

**Reporting of Incidents to the Justice Center - NYSED Quick Reference Guide\***

Below is a list of incidents that mandated reporters<sup>1</sup> must report to the New York State Justice Center for the Protection of People with Special Needs (Justice Center) if they have reasonable cause to suspect that a reportable incident occurred, either by directly witnessing an incident or by being told about it. Please share a copy with all mandated reporters at NYSED-approved schools subject to the powers and duties of the Justice Center (including the New York State School for the Blind, New York State School for the Deaf, State-supported schools which have a residential component, special act school districts, or approved in-State residential schools).

\*This guide is not intended to capture all reportable incidents that may occur within your program.

<b>Incidents that MUST be Reported to the Justice Center</b>
Physical abuse by a custodian toward a student.
Sexual abuse, including sexual contact or sexual conduct between a custodian and a student.
Psychological abuse, including a custodian making derogatory comments, intimidating, taunting, ridiculing or threatening a student.
Inappropriate use of restraints (deliberate or otherwise), including restraints applied in a manner inconsistent with training, with the student's behavioral intervention plan (BIP), with the student's individualized education program (IEP), or that otherwise violates a medical/mental health restriction. <sup>2</sup>
Any use by a custodian of aversive conditioning/interventions. <sup>3</sup>
Obstruction of reports, including behavior that impedes the discovery, reporting or investigation of a reportable incident, such as falsifying records pertaining to the safety/treatment of a student, actively persuading a mandated reporter from making a report of a reportable incident, intentionally making a false statement, or withholding material information during an investigation into such a report.
Unlawful use or administration of a controlled substance, including any administration by a custodian to a student of a controlled substance without a prescription or other medication not approved for any use by the Food and Drug Administration. It also includes a custodian unlawfully using or distributing any controlled substance at the workplace or while on duty.
Administration of a prescribed or over-the-counter medication not in compliance with prescription or order resulting in adverse effect.
Failure to provide proper supervision, including lack of proper supervision that results in conduct between students that would, if committed by a custodian, constitute abuse. <sup>4</sup>

<sup>1</sup> Custodians and human services professionals are mandated reporters. Custodians include employees or volunteers at a school but also include consultants, employees and volunteers of an organization, corporation or partnership that provides services to a school that permit such person to have regular and substantial contact with students (see 8 NYCRR §200.15(b)(1) and NYS Social Services Law §488(2)).

<sup>2</sup> Except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other person (see 8 NYCRR §200.15(b)(3)(i)(d) and 8 NYCRR §200.22(d)). For example, restraining an individual to prevent him or her from running into oncoming traffic.

<sup>3</sup> The application of a physical stimulus that is intended to induce pain or discomfort in a student to modify or change student behaviors, including physical stimuli such as noxious odors, noxious tastes, blindfolds, painful stimuli, the withholding of meals or the provision of substitute foods in a distasteful form, and movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices (see NYS Social Services Law § 488(1)(e) and 8 NYCRR § 19.5).

<sup>4</sup> This could encompass physical abuse, sexual abuse, and/or psychological abuse.

<b>Incidents that MUST be Reported to the Justice Center</b>
Incidents that occur between custodians and students or between students, such as student fights, <sup>5</sup> suicidal attempt with action, AWOL, <sup>6</sup> physical restraint with student injury or monitoring concerns associated with time out or seclusion, self-inflicted student injuries, and sexual conduct between students.
Failure to provide adequate food, clothing, shelter or medical care.
A failure to provide access to educational instruction (for example, denying a student access to his or her recommended educational placement).
Any significant student injury that cannot be explained and is “suspicious” in nature.
Unauthorized time-out. <sup>7</sup>
Unauthorized seclusion. <sup>8</sup>
A student’s abuse of another student that creates physical or emotional injury to any of the involved students, or the likelihood of such injury.

<sup>5</sup> Student fights may include but shall not be limited to: slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, or cutting.

<sup>6</sup> Any unauthorized absence (elopement, AWOL) of a student (student whereabouts is unknown, parental and law enforcement notifications are being made).

<sup>7</sup> The use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, or as a substitute for programming (see NYS Social Services Law §488(1)(i)(2)(B); 8 NYCRR §200.22(c))

<sup>8</sup> Placement of a student in a room or area from which he or she cannot, or perceives that he or she cannot, leave at will, including locked rooms or spaces (see NYS Social Services Law §488(1)(i)(2)(A)).