



TOPIC: Proposed Policy on the Reporting of Suspected Child Abuse and Neglect

COMMITTEE: Committee of the Whole

DATE OF COMMITTEE MEETING: December 9, 2011

SUMMARY: The University System of Maryland's current policies encourage the voluntary reporting by its employees and students of all forms of misconduct and provide whistleblower protections for members of the USM community who come forward with such reports. However, Maryland family law makes the reporting of suspected child abuse and neglect mandatory for all persons, with heightened reporting requirements for health, police and education professionals. These mandatory provisions are not reflected currently in USM policy.

The attached proposed policy affirms the USM's commitment to protecting children from abuse and neglect, sets out the reporting requirements and process applicable to USM employees and others, and identifies a core set of measures to be taken by each institution to support full reporting. These include provisions to:

- Communicate to employees and students their obligations under the law;
- Affirm statutory and USM protections for those who make reports under the policy;
- Ensure that those who violate their reporting requirements are disciplined appropriately; and
- Establish mechanisms for promptly informing appropriate institution officials of suspected child abuse or neglect on the part of members of the USM community.

This policy proposal is a critical first step in a thorough USM review of its policies and procedures that address issues of abuse and assault on its campuses.

ALTERNATIVES(S): The Committee could elect to recommend modifications to the proposed policy, or recommend that a policy not be adopted.

FISCAL IMPACT: The policy is not expected to have a fiscal impact.

CHANCELLOR'S RECOMMENDATION: That the Board of Regents approve the policy.

COMMITTEE RECOMMENDATION:

DATE: December 9, 2011

BOARD ACTION:

DATE:

SUBMITTED BY: William E. Kirwan, Chancellor (301) 445-1901

Proposed USM Policy on the Reporting of Suspected Child Abuse and Neglect

(Dec. 9, 2011)

I. PURPOSE

The purpose of this policy is to provide guidance to staff, faculty, and students of the University System of Maryland (USM) community regarding the mandatory requirements in Maryland law that govern the reporting of suspected cases of child abuse and child neglect; and to affirm the commitment of the USM to the protection of the safety and welfare of children who come into contact with the USM community.

II. AUTHORITY

The reporting requirements addressed in this policy implement the mandatory child abuse and neglect reporting provisions of the Family Law Article of the Maryland Annotated Code, Sections 5-701 through 5-708, as they apply to the USM.

III. DEFINITIONS

A. "Abuse" means:

1. The physical or mental injury of a child by a parent or other person who has permanent or temporary care or custody of the child, or by any household or family member, under circumstances indicating that the child's health or welfare is harmed or at substantial risk of being harmed; or
2. Sexual abuse of a child, whether physical injuries are sustained or not, defined as any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.

B. "Child" means any individual under the age of 18 years.

C. "Local department of social services" means the department of social services for the jurisdiction in which:

1. The child resides; or
2. The abuse or neglect occurred, or,
3. If neither location is known, the jurisdiction in which the institution is located.

D. "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

E. "Neglect" means the failure to give proper care and attention to a child, including leaving the child unattended, by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances indicating:

1. That the child's health or welfare is harmed or placed at substantial risk of harm; or
2. Mental injury to the child or a substantial risk of mental injury.

F. "Professional employee" means a person employed by the USM as a:

1. Faculty member;
2. Administrator;
3. Coach; or
4. Other employee who provides academic support, student service, or institutional support activities, whose duties require either a college degree or comparable experience.

IV. REPORTING REQUIREMENTS

A. Reporting Requirements for USM Professional Employees. A USM health practitioner, police officer, or other professional employee ("the professional employee") of a USM institution, when acting in a professional capacity, who has reason to believe that a child has been abused or neglected, shall report this suspicion as follows:

1. An oral report shall be made as immediately as is practicable, within 48 hours of the event that caused the employee to believe that a child has been subject to abuse or neglect:
 - a. To the local police department or the local department of social services; and
 - b. When acting as a staff member of a USM institution, to the President of the institution, or the person or persons designated by the President to receive such reports ("the President's Designee").
2. A written report shall also be provided to the local department of social services within 48 hours of the event that caused the employee to believe that a child has been subject to abuse or neglect.
 - a. The employee shall provide a copy of the written report to the institution President, or the President's Designee.
 - b. The report shall include the following information, to the extent that it is known by the employee:
 - i. The name, age, and home address of the child;
 - ii. The name and home address of the parent or other person responsible for the care of the child;
 - iii. The child's whereabouts;
 - iv. The nature and extent of the suspected abuse or neglect, including any information regarding possible previous instances of abuse or neglect; and
 - v. Any other information that may help to identify the person responsible for the abuse or neglect or determine the cause.
3. A copy of the written report also shall be sent to the local State's Attorney, if abuse is suspected.

4. The above reporting requirements apply regardless of generally accepted confidentiality privileges otherwise applicable to professional-client relationships, except that they may not apply to attorneys or members of the clergy under the specific circumstances described in Family Law Article Section 5-705(a)(2) and (3).
- B. Reporting Requirements for All Other Persons. Members of the USM community other than USM professional employees acting as a staff member of a USM institution, including other staff, students, and contractors on campus, are also required to report suspected child abuse or neglect as follows:
1. Such individuals shall report orally or in writing to:
 - a. The local department of social services or local law enforcement agency; and
 - b. The President of the institution or the President's Designee, if the suspected child abuse or neglect:
 - i. Took place in institution facilities or on institution property;
 - ii. Was committed by a current or former employee or volunteer of the USM;
 - iii. Occurred in connection with an institution sponsored, recognized or approved program, visit, activity, or camp, regardless of location; or
 - iv. Took place while the victim was a registered student at the institution.
 2. The report shall include the information listed in Section IV.A.2 above, to the extent that it is known by the individual making the report.
 3. The requirement to report suspected abuse or neglect to the President or the President's designee under section B.1.b, above, is subject to generally accepted confidentiality privileges applicable to professional-client relationships.
- C. Questions Regarding the Reporting Requirements. Questions regarding the applicability of these requirements to a particular individual or situation may be directed to the local department of social services or the President's Designee for the reporting of suspected abuse or neglect.
- D. Reporting of Past Abuse or Neglect. The obligation to report suspected child abuse or neglect applies, even if the individual who may have been the victim of past child abuse or neglect is no longer a child at the time when the past abuse or neglect is disclosed or otherwise suspected.
- V. POLICY IMPLICATIONS AND CONSEQUENCES
- A. Immunity. Under State law (Family Law Article Section 5-708), any individual who in good faith makes or participates in making a report under the law shall be immune from any civil liability or criminal prosecution. In addition, any person who in good faith makes or participates in making a report under this policy shall be free from any reprisal at the institution that might otherwise result from compliance with the policy.

- B. Failure to Report. Any employee of the USM who fails to report suspected child abuse or neglect in violation of this policy may be subject to discipline for professional misconduct, up to and including termination of the employee's employment with or appointment to the USM.
- C. Confidentiality. The confidentiality of a report of suspected child abuse or neglect, including the identity of an individual who makes a report under this policy, the individual suspected of abuse or neglect, and the child who may have been abused or neglected, will be protected consistent with relevant federal and state laws that safeguard the confidentiality of such information.

VI. RESPONSIBILITIES OF THE INSTITUTION

Each institution of the USM shall take the following actions to implement this policy and support compliance with State law requirements:

- A. President's Designee. The President of the institution shall designate the person or persons to receive oral and written reports of suspected child abuse or neglect from employees, students, and others at the institution.
- B. Information Dissemination. Employees, students and other members of the campus community shall be informed through employee or student handbooks, institution websites, and other appropriate means of communication of:
 - 1. The requirements of this policy and relevant state law requirements;
 - 2. Institution policies and procedures for compliance with the policy; and
 - 3. Contact information for the local department of social services, local law enforcement agency, State's Attorney, and the President's Designee for the reporting of suspected child abuse or neglect.
- C. Training. Employees and students who have regular contact with children shall receive periodic training in the requirements of this policy.
- D. Cooperation with Other Agencies. The institution shall cooperate fully and appropriately with any investigation of suspected child abuse or neglect by a local department of social services or law enforcement agency. If the individual suspected of child abuse or neglect is an employee, student, or contractor of the institution, the institution shall coordinate its own investigation or other activities in response to a report with the appropriate local agency.

- E. Disciplinary Action. Each institution shall ensure that its own policies and procedures for addressing alleged employee and contractor misconduct include provisions and measures to respond swiftly and appropriately to reports of suspected child abuse and neglect.

VII. IMPLEMENTATION

A copy of this policy shall be provided to all faculty, staff, and students of each USM institution within one week of the Board's approval of the policy. All other requirements of the policy shall be implemented at each institution no later than January 31, 2012.