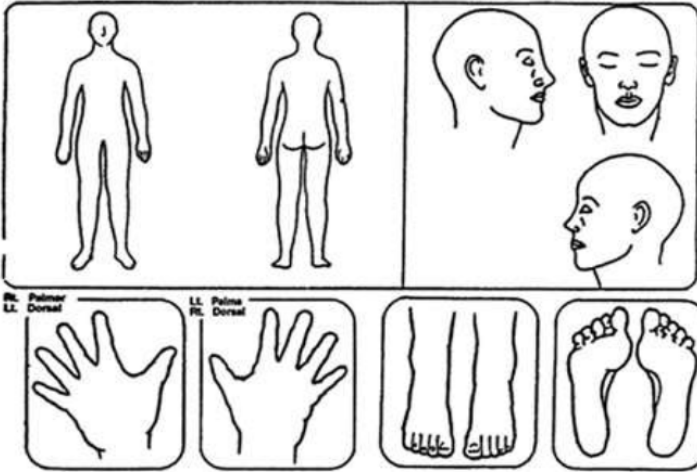
Guidelines for Responding to Teen Dating and Sexual Violence

DESCRIPTION

1. Describe the child's current conditions/injuries and the reason you suspect abuse/neglect. Include evidence, if known, of prior abuse and/or neglect to this child or sibling. Add pages or attach further written documentation as needed.

2. If applicable, note the exact location of any injury by placing a number on the model below. Use the space to the right of the models to describe the corresponding injury that each number represents. Check the category of injuries:

Physical Abuse
 Sexual Abuse
 Physical Neglect



3. Actions: Taken (T) or Pending (P)

Medical Examination Notification of Police
 X-Rays Notification of Medical Examiner
 Photographs Other: _____

REPORTING SOURCE (Confidential)

<i>Signature</i>	<i>Title or Relationship to Child</i>	<i>Date of Report</i>
<i>Facility/Organization</i>	<i>Address</i>	<i>Telephone Number</i>

REPORT LINE USE ONLY

Date of Oral Report: _____ Report was: Accepted Screened Out
 Date Written Report Received: _____
 Prior DFS Case Activity Reports? Yes No If "yes", specify dates: _____