

## **DHHS Directive Number III-5**

**Title:** Reporting Abuse, Neglect and Exploitation in DHHS Divisions, Facilities and Schools  
**Effective Date:** January 12, 2009  
**Revision History:** January 1, 2002; March 7, 2006; November 3, 2008  
**Authority:** G.S. 143B-10; G.S. 7B, Subchapter I; G.S. 108A, Article 6; G.S. 122C-66

### **Purpose**

The purpose of this directive is to state department policy on the reporting of abuse, neglect and exploitation of persons in the custody of or receiving services from the Department of Health and Human Services (NC DHHS) schools, institutions and divisions.

### **Policy**

It is the policy of the DHHS that whenever there is cause to suspect the abuse, neglect or exploitation of a person in the custody of or receiving services from a DHHS division/facility/school, the matter must be reported as required by law (G.S. 7B, Subchapter I; G.S. 108A, Article 6; and G.S. 122C-66) and department policy. The chief administrative officers (superintendents, directors, etc.) of the divisions/facilities/schools are responsible for ensuring that such matters are immediately reported as provided in this directive, regardless of whether the alleged abuse, neglect or exploitation occurred while the person was being supervised by DHHS or while on a home visit. Any employee who fails to report known or suspected abuse, neglect or exploitation as required in this directive shall receive disciplinary action in accordance with state law and state and department policies and guidelines for administering disciplinary action.

### **Reporting Procedures and Definitions**

Every DHHS employee or volunteer who knows or suspects that a person in the custody of or receiving services from a DHHS division, facility or school has been abused, neglected or exploited as defined by the division/facility/school's abuse, neglect or exploitation policies must immediately report the matter to the employee's or volunteer's immediate supervisor

and any other person designated in the particular division/facility/school's policies to receive such a report.

In addition to the individual division/facility/school reporting requirements, any individual who has reason to believe that a resident, client, patient or student has been abused, neglected or exploited according to the following definitions shall immediately make a report to the director of the county department of social services in the county where the facility having custody of or providing services to the resident, client, patient or student is located:

1. **ABUSE OF A JUVENILE UNDER 18 YEARS OF AGE** - An abused juvenile under 18 years of age is one whose parent or other person responsible for his care:
  - A. Inflicts or allows to be inflicted upon him a serious physical injury by other than accidental means; or
  - B. Creates or allows to be created a substantial risk of serious physical injury by other than accidental means; or
  - C. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior; or
  - D. Commits, permits or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first or second degree rape; first or second degree sexual offense; sexual act by a custodian; crime against nature; incest; preparation of obscene photographs, slides, or motion pictures of the juvenile; employing or permitting the juvenile to assist in a violation of the obscenity laws; dissemination of obscene material to the juvenile; displaying or disseminating material harmful to the juvenile; first and second degree sexual exploitation of the juvenile; promoting the prostitution of the juvenile; and taking indecent liberties with the juvenile, regardless of the age of the parties; or
  - E. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or
  - F. Encourages, directs or approves of the commission of delinquent acts involving moral turpitude by the juvenile.
2. **NEGLECT OF A JUVENILE UNDER 18 YEARS OF AGE** – A neglected juvenile is one who does not receive proper care, supervision or discipline from his parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care or other remedial care; or who lives in an environment injurious to his welfare; or who has been placed for care or adoption in violation of law.
3. **ABUSE OF A DISABLED ADULT IN NEED OF PROTECTIVE SERVICES** - “Abuse” herein means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health. “Disabled adult” herein means

any person 18 years of age or over or any lawfully emancipated minor who is present in the state of NC and physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances. A disabled adult is “in need of protective services” if he, due to his physical or mental capacity, is unable to perform or obtain for himself essential services and is without able, willing and responsible persons to perform or obtain essential services for him.

4. **NEGLECT OF A DISABLED ADULT IN NEED OF PROTECTIVE SERVICES** - “Neglect” refers to a disabled adult (as defined above) who is either living alone and not able to provide for himself services which are necessary to maintain his mental or physical health or is not receiving services (medical or otherwise) from his caretaker.
5. **EXPLOITATION OF A DISABLED ADULT IN NEED OF PROTECTIVE SERVICES** - “Exploitation” herein means the illegal or improper use of a disabled adult (as defined above) or his resources for another’s profit or advantage.

#### **Internal Procedures Following a Report**

Each division, facility and school shall have procedures in place to ensure that all reports of abuse, neglect or exploitation are also immediately communicated to the chief administrative officer of the division/facility/school.

The appropriate division director must receive a report of any matter that is required to be reported to the director of the county department of social services no later than the business day following the initial report. The division director shall, in turn, immediately communicate the information to the DHHS Office of the Secretary.

Once alleged abuse, neglect or exploitation has been reported as provided in this directive, management of the division/facility/school shall take appropriate measures to protect the allegedly abused, neglected or exploited person from further abuse, neglect or exploitation. Appropriate measures may include suspension of any employees being investigated pending the outcome of the investigation. Such measures shall be in accordance with state law and state and department policies and guidelines for administering disciplinary action.

When a county department of social services investigates an allegation of abuse, neglect or exploitation, all DHHS staff shall cooperate with all aspects of the investigation. The county departments of social services have established procedures for dealing with such situations and may, at their discretion, involve other agencies, such as the NC State Bureau of Investigation or district attorney’s office.

All allegations of abuse, neglect and exploitation, regardless of whether they are investigated by a county department of social services, shall be investigated and otherwise dealt with in

accordance with department policy and the particular division/facility/school's internal abuse, neglect and exploitation policies.

The chief administrative officer of the division, facility or school, or his designee, will, as soon as possible, notify the family member or guardian responsible for the person who has allegedly been abused, neglected or exploited. Initial notification shall be by telephone with a prompt confirmation in writing. The chief administrative officer will provide the family member or guardian further information concerning the investigation and its results as appropriate.

### **Training and Policy Review**

Each chief administrative officer must ensure that all employees and volunteers receive annual training regarding the provisions of this directive as well as written policies and procedures developed by the division, facility or school on the reporting of abuse, neglect and exploitation. Employees and volunteers must certify in writing that they have received such training and understand their responsibilities under this directive and their division/facility/school's internal policies and procedures on abuse, neglect and exploitation.

Division directors are to review existing policies on the reporting of abuse, neglect and exploitation in DHHS divisions, facilities, and schools to ensure that there is no conflict with this directive. Division directors must ensure adherence to this policy on an on-going basis.

APPROVED

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Lanier M. Cansler, Secretary  
Department of Health and Human Services