

## STUDENT POLICIES

### STUDENT ATTENDANCE

#### Statement of Overall Objectives

The Board of Education of the West Genesee Central School District recognizes that regular school attendance which includes arriving to school on time, contributes to the development of a positive work ethic and achievement of higher academic performance. The Board further recognizes that consistent school attendance, academic success, and school completion have a positive correlation; therefore, the School District has developed the following objectives:

- a) Strive to maintain high attendance rates;
- b) Identify attendance patterns in order to address attendance improvement efforts;
- c) Know the whereabouts of every student for safety and other reasons;
- d) Verify that individual students are complying with education laws relating to compulsory attendance;
- e) Determine the District's average daily attendance for State aid purposes;
- f) Involve parents in the promotion and support of regular school attendance.

The Superintendent of Schools will establish regulations regarding school attendance in accordance with this policy and the law.

Presentation: 5/15/02

First  
Vote: 6/5/02

Second  
Vote: 6/19/02

## MEMORANDUM OF AGREEMENT

This Agreement made this 19th day of August 2009 is entered into by and between the Onondaga County Department of Social Services (hereinafter referred to as the Department) and the West Genesee Central School District (hereinafter referred to as the School).

### I. PURPOSE

The purpose of this Agreement is to define the practices and procedures for the Department and School regarding the reporting and investigation of educational neglect. Additionally, this Agreement shall outline practices and procedures related to the Department interviewing children who are named or residing in the household of a child named in a Child Protective Services (CPS) investigation. This Agreement is being entered into pursuant to Chapter 543 of the Laws of 2006 that amended Section 34-a of Social Services Law to require the commissioner of the Office of Children and Family Services (OCFS), in conjunction with the commissioner of the State Education Department (SED), to develop model practices and procedures for local social services districts and school districts regarding the reporting and investigation of educational neglect.

### II. BACKGROUND

- A. Section 1012(f) of the Family Court Act (FCA) ) identifies a “neglected” child as a child less than eighteen years of age whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometric or surgical care, though financially able to do so or offered financial or other reasonable means to do so;

The term “parent or other person legally responsible for his care” as used in the FCA refers to the parent, custodian, legal guardian or other person legally responsible for the child. References in this document to the “parent” should be understood to also include custodians, legal guardians and other persons legally responsible for a child. (See Section 1012(a) and (g) of the FCA.)

- B. Per Part One of Article 65 of the New York State Education Law, Section 3205(1)(c), the following age requirements apply:
1. A child must attend full time school instruction in September if he/she turns six years old on or before the first day of December of that school year.  
Please note: The school year begins on July 1<sup>st</sup> and runs through June 30<sup>th</sup>.

2. A child who becomes six years old after the first of December must attend full time school instruction from the first day of session in the following September.
3. A child must attend full time school instruction until the last day of session in the school year in which the minor becomes 16 years of age. New York State Education Law, Section 3205(3), provides that the board of education in a school district may require minors from 16 to 17 years of age, who are not employed, to attend full time day instruction until the last day of the session in the school year in which the student becomes 17 years old.
4. A child who has completed a four year high-school course of study is not required to attend school regardless of age.
5. A child who has applied and is eligible for a full-time employment certificate may be permitted to attend school part-time not less than 20 hours per week.

### III. SCHOOL REPORTING POLICIES AND PROCEDURES

- A. The School's definitions of excused and unexcused pupil absences, tardiness, and departures are attached hereto as Addendum A.
- B. The School must provide a notice to the parent when the children are absent, tardy or depart early without proper excuse, as required by 8 NYCRR Section 104.1(i) (2) (vii).
- C. Educational Neglect Defined
  1. Three elements must be considered for an educational neglect report
    - a. Excessive Absences – Unexcused absences are relevant for CPS considerations. CPS reports should not be made by the School when the absences have already been confirmed to be excused.
    - b. Reasonable Cause to Suspect Parental Role – The parent is aware or should have been aware of the excessive absenteeism and has contributed to the problem or is failing to take steps to effectively address the problem.
    - c. Reasonable Cause to Suspect Educational Impairment – There is reasonable cause to suspect educational impairment or harm to the child or imminent danger of such impairment or harm.
  2. Excessive Absence Guidelines

The School's excessive absence policy is attached hereto as Addendum B. Violations of this policy may trigger a report to the State Central Registry (SCR) or a further inquiry by the school district to determine if a report to the SCR is warranted.

3. Parental Contact Guidelines
  - a. The School agrees to provide parents with at least one verbal and one written contact when unexcused absences are becoming a concern and before the number reaches the excessive guidelines in Exhibit B. Documentation of all such contact will be maintained by the School.
  - b. In cases where the school advises that a parent has been unable to be contacted, has been uncooperative with school officials, or cannot provide an explanation for a child's absences there would be reasonable cause to suspect that a parent is aware of the absence and has not taken reasonable steps to address the problem.
4. Educational Impairment Guidelines
  - a. There must be a concern that the absences have had an adverse effect on the child's educational progress or are creating a danger of such an adverse effect.
  - b. An adverse effect or risk of an adverse effect is not required for a report to be accepted by the SCR; there only needs to be reasonable cause to suspect an adverse effect or risk thereof. Whether or not there is actually such impairment or risk is an issue for investigation by CPS.
5. Home Schooling Considerations
  - a. The State Education Department (SED) regulations at 8 NYCRR Section 100.10 set forth requirements applicable to home instruction of children, including procedures for resolving disagreements between a school district and parent as to whether the parent's plan for home instruction meets the requirements of the Education Law and regulations. These regulations should be consulted before considering whether an educational neglect report to the SCR is warranted.
  - b. Failure to comply with these regulations coupled with the child not attending school could be a basis for a report to the SCR.

#### D. Making a Report

1. Pursuant to changes in the mandated reporter law in 2007, the report to the SCR must be made by a mandated reporter who personally has reasonable cause to suspect abuse or maltreatment. The School must not have a designated person to make all such reports on behalf of the School. However, the School must have a system in place so the mandated reporter making the SCR call informs the person designated as in charge at the School of the information reported to the SCR including the names and contact information of other persons in the school believed by the reporter to have direct knowledge of the alleged abuse or maltreatment. The person in charge then becomes responsible for all subsequent administration involving the report, including completing and submitting the written report (form LDSS 2221A). This responsibility may also involve making an additional call to the SCR if there is additional information concerning the report to be submitted.

2. School mandated reporters making reports to the SCR should, to the extent possible, confirm necessary demographic information prior to making the report to the SCR, as well as any other information the source may have that would indicate that there may be other forms of abuse or neglect present in the household in addition to educational neglect. If the mandated reporter making the report is unable to do so, it would become the responsibility of the person in charge of the School to obtain this information and provide it to the SCR. See Section 3 below for list of required information.
3. The mandated reporter should be prepared for the SCR to ask for the following information:
  - a. Name(s), dates of birth, address(es) for all children and parents in the household.
  - b. Name, title and contact information for the reporter of the information.
  - c. Name, title and contact information for any other persons in the school who may have direct knowledge of the alleged educational neglect or other alleged child abuse or maltreatment.
  - d. If the child attends school at the caller/reporter's location. This information will be included to assist the CPS investigator in assessing the safety of the child within 24 hours.
  - e. If the child is not in attendance at the same location as the caller/reporter, it is important for that to be identified. The caller/reporter should have the correct street address of the school the child attends, as well as the mailing address for the school if different.
  - f. Alternative contact information (hours of contact, phone number or alternative contact person) for the reporter to assist local CPS in gathering critical information necessary to assess the safety and ongoing risk of the child and any other children in the household. (CPS is responsible to assess the safety of every child in the household, not just children reported as abused or maltreated.)

The Child Abuse Specialist at the SCR will ask the reporter/source the following additional questions for reports made to the SCR involving possible educational neglect:

- g. Information related to any allegation of educational neglect and/or other allegations of abuse or maltreatment for any child in the family or child residing in the household to the knowledge of the reporter.
- h. Information on the number of absences from school, whether the absences are excused or unexcused (if known) and the suspected effect on the child's educational progress.
- i. Information related to the awareness of parent of the absenteeism and any efforts taken by the school to provide notification of the excessive absenteeism.

4. The School will provide the CPS worker with all documentation that will assist the CPS worker in completing the investigation and making a determination. Such documentation will include data of absences, all efforts made to contact the parent, all efforts to advise the parent of the absenteeism and to engage the parent in addressing the issue, and information on the child's educational progress. Specific records to be provided whenever they are available are:
  - a. Copies of all letters sent to the parent.
  - b. Letters and excuses provided by the parent.
  - c. A record of all the nurse's office visits made by each child indicating the date, time and nature of visit.
  - d. A log of any phone calls made to the parent including a brief description of the content of the discussion.
  - e. Information regarding any phone calls the parent has made to the School regarding the absences including a brief description of the content of the discussion.
  - f. Attendance records from the past two years with legal and illegal absences denoted.
  - g. Report cards from the past two years, or three years if the child is repeating the grade.

#### IV. CPS INVESTIGATION POLICY AND PROCEDURES

##### A. Specific Responsibilities and Duties of CPS

1. The Department shall ensure the specific responsibilities and duties of CPS concerning reports of suspected child abuse or maltreatment pursuant to SSL Section 424 and 18 NYCRR Part 432 are completed. These duties include receiving all reports 24 hours a day, seven days a week and initiating an investigation of all reports, including educational neglect ones, within 24 hours of the receipt of a report of suspected abuse or maltreatment to assess the immediate safety to the child(ren).
2. For each report of suspected child abuse or maltreatment received, the Department must determine whether the report is indicated or unfounded.
3. An assessment of the risk of future abuse or maltreatment must be made by the Department when key decisions are reached concerning a child named in a child abuse or maltreatment report. This includes the decision to keep an indicated case open for the provision of services or close the case to the system.
4. For all cases where there is an indicated report, a refusal of services with unmet needs, and for whom the Department concludes there is a risk of future abuse or maltreatment, Family Court intervention will be considered by the Department. The result of such consideration will be shared with the School.

## B. Determination of Some Credible Evidence for Report Indication

1. CPS must have “some credible evidence” that the child has been harmed or is in imminent danger of being harmed as a result of the parent’s failure to exercise a minimum degree of care in regard to the child in order to determine a report of child abuse or maltreatment as “indicated.”
2. An “Indicated” determination must include identification of the specific harm or impact on the child and confirmation that the parent, by acting or failing to act, was responsible for the harm or imminent danger of harm of the child.

## C. Educational Neglect Investigation Process

1. General – Each consideration of educational neglect of a child is different and the potential for educational harm is different according to the age, developmental abilities and intellectual capacity of the child, as well as the knowledge of, or potential encouragement by the parent of the absenteeism. Each instance of absenteeism must be evaluated in relation to the parent’s awareness of the excessive absenteeism, the steps taken and efforts made by the parent to address the absenteeism, and the actual or potential harm to the child.
2. CPS must consider School definition of excessive absence and attendance records for all children in the household of the child named in the report.
3. CPS must identify the impact or potential harm on the child
  - a. Harm may be presumed if another child in similar circumstances has already experienced harm, or would be likely to experience harm under similar circumstances, or there is a reasonable belief that the child would be harmed if the circumstances continued.
  - b. CPS must consider the following:
    - i. If the child is failing a course, grading period, semester, or school year.
    - ii. If the child is unable to make up past work that is essential for passing a course or grade level.
    - iii. If the child is failing to acquire basic skills commensurate with grade level.
    - iv. If the child is receiving a grade that reflects a significant decrease in performance from one marking period to the next.
    - v. If the child is not meeting the goals identified in the child’s Individualized Education Program.

4. CPS must identify the vulnerability of the child in relation to potential harm.
  - a. CPS must consider the following:
    - i. If this is a child with special needs for whom excessive unexcused absences may place the child in potential harm.
    - ii. If this child is of an age whereby the educational foundation necessary for the child to progress in school is jeopardized by the unexcused absenteeism.
    - iii. If this child has past experience of criminal behavior that has occurred during the time of unexcused absenteeism.
5. CPS must assess parental role
  - a. CPS must consider if the parent has contributed to the problem or failed to provide a minimum degree of care by considering the following information:
    - i. Any excuses the parent provided to the school in writing.
    - ii. Any other excuses that have been or could be provided by a health care professional.
    - iii. The parental role in addressing or allowing unexcused absences.
    - iv. The efforts made by the School to apprise the parent of the absenteeism.

#### V. INTERVIEWING CHILDREN AT SCHOOL

- A. The Department and School agree that whenever a child's safety and/or the outcome of an investigation will not be compromised, children will not be interviewed at school. Additionally, when children are interviewed at school, all efforts possible will be made to interview children during non-academic periods. In general, interviews at the School will be done when a child may be in imminent danger, where time is a factor, or where other safety concern considerations exist that make it advisable for CPS to interview a child at school.
- B. When the Department makes a determination that allegations or circumstances included in a report or factors arise during an investigation that make it advisable to interview the child(ren) apart from the family, the school will cooperate with the CPS investigative process. The school is obligated to do so in accordance with SSL Section 425(l), which provides that agencies of the State and local governmental entities must provide the Office of Child and Family Services and local CPS with such assistance and data as are necessary to enable them to fulfill their CPS responsibilities. The circumstances or allegations which may, but do not necessarily, prompt a decision by CPS to interview a child at school, include but are not limited to:

1. Bruises or other physical harm inflicted by parents;
  2. Unusual punishments;
  3. Unattended illness;
  4. Child fearful of returning home; and
  5. Sexual abuse.
- C. The Department agrees to consider the following negative consequences when deciding whether to interview the child at school:
1. disrupting the child's school routine;
  2. calling special attention to an allegation about a problem at home which in fact may not be a problem or may not be sufficiently significant to warrant such extraordinary attention; and
  3. upsetting the parent to the extent that the parent's communication will become extremely guarded out of suspicion or fear, or completely cut off.

## VI. CONFIDENTIALITY

### A. The Nature of CPS Record Confidentiality

Section 422(4)(A) of the SSL provides that records or reports made to the SCR and CPS records are confidential and are available only as provided for in that statute. This applies to records in the possession of CPS and does not apply to school records, as such. However, if the school obtained copies of any CPS records (for example, as a service provider to the child), the confidentiality provisions of Section 422(4) (A) of the SSL would apply and the school would be prohibited from redisclosing the CPS records. Information that would identify the source of a report to the SCR is subject to a heightened level of confidentiality and is available to only a few on the list of those who otherwise have access to SCR and CPS records (for example, law enforcement agencies and courts). The subject of the report to the SCR and other persons named in the report have access to the report made to the SCR but do not have access to source information from such report absent permission from the source to reveal the source's identity or a court order giving them such access.

B. The Nature of School Record Confidentiality and Child Abuse and Neglect Reports

Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. §5106a) – The Federal Child Abuse Prevention, Adoption and Family Services Act of 1988 amended CAPTA by providing that a State must enact laws that require the reporting of known instances of child abuse and neglect in order to receive grants for abuse prevention and treatment programs. The Director of the Family Policy Compliance Office in the United States Department of Education has determined that Congress intended to supersede the Family Educational Rights and Privacy Act (FERPA) and allow reports of child abuse and neglect to take place, including disclosure of personally identifiable information from education records, without parental consent. OCFS has verified that New York State’s laws and regulations regarding child abuse and neglect comply with CAPTA.

VII. SIGNATURES

IN WITNESS WHEREOF, the parties hereunto have signed and executed this Agreement on the dates indicated opposite their respective signatures.

FOR ONONDAGA COUNTY DEPARTMENT OF SOCIAL SERVICES

\_\_\_\_\_  
Date \_\_\_\_\_, Chairman  
Onondaga County Legislature

FOR WEST GENESEE CENTRAL SCHOOL DISTRICT

\_\_\_\_\_  
Date \_\_\_\_\_ Dr. Christopher R. Brown, Superintendent

Approved as to Form:

\_\_\_\_\_  
Social Services Attorney

**ADDENDUM A****DEFINITIONS**

**Excused** – Shall mean absences that are legal in accordance with the NYS Education Law and that are supported by a note signed by a parent stating the reason for the absence. The following are legal reasons for absence from school: sickness, illness or death in family, remedial health treatment, quarantine, court appearance, approved educational activities, attendance at organized clinics, approved cooperative work programs, approved college visits, and religious observance.

**Unexcused** – Shall include two types: truancy and unlawful detention. Truancy is a student's absence for part or all of the school day without the consent of a parent or guardian. Unlawful detention occurs when a student is absent from school with the knowledge and consent, stated or implied, of his or her parent or guardian for other than excused reasons.

**ADDENDUM B****EXCESSIVE ABSENCE POLICY**

The School will take action to notify parents and address attendance concerns by the time or at the time a child misses 10% of the school days for unexcused reasons.

The School will consider unexcused absences excessive by the time they reach 15% of the school days.

