

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 49**

CHILDREN ON CAMPUS

Section 1. General.

- 1.1 Purpose. – To protect children on West Virginia University’s premises or involved in University sponsored programs at all geographic locations by providing guidance on reporting requirements for child abuse or neglect; providing guidelines for appropriate supervision of children; and ensuring that West Virginia University and its divisional campuses comply with all federal and state laws and regulations regarding the employment of children.
- 1.2 Authority. – W. Va. Code §§ 18B-1-6, 18B-2A-4, 49-1-3; 49-6A-1 to -11, 61-8D-5; 29 U.S.C. § 212; 29 C.F.R. §§ 570, 575, 579; W. Va. Code §§ 21-6-1 to 11; W. Va. Code R. § 42-9-1 to -9.
- 1.3 Scope. – This policy applies to all members of the West Virginia University community.
- 1.4 Effective Date. – April 4, 2008 and originally titled “Employment of Minors.”
- 1.5 Revision History. – Amended February 21, 2014 and titled changed to “Children on Campus.”

Section 2. Definitions.

- 2.1 “Child” means any person under the age of eighteen (18) years.
- 2.2 “Visiting child” means any person under the age of eighteen (18) years who is attending a WVU program or activity or any person under the age of eighteen (18) years who is on University premises. However, this definition does not include children at general public events where parents or guardians are invited and expected to provide supervision of children. Additionally, it does not include full-time enrolled WVU students living on-campus or in classes during an academic semester.
- 2.3 “Child abuse or neglect” means physical injury, mental or emotional injury, sexual abuse, sexual exploitation, sale or attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian who is responsible for the child’s welfare, or other person in a position of trust in relation to a child

under his or her care, custody or control, under circumstances which harm or threaten the health and welfare of the child.

- 2.4 “Sexual abuse” means (A) as to a child who is less than sixteen years of age, any of the following acts which a parent, guardian or custodian or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in, attempt to engage in or knowingly procure another person to engage in, with such child, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct: (i) sexual intercourse; or (ii) sexual contact, both of which are defined in Board of Governors Policy 44; (B) as to a child who is sixteen years of age or older, any of the following acts which a parent, guardian or custodian or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in, attempt to engage in or knowingly procure another person to engage in, with such child, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct: (i) sexual intercourse; or (ii) sexual contact; or (C) any conduct whereby a parent, guardian or custodian or other person in a position of trust in relation to a child under his or her care, custody or control, displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making such display, or of the child, or for the purpose of affronting or alarming the child.
- 2.5 “Sexual exploitation” means an act whereby: (A) a parent, custodian or guardian, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct; (B) a parent, guardian or custodian persuades, induces, entices or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian or a third person, or to display his or her sex organs under circumstances in which the parent, guardian or custodian knows such display is likely to be observed by others who would be affronted or alarmed.

Section 3. Reporting Child Abuse or Neglect On Campus.

- 3.1 If any member of the University community observes or has reasonable cause to suspect any type of child abuse or neglect, including physical or sexual abuse, he or she must immediately report the circumstances to the Title IX Coordinator in the Division of Diversity, Equity and Inclusion at 304-293-5600. In cases involving a mandatory reporter, as described in Section 3.2, the University community should be aware that such individuals are required by law to report in accordance with W. Va. Code §§ 49-6A-1 to -11 (2013).

- 3.2 At West Virginia University persons obligated to report by law (“mandatory reporters”) are medical or mental health professionals, instructors, faculty, emergency medical personnel, police officers, youth camp administrators or counselors, coaches or volunteers, and other university employees who have reasonable cause to suspect child abuse or neglect or observes conditions that are likely to result in child abuse or neglect. Additionally, any person over the age of eighteen (18) who receives a disclosure from a credible witness or observes any sexual abuse of a child is obligated to report. In cases involving a mandatory reporter, reports of child abuse or neglect should be immediately reported to each of the following:
- (a) Child Protective Services at the local county office West Virginia Department of Health and Human Resources or at the Child Abuse and Neglect Hotline (1-800-352-6513), seven days a week, twenty-four hours a day;
 - (b) West Virginia State Police at 304-746-2271 (Child Abuse and Neglect Unit);
 - (c) West Virginia University Police Department at 304-293-2677 or other appropriate law enforcement agency; and
 - (d) If the reporter is a member of the West Virginia University community, the Title IX Coordinator in the Division of Diversity, Equity and Inclusion at 304-293-5600.
- 3.3. Immediate action should be taken in order to protect children present on the West Virginia University campus or participating in programs that may be connected with the University. Importantly, under West Virginia law, an individual that reports an incident of child abuse or neglect in good faith is immune from civil or criminal liability.
- 3.4 No individual may retaliate against any person who makes a good faith report of child abuse or neglect, any person who assists in the investigation of a report of child abuse or neglect, or a witness to child abuse or neglect.
- 3.4 The information set forth above reflects the University’s reporting policy and does not supersede the requirements placed on individuals by law. West Virginia’s mandatory reporting obligations can be found at W. Va. Code §§ 49-6A-1 to -11 (2013), which is attached as Appendix 1.

Section 4. Visiting Children Involved in Programs Sponsored by the University or on University Premises.

- 4.1 All programs and units at West Virginia University must provide for the appropriate supervision of visiting children.
- 4.2 To ensure appropriate supervision of visiting children, all University academic or administrative units should review all sponsored programs or other programs on University premises that invite participation by visiting children to determine whether guidelines, such as training or protocols, have been met to protect them. In developing appropriate guidelines for programs with visiting children, at a minimum, the academic or administrative units must:
- (a) Inform all adults who have contact with visiting children about the University policy and West Virginia law on reporting incidents of child abuse or neglect;
 - (b) Require all adults who have direct contact, i.e., those responsible for the care, supervision, guidance, or control of a child, with visiting children be subject to an adequate and timely background check;
 - (c) Require adequate training for employees and volunteers who will have direct contact with visiting children;
 - (d) Ensure facilities accessible to visiting children are adequately supervised and properly secured when not in use;
 - (e) Prohibit or adequately monitor certain circumstances with visiting children and adults, as applicable, such as (i) private one-on-one contact, unless critical to the program as in the case of licensed medical professionals and counselors providing services to children; (ii) shared private space between children and adults, including housing, locker rooms, and bathrooms; (iii) a minimum adult to child ratio depending on age and activity; (iv) any sexual or inappropriate behavior between or in the presence of children; (v) verbal or otherwise abusive behavior toward children; and (vi) inappropriate electronic communication with children.
 - (f) Develop, to the extent necessary, written documents to be distributed to employees, volunteers, and parents for (i) dealing with emergencies; (ii) allowing parents or guardians to contact visiting children during the program; (iii) medical authorizations or other special needs; (iv) access to emergency services; (v) appropriate disciplinary measures, if necessary; (v) necessary transportation.

Section 5. Employment of Children on Campus.

- 5.1 Employment with West Virginia University and its divisional campuses is available to any qualified person who has reached eighteen (18) years of age.
- 5.2 Employment of any person who is under eighteen (18) years of age is restricted. Prior to extending an offer to a prospective employee under eighteen (18) years of age, all hiring supervisors must contact the Division of Human Resources – Employment Services Unit in order to receive approval to proceed with the hire.
- 5.3 Supervisors are ultimately responsible for adhering to the conditions of employing a child, as outlined and communicated during the approval process.
- 5.4 The Division of Human Resources – Employment Services Unit will advise on the application of all Federal and State laws related to the employment of children, and it is responsible for providing final approval to hire a person under eighteen (18) years of age.
- 5.5 Responsibility for interpretation of this section of the Policy rests with the Vice President for the Division of Human Resources.

Section 6. Procedure.

- 6.1 The President or President’s designee(s) is authorized to formulate and implement any procedures necessary to further this policy.

APPENDIX 1

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Chapter 49. Child Welfare.
Article 6A. Reports of Children Suspected of Being Abused or Neglected.

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W. Va. Code § 49-6A-1 (2013)

§ 49-6A-1. Purpose.

It is the purpose of this article, through the complete reporting of child abuse and neglect, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child or any other children living in the home, to stabilize the home environment, to preserve family life whenever possible, to promote adult responsibility for protecting children and to encourage cooperation among the states to prevent future incidents of child abuse and neglect and in dealing with the problems of child abuse and neglect.

HISTORY: 1965, c. 14; 1977, c. 65; 2012, c. 27.

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W. Va. Code § 49-6A-2 (2013)

§ 49-6A-2. Persons mandated to report suspected abuse and neglect.

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: Provided, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

HISTORY: 1965, c. 14; 1970, c. 79; 1977, c. 65; 1984, c. 75; 1992, c. 52; 1994, 1st Ex. Sess., c. 23; 2001, c. 52; 2006, c. 29; 2012, c. 27.

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W. Va. Code § 49-6A-2a (2013)

§ 49-6A-2a. Notification of disposition of reports.

(a) The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected child abuse and neglect under the provisions of section two [§ 49-6A-2] of this article, of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

(b) The Department of Health and Human Resources shall develop and implement the above described procedure on or before the first day of January, two thousand six.

HISTORY: 2005, c. 45.

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W. Va. Code § 49-6A-2b (2013)

§ 49-6A-2b. Mandatory reporting of suspected animal cruelty by child protective service workers.

In the event a child protective service worker, in response to a report mandated by section two [§ 49-6A-2] of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one [§ 7-10-1], article ten, chapter seven of this code within twenty-four hours of the response to the report.

HISTORY: 2006, c. 29.

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W. Va. Code § 49-6A-3 (2013)

§ 49-6A-3. Mandatory reporting to medical examiner or coroner; postmortem investigation.

Any person or official who is required under section two [§ 49-6A-2] of this article to report cases of suspected child abuse or neglect and who has reasonable cause to suspect that a child has died as a result of child abuse or neglect, shall report that fact to the appropriate medical examiner or coroner. Upon the receipt of such a report, the medical examiner or coroner shall cause an investigation to be made and report his findings to the police, the appropriate prosecuting attorney, the local child protective service agency and, if the institution making a report is a hospital, to the hospital.

HISTORY: 1977, c. 65.

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W. Va. Code § 49-6A-4 (2013)

§ 49-6A-4. Photographs and X rays.

Any person required to report cases of children suspected of being abused and neglected may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. Any photographs or X rays taken shall be sent to the appropriate child protective service as soon as possible.

HISTORY: 1977, c. 65.

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W. Va. Code § 49-6A-5 (2013)

§ 49-6A-5. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately by telephone to the local state department child protective service agency and shall be followed by a written report within forty-eight hours if so requested by the receiving agency. The state department shall establish and maintain a twenty-four hour, seven-day-a-week telephone number to receive such calls reporting suspected or known child abuse or neglect.

(b) A copy of any report of serious physical abuse, sexual abuse or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney or the coroner or medical examiner's office. All reports under this article shall be confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

HISTORY: 1977, c. 65; 1984, c. 27; 1992, c. 52; 1994, 1st Ex. Sess., c. 23; 2003, c. 64; 2012, c. 26.

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W. Va. Code § 49-6A-6 (2013)

§ 49-6A-6. Immunity from liability.

Any person, official or institution participating in good faith in any act permitted or required by this article shall be immune from any civil or criminal liability that otherwise might result by reason of such actions.

HISTORY: 1965, c. 14; 1977, c. 65.

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W. Va. Code § 49-6A-7 (2013)

§ 49-6A-7. Abrogation of privileged communications.

The privileged quality of communications between husband and wife and between any professional person and his patient or his client, except that between attorney and client, is hereby abrogated in situations involving suspected or known child abuse or neglect.

HISTORY: 1977, c. 65.

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W. Va. Code § 49-6A-8 (2013)

§ 49-6A-8. Failure to report; penalty.

Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected, or required by section five [§ 49-6A-5] of this article to forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than thirty days or fined not more than \$ 1,000, or both.

HISTORY: 1977, c. 65; 1984, c. 27; 2012, c. 27.

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W. Va. Code § 49-6A-9 (2013)

§ 49-6A-9. Establishment of child protective services; general duties and powers; immunity from civil liability; cooperation of other state agencies.

(a) The state department shall establish or designate in every county a local child protective services office to perform the duties and functions set forth in this article.

(b) The local child protective services office shall investigate all reports of child abuse or neglect: Provided, That under no circumstances shall investigating personnel be relatives of the accused, the child or the families involved. In accordance with the local plan for child protective services, it shall provide protective services to prevent further abuse or neglect of children and provide for or arrange for and coordinate and monitor the provision of those services necessary to ensure the safety of children. The local child protective services office shall be organized to maximize the continuity of responsibility, care and service of individual workers for individual children and families: Provided, however, That under no circumstances may the secretary or his or her designee promulgate rules or establish any policy which restricts the scope or types of alleged abuse or neglect of minor children which are to be investigated or the provision of appropriate and available services.

Each local child protective services office shall:

(1) Receive or arrange for the receipt of all reports of children known or suspected to be abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all such reports under the names of the children, the family and any person substantiated as being an abuser or neglecter by investigation of the Department of Health and Human Resources, with use of such cross-filing of such person's name limited to the internal use of the department;

(2) Provide or arrange for emergency children's services to be available at all times;

(3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within fourteen days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary for the safety or health of the child, which may involve law-enforcement officers or the court;

(4) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within seventy-two hours there shall be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; and

(5) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family law master may refer allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family law master within the time frames set forth by the circuit court or family law master.

(c) In those cases in which the local child protective services office determines that the best interests of the child require court action, the local child protective services office shall initiate the appropriate legal proceeding.

(d) The local child protective services office shall be responsible for providing, directing or coordinating the appropriate and timely delivery of services to any child suspected or known to be abused or neglected, including services to the child's family and those responsible for the child's care.

(e) To carry out the purposes of this article, all departments, boards, bureaus and other agencies of the state or any of its political subdivisions and all agencies providing services under the local child protective services plan shall, upon request, provide to the local child protective services office such assistance and information as will enable it to fulfill its responsibilities.

(f) (1) In order to obtain information regarding the location of a child who is the subject of an allegation of abuse or neglect, the Secretary of the Department of Health and Human Resources may serve, by certified mail or personal service, an administrative subpoena on any corporation, partnership, business or organization for the production of information leading to determining the location of the child.

(2) In case of disobedience to the subpoena, in compelling the production of documents, the secretary may invoke the aid of: (A) The circuit court with jurisdiction over the served party if the person served is a resident; or (B) the circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.

(3) A circuit court shall not enforce an administrative subpoena unless it finds that: (A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose; (B) the inquiry is relevant to that purpose; (C) the inquiry is not too broad or indefinite; (D) the information sought is not already in the possession of the Division of Child Protective Services; and (E) any administrative steps required by law have been followed.

(4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(g) No child protective services caseworker may be held personally liable for any professional decision or action thereupon: arrived at in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon Provided, That nothing in this subsection protects any child protective services worker from any liability arising from the operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton misconduct or intentional misconduct.

HISTORY: 1965, c. 14; 1977, c. 65; 1986, 1st Ex. Sess., c. 11; 1992, c. 52; 1994, 1st Ex. Sess., c. 18; 2001, cc. 51,57; 2008, c. 27.

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W. Va. Code § 49-6A-10 (2013)

§ 49-6A-10. Educational programs.

Subject to appropriation in the budget bill, the state department shall conduct educational and training programs for persons required to report suspected abuse or neglect, and the general public, as well as implement evidence-based programs that reduce incidents of child maltreatment including sexual abuse. Training for persons required to report and the general public shall include indicators of child abuse and neglect, tactics used by sexual abusers, how and when to make a report, and protective factors that prevent abuse and neglect in order to promote adult responsibility for protecting children, encourage maximum reporting of child abuse and neglect, and to improve communication, cooperation and coordination among all agencies involved in the identification, prevention and treatment of the abuse and neglect of children.

HISTORY: 1977, c. 65; 2012, c. 27.

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W. Va. Code § 49-6A-11 (2013)

§ 49-6A-11. Statistical reports.

The Department of Health and Human Resources shall maintain a statewide child abuse and neglect statistical index of all substantiated allegations of child abuse or neglect cases to include information contained in the reports required under this article and any other information considered appropriate by the Secretary of the Department of Health and Human Resources. Nothing in the statistical data index maintained by the Department of Health and Human Resources may contain information of a specific nature that would identify individual cases or persons. Notwithstanding the provisions of section one [*§ 49-7-1*], article seven, chapter forty-nine of this code, the Department of Health and Human Resources shall provide copies of the statistical data maintained pursuant to this subsection to the State Police Child Abuse and Neglect Investigations Unit to carry out its responsibilities to protect children from abuse and neglect.

HISTORY: 2006, 1st Ex. Sess., c. 15.