Sample Child Abuse and Neglect Policy (D.C.)

As approved by the School’s Board of Trustees¹ on __________

1. Purpose

- To inform all employees of the _______ (the “School”) of the requirement to report suspected child abuse (including sexual abuse) or neglect and to inform employees of their immunity from civil liability or criminal penalty for reporting.
- To establish procedures to be used by all employees of the School in making oral and written² reports to the appropriate authorities of suspected cases of child abuse or neglect.
- To protect children from abuse and neglect.

2. Who Must Report

Any employee of the School (the “Reporter”) who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child (as defined below) by any parent, guardian, adoptive parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a child (including, without limitation, school employees), or any household or family member of such child, shall make a report as directed below.

Such a report must also be made if a Reporter knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being the victim of sexual abuse or attempted sexual abuse as prohibited by Chapter 30 of Title 22 of the D.C. Code; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute; or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means.

An employee must act on the basis of any reasonable information and belief. The law gives the Reporter very little latitude³.

Any report required to be made under this Policy shall be made as follows:

1. The Reporter shall immediately notify and give all information required below to the person in charge of the institution (the “Head”) or, if the Head is unavailable, to his or her designated agent (the “Designee”). [NOTE: The School could choose to have more than one designee.]
   a. If the Head and the Designee are not immediately available but will be available later during that same school day, the Reporter shall wait to make the report required above to the Head or the Designee as soon as they are available.
   b. If neither the Head nor the Designee will be available later during that same school day, the Reporter shall follow the directions in Step 3 below.

¹ At a minimum, the Board should approve a general policy that the School will comply with applicable abuse reporting laws. In this case, given the potential for harm to a student and high profile consequences for a school, it may be appropriate for the Board and Head to work together to develop a policy that includes detailed procedures. See page 51, NAIS Trustee Handbook, 9th Edition (Mary Hundley DeKuyper).
² A written follow-up report is not required in every case in DC. However, AIMS encourages schools in the District to consider whether it is always prudent to take this additional step in order to establish a clear record of compliance.
³ A school should be certain that its policy regarding the confidentiality of student communications aligns with its abuse reporting policy.
2. After being notified, the Head or Designee shall immediately make an oral report of the case to the Child and Family Services Agency at (202) 671-SAFE (7233) or to the Metropolitan Police Department of the District of Columbia (911).
   a. The Head or Designee shall also make a written report of the case if requested by the agency or the police department or if the abuse involves drug-related activity.
   b. The fact that the Reporter notified the Head or Designee does not relieve the Reporter from his or her duty of having a report made promptly to the police department or the agency. Therefore, the Head or Designee shall inform the Reporter immediately after making the report to the agency or to the police department. If the Reporter does not hear from the Head or Designee by the end of the school day that such a report was made, the Reporter shall check with the Head or Designee to see if such report was made. If the Head or Designee did not make such report, the Reporter shall make the requisite oral report.

3. If neither the Head nor the Designee will be available during that same school day, the Reporter shall make the requisite oral report without waiting to notify the Head or the Designee.

3. Contents of Written Report

Each oral or written report made under this Policy shall include, but need not be limited to, the following information if it is known to the person making the report:

- The name, age, sex, and address of the following individuals:
  - The child who is the subject of the report;
  - Each of the child's siblings and other children in the household; and
  - Each of the child's parents or other persons responsible for the child's care;
- The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;
- All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and
- If the source was required to report under this Policy, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child.

4. Immunity

Any person participating in good faith in the making of a report pursuant to this Policy shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted.

5. Penalty

D.C. law penalizes the willful failure to make a required report, including a fine of not more than $300 or imprisonment for not more than 90 days or both.

6. Definitions

Under this Policy, an abused or neglected child means a child (i.e., any individual under the age of eighteen (18) years) who has experienced the following:

- the failure to provide proper supervision, control, subsistence (including food, clothing, shelter, or medical care), education as required by law, or other care necessary for healthy development; (Note: the lack of financial means to provide for a child, by itself, is not neglect.)
• the non-accidental physical injury of a child (i.e., bodily harm greater than transient pain or minor temporary marks);
• harm to a child’s psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition; or
• the exploitation of a child for the sexual gratification of an adult or older child; engaging in, or attempting to engage in, a sexual act or sexual contact with a child; causing or attempting to cause a child to engage in sexually explicit conduct; or exposing a child to sexually explicit conduct.

In addition, Chapter 30 of Title 22 of the D.C. Code contains various sexual abuses or attempted sexual abuses, including the following:

• § 22-3009.03. First degree sexual abuse of a secondary education student: Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in a sexual act with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in a sexual act, shall be imprisoned for not more than 10 years, fined in an amount not to exceed $100,000, or both.
• § 22-3009.04. Second degree sexual abuse of a secondary education student: Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in sexual conduct with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in sexual conduct, shall be imprisoned for not more than 5 years, fined in an amount not to exceed $50,000, or both.

[Note: Schools may wish to customize and expand this policy to include more information and guidelines pertaining to examples of child abuse and neglect; confidentiality of records and reports; investigations, questioning of children, the presence of third parties if a child is questioned and notification of parents regarding investigations; medical treatment of children; and the removal of a child from school grounds.]

This sample policy is published by the Association of Independent Maryland & DC Schools. It is not intended to provide legal advice or opinion. Schools should consult with legal counsel in reviewing and creating their own policies and should not adopt this policy without first consulting with legal counsel.