



PROTOCOL  
 between  
**NIAGARA CATHOLIC DISTRICT SCHOOL BOARD**  
 and  
**FAMILY AND CHILDREN'S SERVICES NIAGARA**  
 JUNE 2016






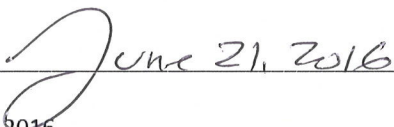
The partnership of  
**The Niagara Catholic District School Board**  
and  
**Family and Children's Services Niagara**

is central to the personal welfare and growth of  
the children we serve.

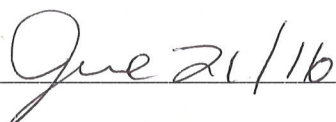
This agreement is intended to foster understanding  
and enable caring professionals to work  
together more effectively.

We the undersigned support the principles  
and protocol set out in this document.

  
\_\_\_\_\_  
John Crocco, Director of Education/Secretary-Treasurer  
Niagara Catholic District School Board

  
\_\_\_\_\_  
June 21, 2016  
June 2016

  
\_\_\_\_\_  
Chris Steven, Executive Director  
Family and Children's Services Niagara

  
\_\_\_\_\_  
June 21/16  
June 2016

# Protocol Committee Members

Appreciation is extended to all members of the Committee for the original development of the Protocol between the Niagara Catholic District School Board and Family and Children's Services Niagara.

## 2008 Review Committee

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### **Lee Ann Forsyth-Sells**

Superintendent of Special Education

### **Marcel Jacques**

Program Officer  
Special Education

### **Amanda Cybula (Chair)**

Vice-Principal  
Student Support Services

### **Diane Pizale**

Vice-Principal  
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### **Alan Creelman**

Principal  
St. Kevin Catholic Elementary School

### **Theresa Murphy**

Principal  
Alexander Kuska Catholic Elementary School

### **Marie McKee**

Principal  
St. Philomena Catholic Elementary School

### **Joseph Zaroda**

Principal  
Holy Cross Catholic Secondary School

### **Clare Ventresca**

Vice-Principal  
Monsignor Clancy Catholic Elementary School

### **Frances Brockenshire**

Vice-Principal  
Saint Paul Catholic High School

### **Lynda Filbert**

Director of Child Welfare Services  
FACS Niagara

## 2014 Review Committee

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### **Yolanda Baldasaro (Chair)**

Superintendent of Education

### **Amanda Cybula**

Principal  
St. Ann Catholic Elementary School, Fenwick

### **Steven Ward**

Principal  
St. George Catholic Elementary School

### **Danny DiLorenzo**

Principal  
Denis Morris Catholic High School

### **Colleen Atkinson**

Coordinator - Special Education

### **David O'Rourke**

Coordinator – Special Education

### **Marco Magazzeni**

Coordinator – Student Success

### **Andrea Bozza**

Mental Health Lead

### **Bridgette Ridley**

Stay in School Coordinator

### **Jim DiGioia**

Behaviour Resource Teacher

### **Lynda Filbert**

Director of Professional Standards  
FACS Niagara

### **Anna Bozza**

Director of Child Welfare Services  
FACS Niagara



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# PROTOCOL

Between  
**NIAGARA CATHOLIC DISTRICT SCHOOL BOARD (NCDSB)**  
and  
**FAMILY AND CHILDREN'S SERVICES NIAGARA (FACS)**

## Rationale

This Protocol clarifies procedures in response to children who may be in need of protection. This Protocol enables the Niagara Catholic District School Board and Family and Children's Services Niagara to:

- clarify roles and responsibilities,
- establish procedures to assist in the co-ordination of service delivery to children and their families,
- establish clear lines of communication, which support and ensure effective collaboration,
- affirm our mutual commitment to the safety, protection and well-being of children,
- establish a liaison process, which will:
  - ▶ allow for an ongoing review, revision and updating of this Protocol,
  - ▶ provide for necessary in-service, training and development of staff from both organizations to implement this Protocol,
  - ▶ provide for a means of resolving problems/disagreements regarding the provisions of this Protocol.



## Guiding Principles

The purpose of this joint protocol is to outline the practices and procedures to ensure a timely, coordinated, response pursuant to the provisions of the Child and Family Services Act.

Whereas an effective and human response to children at risk requires a shared philosophy of coordinated strategy, the Niagara Catholic District School Board and Family and Children's Services Niagara agree that:

- i. Children have a right to be protected from maltreatment.
- ii. All child protection investigations will be handled with sensitivity, consistency, and unreserved collaboration.
- iii. If a child requires assistance with communication either because of a language, cultural barrier or communication disability, a facilitator shall be made available through Family and Children's Services Niagara.
- iv. All investigations involving children shall be facilitated by the provision of appropriate sharing and disclosure of information relevant to the protection of the child and subject to the information disclosure policies of the Niagara Catholic District School Board and Family and Children's Services Niagara and applicable legislation.
- v. Ongoing cooperative effort between Family and Children's Services Niagara (legal guardian) and the Niagara Catholic District School Board in the nurturing and managing of children in care to assist with communication and situations at the school.
- vi. Family and Children's Services Niagara maintains a commitment to ensuring that child protection investigations involving Niagara Catholic District School Board employees receive priority and are conducted in accordance with Ministry Standards.



## Roles and Responsibilities

### Niagara Catholic District School Board

The Niagara Catholic District School Board provides quality Catholic education within the Niagara Peninsula in collaboration with parents, agencies and the community at large.

*The Niagara Catholic District School Board, through the charisms of faith, social justice, support and leadership, nurtures an enriching Catholic learning community for all to reach their full potential and become living witnesses of Christ.*

### Family and Children's Services Niagara

Family and Children's Services Niagara is a multi service organization which has offered a wide range of child welfare services to the Niagara region since 1898.

As the local Children's Aid Society, Family and Children's Services Niagara is the legally mandated agency for the provision of child protection services to the Niagara region.

Services include the timely and comprehensive response to reports of child maltreatment, a wide range of services designed to support children and families in their own homes, the provision of foster care and renewed youth services and a full range of adoption services.

As a multi service agency, FACS operates a fully accredited Family Counselling Centre which includes the delivery of Adult Protective Services, Parent Support programs, Child Care Centres and Ontario Early Years programs.





## Protocols

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### Niagara Regional Police Services

The Niagara Catholic District School Board and Family and Children’s Services Niagara have written Protocols with the Niagara Regional Police Services which serve to assist in providing efficient and effective service to the community through co-operation and collaboration. The provisions of this Protocol are subject to compliance with existing Protocols with Niagara Regional Police Services.

### Niagara Community Threat Assessment Protocol

In cases where there is information that may indicate that there is an imminent danger to the health and safety of any person or persons and the source of the information is deemed reliable the provision of the Niagara Community Threat Assessment Protocol shall apply.

## Communication

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The Niagara Catholic District School Board and Family and Children’s Services Niagara personnel recognize that effective ongoing communication is a key to the provision of service to children and families. As a result every effort will be made by Family and Children’s Services Niagara and the Niagara Catholic District School Board to communicate in a manner that supports the investigation process.

### Consent Forms:

When required to facilitate the sharing of information the appropriate consent forms shall be secured.

### Liaison and Review:

- Niagara Catholic District School Board: Superintendent of Education/ Special Education
- Family and Children’s Services Niagara: Director of Professional Standards



## Dispute Resolution

Circumstances may arise where Niagara Catholic District School Board personnel and the assigned Child Protection Worker do not agree.

In the event that a disagreement cannot be successfully resolved by the immediate parties, the Principal and the appropriate Family and Children's Services Niagara Supervisor shall be contacted.

In the event that the disagreement cannot be resolved between the Principal and Family and Children's Services Niagara Supervisor, the respective Service Director and the Family of Schools' Superintendent will be contacted for assistance.

## Duty to Report

### Introduction

The Child and Family Services Act states clearly that members of the public, including professionals who work with children, have an obligation to report immediately to Family and Children's Services Niagara, if they suspect that a child is or may be in need of protection.

The Child and Family Services Act, Part III, Protection, defines a child as a person actually or apparently under sixteen (16) years of age. A person subject to a protection order is considered to be a child until they attain eighteen (18) years of age.

A child protection investigation cannot be undertaken with a sixteen (16) or seventeen (17) year old who is not the subject of a child protection order. Allegations of neglect/abuse involving such young people are investigated by the police under the Criminal Code.



Section 37(2) of the Act defines the term “child in need of protection.” It covers concerns related to physical, sexual and emotional harm, or risk of such harm, as well as concerns regarding neglect, failure to provide required medical or psychological treatment and abandonment.

Family and Children’s Services Niagara will only become involved in matters where a caregiver relationship exists. The definition of a caregiver is anyone who is actually or assumed to be in a care giving or supervision capacity and could include, but is not limited to, someone in the child’s family, at the school, or a delegated caregiver.

Pursuant to Ministry of Children and Youth Services Child Protection Standards in Ontario, Community Caregivers in Institutional Out-of-Home Settings are any non-family-based setting such as schools (and other school facilities such as a school bus).

The Niagara Catholic District School Board employees/volunteers considered to be Community Caregivers in Institutional Out-of-Home settings pursuant to Ministry standards and for purposes of this Protocol are: Principals, Vice-Principals, Teachers, Educational Assistants, Registered Early Childhood Educators, Library Technicians, Child and Youth Workers and Social Workers or anyone delegated care and/or custody of a child.

### **If unsure – Information warrants a Child Protection Report.**

**Note:**

Notification of the person/caregiver who is the subject to the child protection allegation is the exclusive responsibility of FACS and/or Niagara Regional Police Services (NRPS) as required. The Niagara Catholic District School Board shall not notify the person who is the subject of the investigation.

Family and Children’s Services Niagara offers a 24 hour per day service by calling 905-937-7731 or 1-888-937-7731.

### **Duty to Report, CFSA Section 72(1)**

Section 37(2) of the Child and Family Services Act sets forth the definition of reasonable grounds to suspect that a child may be in need of protection:

1. The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person’s:
  - a. failure to adequately care for, provide for, supervise or protect the child, or
  - b. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person’s:
  - a. failure to adequately care for, provide for, supervise or protect the child, or
  - b. pattern of neglect in caring for, providing for, supervising or protecting the child.



3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 2.
5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to the treatment.
6. The child has suffered emotional harm, demonstrated by serious:
  - i. anxiety
  - ii. depression
  - iii. withdrawal
  - iv. self-destructive or aggressive behaviour, or
  - v. delayed development, and

there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

7. The child has suffered emotional harm of the kind described in subparagraph i, ii, iii, iv, v of paragraph 6 and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.
8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv, v of paragraph 6 resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.
10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the



person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
12. The child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.
13. The child is less than twelve years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.
14. The child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under this Part. (S.O. 1999, C2,s.9)

### **What to report: Definition of abuse/neglect under the Child and Family Services Act**

Section 72(1) of the Child and Family Services Act requires that despite the provision of any other Act if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect that a child may be in need of protection, the person shall forthwith report the suspicion and the information on which it is based to a society. In Niagara, Family and Children's Services (FACS) is the local Children's Aid Society.



## **Direct Report by Person Who Suspects That a Child Is In Need of Protection**

The reporting person will refer to Appendices (Quick Reference Guide – Appendices A & B) prior to completing Disclosure Forms.

Section 72(3) of the Child and Family Services Act requires that a person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society, (in Niagara, Family and Children's Services is the Children's Aid Society) and shall not rely on any other person to report on his or her behalf. This report must be made directly to Family and Children's Services Niagara (FACS) as soon as possible after receiving the information.

School staff shall inform the Principal as soon as possible with regards to any calls being made in response to a child in need of protection. Where the allegation relates to a Niagara Catholic District School Board Principal, the employee hearing the disclosure shall notify the Family of Schools' Superintendent. Where Family and Children's Services Niagara is the recipient of the complaint against a Principal, Family and Children's Services Niagara employees shall notify the Family of Schools' Superintendent.

The reporting person shall document the incident/disclosure on the Initial Disclosure Form and Consultation Record. (Appendix C)

## **Ongoing Duty to Report**

The duty to report is an ongoing obligation. Section 72(2) of the Child and Family Services Act requires a person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if he or she has made previous reports with respect to the same child. If a person has made a previous report about a child, and has additional grounds to suspect that a child is, or may be in need of protection, that person must make a further report to Family and Children's Services Niagara. The person to whom the child discloses needs to be responsive and supportive to the child, it is important that no one, including the reporting person, interview the child about the details of a disclosure. This is to ensure that the investigation is not compromised. This is particularly important when the disclosure involves an employee or staff person.

## **Protection from Liability**

The person who suspects that a child may be in need of protection is legally obligated to make a report to the Society. The report must occur even where the Executive Director or designate does not agree with that belief. The making of such a report shall be undertaken without reprimand or discipline.



“To suffer abuse” in reference to a child, means to be in need of protection within the meaning of section 37 (2)(a), (c), (e), (f), (f.1) or (h) of the *Child and Family Services Act R.S.O. 1990*.

Section 37 of the *Child and Family Services Act R.S.O. 1990* defines A Child is in need of protection as follows:

- a. the child has suffered physical harm, inflicted by the person having charge of the child and/or caused by or resulting from that person’s
  - failure to adequately care for, provide for, supervise or protect the child, or
  - pattern of neglect in caring for, providing for, supervising or protecting the child;
- b. there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person’s
  - failure to adequately care for, provide for, supervise or protect the child, or
  - pattern of neglect in caring for, providing for, supervising or protecting the child;
- c. the child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;
- d. there is a risk that the child is likely to be sexually molested or sexually exploited as described in clause c);
- e. the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child’s parent or the person having charge of the child does not provide or refuses or is unavailable or unable to consent to, the treatment;
- f. the child has suffered emotional harm, demonstrated by serious,
  - i. anxiety
  - ii. depression
  - iii. withdrawal
  - iv. self-destructive or aggressive behaviour, or
  - v. delayed development andthere are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child’s parent or the person having charge of the child;
- f.1 the child has suffered emotional harm of the kind described in sub clause (f) (i), (ii), (iii), (iv), or (v) and the child’s parent or person having charge of the child does not provide, or refuses or is unavailable or unable to consent or alleviate the harm;
- g. there is a risk that the child is likely to suffer emotional harm of the kind described in sub clause (f) (i), (ii), (iii), (iv), or (v) resulting from the actions, failure to act or pattern of neglect on the part of the child’s parent or the person having charge of the child;



- g.1 there is a risk that the child is likely to suffer emotional harm of the kind described in sub clause (f), (i), (ii), (iii), (iv), or (v) and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm;
- h. the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide or refuses or is unavailable or unable to consent to treatment to remedy or alleviate the condition;
- i. the child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;
- j. the child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to those services or treatment;
- k. the child is less than 12 years old and has on more than one occasion, injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or
- l. the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and where the child is 12 years of age or older, with the child's consent to be dealt with under this Part. R.S.O. 1990, c. C.11, s. 37(2); 1999, c.2, s.9.

## Reporting Procedures

### Initial Report

The initial report is to be made **regardless of the time of day** to Family and Children's Services Niagara. The telephone number is **905-937-7731** or **1-888-937-7731**. During after hours, on weekends, and on statutory holidays, the calls go through an answering service. The Family and Children's Services Niagara Child Protection Worker will call back immediately and determine if the situation requires an emergency response. If it is determined that the situation can be responded to the next working day, the information will be forwarded on to the Intake Department. The Family and Children's Services Niagara Worker will contact the referent.





## Consultation On Duty To Report

If unsure if a situation or concern should be reported, staff members may consult with their supervisor. Consultations with FACS can take the form of a “non-identifying scenario,” whereby the circumstances are described, but the client is not identified.

However, if in the view of the FACS worker the circumstances described indicate there is a child protection issue, the FACS worker will shift the consultation to formal reporting procedures.

## Identifying Information

The following information, where it is available and known to the referent, is to be provided to Family and Children’s Services Niagara. (see Appendix C):

- Name and position of the referral source,
- Name and date of birth of the child who is the subject of the report,
- Caregiver or guardian of the child who is the subject of the report,
- Name of the person who is alleged to have harmed the child or poses the risk of harm to the child,
- Date/time and brief summary of the incident,
- A description of any injuries to the child/youth,
- The names of any known witnesses,
- The emotional state of the child/youth,
- Involvement of the parents or placing agency,
- Immediate steps taken to ensure child(ren)’s safety,
- Nature of any discussion with child(ren) who is the subject of the report; and
- Need or plan for medical attention where indicated.



## Receipt of Report

All information received by Family and Children's Services Niagara regarding concerns that a child may be in need of protection are screened subject to a child protection screening process.

Information may be required when the referral involves a community caregiver. It includes:

- relationship of the person reporting to the child who is the subject of the referral,
- information about the community caregiver's own children (if applicable),
- whether the Principal has been notified of the incident/condition and any action that has been taken, and
- identifying information of the child who is the subject of the referral and any other children being cared for in the setting.

## Disposition of the Referral

**Every report that a child may be in need of protection is immediately screened to determine the most appropriate response.**

Family and Children's Services Niagara shall determine the disposition of the report as one of the following:

- open for child protection service
- community link service for the family
- non-protection report for concerns about community caregivers of children in Family and Children's Services Niagara care placed in out-of-home settings
- no direct client contact.



**Where the determination of the disposition is a child protection service, Family and Children’s Services Niagara shall determine the election of one of two possible approaches.**

The “Traditional” approach for cases where a criminal assault is alleged of a child and/or for extremely severe risk cases. Ministry Standards provide for access to the child by Family and Children’s Services Niagara in the absence of parental consents or notification to the parents.

The “Customized” more collaborative family strength based approach for lower risk cases is used to facilitate the client’s engagement in safety planning for the child. The first contact by Family and Children’s Services Niagara is with the parent/caregiver. In many instances the first contact will be with both the parent/guardian and the child together.

## Response Times

The response time is determined by the level of urgency or the assessed level of present or imminent risk to the safety of the child. An investigation is initiated:

- within 12 hours where there is imminent risk to the child,
- within 48 hours for community caregiver investigations where no immediate safety threats are identified,
- within 7 days where no immediate threats are identified.

NOTE: Where restraint has been applied to a child in the care of the Family and Children’s Services Niagara, the foster parent shall be notified and a copy of the form outlining the events of the restraint shall be forwarded directly to Family and Children’s Services Niagara.

## Note: Physical Restraints

In institutional settings, a report of a minor injury resulting from a physical restraint does not by itself automatically result in a child protection investigation, unless there are surrounding circumstances that would indicate abusive or neglectful behaviour by the caregiver.

Such circumstances include situations in which:

- someone is specifically alleging the behaviour to be abusive,
- there is a pattern of injuries by the same caregiver,
- there is a pattern of injuries to the same child, or
- there is a pattern of similar incidents in the same facility.



# Initiating The Investigation/Assessment

## The Process and Timeframes for an Investigation

The investigation of child protection concerns can be stressful for children and families, staff and agencies. In recognition of this, the Child Protection Worker will ensure that communication with respect to the investigation will occur with the Principal or designate.

The Principal and the Child Protection Worker will discuss the preliminary approach to the investigation. This may include who may be apprised of the report and the roles and responsibilities in advising those who will be a part of the investigation.

## Early Closure

Where a Safety Assessment has determined that ongoing child protection services are not warranted FACS Niagara shall conclude its involvement.

## Traditional Investigation

Where the disposition of the referral has determined that traditional investigation is indicated, the Child Protection Worker shall:

- take into consideration any perceived risk to the child or any other child that may result because of the child protection investigation;
- determine the appropriate time to notify the parent or caregiver;
- advise the Principal or designate of this notification plan.

When there is an indication that a criminal offence has occurred, the joint Family and Children's Services Niagara and the Niagara Regional Police Services Protocol shall apply.

## Customized Assessment

Where the disposition of the referral has determined that customized assessment is indicated, the Child Protection Worker shall:

- notify the school that Family and Children's Services Niagara will be contacting the parents directly to inform them of the report and make arrangements to meet with the parents and the child.



## Community Caregiver Institutional Out-of-Home Investigation

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Where the disposition of the referral has determined that a community caregiver institution out-of-home care investigation is indicated, the Child Protection Worker shall:

- notify the Principal or designate of the report;
- discuss and determine in consultation with Principal or designate the preliminary plan of investigation;
- discuss with the Principal or designate disclosure for any records that may be relevant the report;
- discuss with the Principal or designate the applicability of the joint Family and Children's Services and the Niagara Regional Police Services Protocol;
- produce photo identification to the Principal upon entry into a school; and
- sign in at the office and receive and wear a visitor's tag.

## Role of the Niagara Catholic District School Board

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- The Principal will act as the formal liaison during the course of the investigation.
- The Principal will ensure that the child will be accessible to the Child Protection Worker when he/she visits the school to investigate the allegation. Note: All Child Protection Workers carry photo identification and shall produce this identification to the Principal or designate upon request. The Child Protection Worker shall follow the visitor guidelines set out by the school.
- A private area shall be provided for meetings and interviews.
- The Child Protection Worker shall be allowed to interview the child in private. A decision to conduct the interview in the presence of a staff member of the school acting in "loco parentis" may be made in collaboration with the Child Protection worker and the Principal or designate. This decision should be determined in collaboration with the Niagara Regional Police Services where applicable.

## Detaining Children Beyond the School Day

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- The Child Protection Worker shall make every effort to avoid asking the Principal or designate to detain the student beyond the school day. Normally, students are not to be detained beyond dismissal time while awaiting Family and Children's Services Niagara personnel. However, circumstances may arise in which the discharge of a child to a caregiver may further expose the child to an increased risk. In these circumstances, Family and Children's Services Niagara will advise the Principal or designate of this concern so that a reasonable course of action may be jointly determined.



- Where a child discloses abuse/neglect late in the school day, or if school personnel report an incident of “abuse/neglect” late in the school day, the student may be detained beyond the normal dismissal time. In these circumstances, the school shall consult with the Child Protection Worker to determine a plan of notification to the parent. The Child Protection Worker is responsible for this notification of the **parent/caregiver** at the earliest possible juncture.

## Conducting The Investigation/Assessment

### Where Full Investigation/Assessment will Follow

Within 30 days and not exceeding a maximum of 60 days, the Child Protection Worker shall conclude the child protection investigation/assessment and make the following decisions:

1. A decision whether the alleged incident occurred as reported by the referent.
2. Whether child protection concerns are verified.

At any time Family and Children’s Services Niagara may decide to remove the child from the care and custody of the parent/caregiver home as a voluntary act (Note: A child 12 years of age or over must also agree with the decision by Family and Children’s Services Niagara) or as an apprehension (without the consent of either parent or child).

### Apprehension by Family and Children’s Services Niagara

- It may be necessary for the Child Protection Worker to remove the child from the parent/caregiver by way of apprehension. In that instance, the Child Protection Worker will advise the Principal or his/her designate.
- In situations where the Child Protection Worker has determined the need to apprehend a child from a school, when this decision is not a result of an in-school interview, the Child Protection Worker will contact the Principal or designate prior to attendance at the school.
- Where a warrant for the apprehension of the child has been issued, a copy of the warrant shall be provided to the Principal or designate.



- Where the risk to the child is imminent and there is no less intrusive course of action available to protect the child, the child may be apprehended and removed from the school by the Child Protection worker without a warrant.

## Medical Examination of Child

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If arrangements for immediate medical attention or medical examination for investigative purposes are required, it is the responsibility of the Child Protection Worker to facilitate these arrangements.

## Consideration of Alternate Placements

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Pursuant to Ministry Standards and Regulation, where a Child Protection Worker has determined that a child is in need of protection and cannot remain in the care of a parent/caregiver, the Child Protection Worker must consider any and all possible alternative placements with a member of the child's extended family or community. There are various types of alternate placements as follows:

1. Kinship Care Placements (in the care of FACS)
2. Kinship Service Placements (not in the care of FACS)
3. Customary Care Placements (First Nations Care)
4. Informal Customary Care Placements (Aboriginal Community)
5. Designated place of safety

This is a circumstance in which the following criteria apply:

- Family and Children's Services Niagara has deemed the removal of the child as necessary.
- The parent/caregiver has identified a member of the child's own extended family or community who is willing and able to provide care for the child.
- The parent/caregiver and Family and Children's Services Niagara are in agreement with the placement.

Where the Child Protection Worker has effected an alternate placement, the Child Protection Worker shall advise the Principal of the contact information of the alternate caregiver.



## Role/Responsibilities of Family and Children's Services Niagara

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1. The Child Protection Worker will inform the parent(s)/caregiver(s) of the decision to take the child(ren) into care of Family and Children's Services Niagara.
2. The Child Protection Worker will inform the current school, as soon as possible, if the student will be attending that school the following day(s).
3. The Child Protection Worker will inform the Principal if the student will be attending a different school.

## School Registration: Where Child is Placed in Care of FACS Niagara

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1. The Child Protection Worker shall fax the Student Enrolment Form to the Principal of the new school. (Appendix D)
2. The Child Protection Worker shall telephone the Principal of the new school to review the child's history as noted on the Student Enrolment Form.
  - a. Where there is an agreement between the Principal and the Child Protection Worker to proceed with the child's enrolment, the Principal and the Child Protection Worker shall determine the need for the Child Protection Worker to accompany the child to the school to proceed with registration.
  - b. When it is determined between the Principal and Child Protection Worker that the Foster Parent will register the child, the Foster Parent shall notify the Principal for an appointment to enroll the child prior to visiting the school.
3. A transition meeting may be considered for student in foster care prior to full time school entry.

## Role/Responsibilities of Niagara Catholic District School Board

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1. Offer appropriate support for the student.
2. Remain with the student during the process of "apprehension".
3. Encourage the student to keep circumstances confidential.
4. Communicate information to staff on a "need to know" basis.
5. Direct all inquiries related to the investigation from the parents to Family and Children's Services Niagara 905-937-7731 or 1-888-937-7731.
6. Respond to request for records and/or information from another school where the student has been placed.





## **Investigation: Allegation Against A Niagara Catholic District School Board Employee**

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Where an allegation of abuse is made against an employee of the Niagara Catholic District School Board, the person receiving the information should ascertain enough information to satisfy the duty to report criteria and immediately contact Family and Children’s Services Niagara.

All reports shall be made in consultation with the Principal.

Notwithstanding, the consultation between the Principal and the referent, all reports shall be made forthwith directly by the person who has formed the “reasonable grounds to suspect.”

Where the allegation relates to a Niagara Catholic District School Board Principal, the person hearing the disclosure shall notify the Family of Schools’ Superintendent.

Where Family and Children’s Services Niagara is the recipient of the complaint against a Principal, Family and Children’s Services Niagara employees shall notify the Family of Schools’ Superintendent.

## **Joint Family and Children’s Services Niagara and Niagara Regional Police Services Investigations**

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Where there is information to suggest that a criminal offence may have occurred in a community caregiver, institutional out-of-home setting, the provisions of the joint protocol between FACS Niagara and Niagara Regional Police Services shall apply.

Any Niagara Catholic District School Board employee alleged to have harmed or placed a child at risk of being harmed should not have any unsupervised access to the child until the investigation is complete. In consultation with the Principal and Family and Children’s Services Niagara, a review of the employee’s status will be initiated pending completion of the investigation with respect to access to children. The information sharing between Family and Children’s Services Niagara, Niagara Regional Police Services, and the Niagara Catholic District School Board will depend on the nature of the complaint and the relevance of the protection of the child.



An employee or staff person will be allowed to have a designated support person present during any investigative interviews, except when police procedures prohibit such involvement. In any case, an employee or staff member is allowed to have a lawyer and/or union representation present for advice, if they wish, at any stage of the investigation.

The investigating Child Protection Worker and police officer, in the event of a joint investigation, may need to interview other Niagara Catholic District School Board staff to determine if they can provide any information, which may assist in completing the investigation. (See Appendix E.)

## Responsibilities of the Principal-Notification

Notification of the person who is the subject of the allegation shall be determined in consultation with Family and Children's Service and/or the Niagara Regional Police Services.

NOTE: The timing of this notification shall be determined in consultation with FACS.

The timing and substance of this notification shall be determined in consultation with FACS Niagara and where applicable Niagara Regional Police Services. The Principal will notify the Niagara Catholic District School Board employee, who is the subject of the allegation, subsequent to and in consultation with Family and Children's Services Niagara and/or the Niagara Regional Police Services, that a complaint has been made and the nature of the complaint. The details of the allegation shall not be disclosed.

## Conclusion of the Investigation

Where a Safety Assessment has determined that no further child protection services are warranted, FACS Niagara shall conclude its involvement.

At the conclusion of the investigation, all information is gathered to determine whether:

- the alleged incident occurred as reported.
- the child is in need of protection.
- there is identified risk to any other children.

Investigation dispositions which determine that a child is in need of ongoing child protection services may be transferred for ongoing Child Protection Services. Children "in need of protection" are sometimes admitted into the care of Family and Children's Services Niagara and placed with a Foster Family or alternate caregiver.



## Outcome Report Where the Report Implicates A Niagara Catholic District School Board Employee

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Upon conclusion of the investigation, the Child Protection Worker shall:

- contact the Principal to confirm completion of the investigation;
- where FACS Niagara has conducted an institutional investigation, provide a written notification to the Director of Education and Family of Schools' Superintendent within 14 days following completion of the investigation and contains non-identifying information including:
  - ▶ details of the allegation,
  - ▶ the verification decision and rationale,
  - ▶ concerns about the future safety of the children,
- and advise all parties at the conclusion of the investigation.

## Roles/Responsibility of Family and Children's Services Niagara Personnel

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An authorized Child Protection Worker is assigned to each child in the care of the Family and Children's Services Niagara.

## Where the Child has been taken into the care of Family and Children's Services Niagara

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- The Principal of the school in which the child is placed should contact the previous school for information that would assist in providing support to the student during a period of transition.
- Foster Parents are encouraged to be fully involved in decisions regarding the child's education.
- The child's parents retain the right to direct the child's education while in the care of Family and Children's Services Niagara when the child is in care by:
  - a. Temporary Care Agreement
  - b. Interim Care and Custody
  - c. Temporary Ward of Family and Children's Services Niagara
  - d. Where indicated by a court order pursuant to the provisions of the CFSA
  - e. Customary Care Placement
  - f. Aboriginal Placement



## Consents

### School/Family and Children's Services Niagara Collaboration re: Child in the Care of Family and Children's Services Niagara (Foster Care)

Children in need of protection admitted to the care of Family and Children's Services Niagara may be placed with a foster family. In some instances, the child may be placed subject to the Supervision of the Court with extended family members.

1. School personnel shall communicate directly with the Family and Children's Services Niagara Child Protection Worker with all decision making when a child is in care and with Foster Parents or the designated guardian for daily progress and information.
2. School personnel shall contact the Child Protection Worker to inquire about issues regarding legal status and obtaining written consents.
3. The Child Protection Worker shall inform the Principal with information that would be necessary for the Principal to ensure safety of the child in protection.
4. The Child Protection Worker shall assist the school in clarification of information in respect to the family of the child(ren) under the care of Family and Children's Services Niagara: Initial Disclosure Form and Consultation Record (Appendix C)





## REPORTING ABUSE: QUICK REFERENCE GUIDE

### If you hear or see evidence of abuse:

1. Consult Family and Children's Services Niagara **905.937.7731** or **1.888.937.7731** to determine Duty to Report.
2. Report to Family and Children's Services, if applicable.
3. Inform the Principal.
4. Support the student without probing into the details of the disclosure.
5. Fill in the appropriate report forms.

#### Report to:

1. Family and Children's Services Niagara, if child is under the age of 16 or is over the age of 16 and in the care of a Family and Children's Services Niagara.
2. Niagara Regional Police Services, if child is over the age of 16.
3. Niagara Regional Police Services and Family and Children's Services Niagara, if child is over 16 and the alleged abuser still has charge of child(ren) or in a position of trust (e.g., any adult in the school, parent, coach, community volunteer, etc.)

#### Over 16:

If the student is over 16, encourage him/her to report to police and seek support of other adults with whom the student has a caring and supportive relationship. (e.g. chaplain, guidance counselor, priest, friend).

#### Where the Student is over 16 and Report is Historical:

Family and Children's Services Niagara will respond to referrals from students over 16 years of age where the report implicates other children who are currently under 16 years of age.

### Disclosure "do's and don'ts"

#### If a child discloses to you do not ask for details (caregiver at the school):

1. Remain calm.
2. Reassure and support the child.
3. Speak softly and calmly.
4. Be a supportive listener.
5. Express your concern and suggest that you call someone who can help.
6. Tell the child you will be with him/her if this is wanted.
7. Do not promise confidentiality.

#### If a child discloses in the classroom:

1. Acknowledge the statement (e.g. "that sounds important, we will talk about it later").
2. Arrange to talk to the child at the first opportunity, obtain information only to the extent necessary to determine whether or not a duty to report is indicated.
3. Inform Family and Children's Services Niagara immediately.
4. Inform the Principal as soon as possible.
5. Stay with the child particularly if he/she is upset. Offer to stay during the initial assessment.
6. Make sure Family and Children's Services Niagara knows the timelines. (e.g. when the parents or child are expected home).
7. Have Family and Children's Services Niagara contact the parents.
8. Check with the police or Family and Children's Services Niagara before allowing the child to go home.

9. Do not talk to the person alleged to have harmed the child or who poses the risk of harm to the child; the Niagara Regional Police Services or Family and Children's Services Niagara should do this.
10. Family and Children's Services Niagara personnel will call the school to indicate they will be coming to the school and will provide photo identification upon arrival at the school and follow visitor sign in policy.

**After the disclosure: (within a few days of disclosure)**

1. Talk to someone you trust about your feelings.
2. Respect the child's privacy by not disclosing his/her name.
3. Contact Family and Children's Services Niagara for further information about the status or to ask for advice on dealing with the child.
4. Keep communication open with the child and offer ongoing support.

## Guide For Completing Disclosure Form

**This form is for recording information, not for investigation.**

Do not place in the student's OSR.

Do not interview the child about the details of a disclosure.

- Gather information by listening; simply allow student to tell his/her story.
- Ask questions to clarify; do not ask probing or leading questions.
- Provide information that is clear and concise.
- Be objective and non-judgmental.
- Avoid interpretations of what you think is happening.
- Don't let your note-taking interfere with the disclosure.

### Complete the following section:

- Name of child who is the subject of disclosure;
- Date of birth;
- Name of person completing form;
- Position (Principal, teacher, custodian, secretary, parent volunteer).

#### 1. What was said to you?

- Be specific.
- Record the child's words verbatim as much as possible.

#### 2. What questions did you ask or comments did you make?

- Use comments for clarification only; keep comments brief
- Do not ask leading questions
- Keep questions open-ended ( *e.g. How are you feeling today? You look sad; is there anything wrong? You're hurt/bruised/cut; Do you want to talk about it?*).

#### 3. Describe any observable behaviours of concern.

- Report nervousness, excitability, fear, crying etc.
- Lack of eye contact

#### 4. Describe any injuries.

- Bruises: size, colour, location
- Cuts, abrasions
- Destruction of clothing or property

#### 5. Other comments or information.

- Add other pertinent information.
- Do not interpret physical, emotional or medical conditions.
- Do not make judgments.







**Niagara Catholic District School Board  
APPENDIX C: INITIAL DISCLOSURE FORM AND CONSULTATION RECORD  
FAMILY AND CHILDREN SERVICES NIAGARA**

*This information is being collected pursuant to the provisions of the Municipal Freedom of Information and Protection of Privacy Act under the Education Act for the purpose of providing Special Education. Questions about this collection should be directed to the Superintendent of Education - Special Education, Niagara Catholic District School Board, 427 Rice Road, Welland, Ontario L3C 7C1 905.735.0240*

**Note: This form is for recording information, not for investigation**

**TO BE COMPLETED BY SCHOOL PERSONNEL** ( This form is for recording, not for investigation. Do Not place in student's OSR)

Student Name		<input type="checkbox"/> M	<input type="checkbox"/> F	Date of Birth	(Y)	(M)	(D)	OEN#	
Name of Person completing Form							Position		
Date and time of Contact							Time		

What was said to you?

What questions did you ask or comments did you make?

Describe any observable behaviours of concern.

Describe any injuries.

Other comments and/or information.

**NOTES AFTER CONSULTATION**

Large empty rectangular area for notes after consultation.

**FACS Worker's Name**

Empty rectangular area for the FACS Worker's Name.

**FOLLOW UP**

FACS will not become involved and the school will continue to document

FACS will remove the student from school, complete "Form D" and leave it with the principal.

FACS will complete the investigation.

Note: If upon review, the decision of FACS is different from above, FACS will advise the Principal

Signature of School Personnel Consulting with FACS



**Niagara Catholic District School Board  
APPENDIX D: STUDENT ENROLMENT FORM FOR FOSTER CARE PLACEMENT  
FAMILY AND CHILDREN SERVICES NIAGARA**

*This information is being collected pursuant to the provisions of the Municipal Freedom of Information and Protection of Privacy Act under the Education Act for the purpose of providing Special Education. Questions about this collection should be directed to the Superintendent of Education - Special Education, Niagara Catholic District School Board, 427 Rice Road, Welland, Ontario L3C 7C1 905.735.0240*

**Note: A separate form must be completed for each child**

Student Name	Date of Birth	(Y)	(M)	(D)
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Dear Principal.

This letter confirms that Family & Children’s Services Niagara (FACS) consider the above named child to be in need of protection and has taken the child into care and placed into a Foster Care home. there are specific issues related to the child’s care which relate to:

Special precautions should be undertaken with respect to:

Medications:

The child has been placed in the foster home of:

\_\_\_\_\_

Name of Foster Parent(s)

who reside(s) at:

\_\_\_\_\_

Address/City

and can be reached at the following telephone number(s):

\_\_\_\_\_

The child formerly attended:

\_\_\_\_\_

Name of School

\_\_\_\_\_

Address/City

The child has siblings attending the following school(s):

\_\_\_\_\_

Name of School

\_\_\_\_\_

Address/City

The child has the following academic, emotional, or physical needs, which the school needs to be aware of to facilitate the child's transition into a new school.

Academic:

Emotional:

Physical:

Are there any concerns about, or restrictions on the child that could affect his/her own safety of other students or staff?  Yes  No

If YES, explain:

Name of FACS Niagara Child Protection Worker (please print): \_\_\_\_\_

Telephone Number: 905.937.7731 Extension#: \_\_\_\_\_

Signature of FACS Niagara Child Protection Worker

Date of Signature

**Note**

If the child in FACS care previously attended a Catholic School, then FACS would be expected to register the student at the Catholic School nearest to the Foster Care family residence.

Consistent with the FACS protocol this letter must be completed, signed and submitted in person, or by FAX, or by e-mail to the School Principal prior to the registration of a child in Foster Care.

In some cases, students may require support of the Special Education Department, which may necessitate additional consultation prior to the student being registered.

This completed and signed Authorization Form shall be filed in the Documentation File of the student's Ontario School Record (OSR).

This letter confirms that the Foster Parent(s) have the authorization from Family & Children's Services of Niagara, the child's temporary legal guardian, to attend at the school for purposes of registering the child. Likewise, FACS authorizes the school to communicate with the Foster Parent(s) regarding academic progress, participation in out-of-school programs or extra-curricular activities and to receive information on medical problems or injuries.

## Guidelines for an Allegation Against a Niagara Catholic District School Board Employee

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### A. REPORTING TO FAMILY AND CHILDREN'S SERVICES

- There are several different scenarios that may arise regarding allegations made regarding Niagara Catholic District School Board personnel. When allegations of abuse by Niagara Catholic District School Board personnel are communicated to a Principal, he/she will gather information to determine if a report should be made to Family and Children's Services Niagara.
- The following guidelines should assist Niagara Catholic District School Board Administrators in responding to allegations of abuse by Niagara Catholic District School Board employee made under varying circumstances outlined below. As administrators deal with any such situation, it is essential that at each stage throughout the gathering of information, they must ask him/herself the following question: "Do I have reasonable grounds to suspect that the child is in need of protection?" If the answer is "yes", then the Principal has a "duty to report" to Family and Children's Services Niagara without delay.

#### SITUATION 1:

If allegation of abuse is made by student/parent regarding a staff member directly to Principal

- Principal shall report to Family and Children's Services Niagara.
- Principal will contact the Family of Schools' Superintendent of Education who may contact the Niagara Catholic District School Board Lawyer for guidance.
- Principal will not bring the "suspected" staff member in to confront the student.
- Principal will advise the staff member of the nature of allegations in consultation with Family and Children's Services and the Niagara Regional Police Services, where applicable, and encourage the staff member to contact their Union for assistance before responding to the matter.
- During the gathering of information, or based upon the preliminary findings, the staff member may have their duties adjusted or suspended by the Niagara Catholic District School Board.

#### SITUATION 2:

If allegation of abuse is made by student/parent to staff member regarding another staff member

- The same process as outlined in Situation 1 will be used. The staff member has a personal "duty to report" the matter to Family and Children's Services Niagara, who may conduct an investigation and who may involve the Police, as circumstances dictate.
- The staff member will inform Principal as soon as possible.
- The Principal will inform the Family of Schools' Superintendent of Education.

#### SITUATION 3:

If allegations of abuse are being made by a staff member regarding another staff member

- The same process as outlined in Situation 1 will be used, except the staff member (possibly with the assistance of Principal) has a personal "duty to report" matter to Family and Children's Services Niagara, who may conduct an investigation and who may involve the Police, as circumstances dictate.
- The staff member will inform the Principal as soon as possible.
- The Principal will inform the Family of Schools' Superintendent of Education.

#### SITUATION 4:

If the Principal is informed by Family and Children's Services Niagara or the Niagara Regional Police Services that allegations regarding a staff member have been made directly to Family and Children's Services Niagara

- The Principal and other Niagara Catholic District School Board officials will co-operate with the agencies and/or the Police investigation.
- During the gathering of information, or based upon the preliminary findings, the staff member may have their duties adjusted or suspended by Niagara Catholic District School Board.

#### SITUATION 5:

If allegation of abuse is made by any person regarding a school volunteer

- The Principal and other Niagara Catholic District School Board officials will co-operate with the agencies and/or the Niagara Regional Police Services investigation.
- During the gathering of information, or based upon the preliminary findings, the volunteer may have their involvement in school activities adjusted or suspended by the Niagara Catholic District School Board.

## **SITUATION 6:**

If allegation of abuse is made regarding the Principal by a student, parent, staff member or member of the community

- The Family of Schools' Superintendent of Education shall be informed and a referral to Family and Children's Services Niagara shall be made immediately.
- Same process as outlined in Situation 1 will then be used, except that the Superintendent of Education will perform the duties of the Principal (in Situations #1 to 4), in consultation with the Director of Education and the Niagara Catholic District School Board Lawyer.

### **B. NCDSB INFORMATION GATHERING**

- For the purposes of determining the need for disciplinary and discharge proceedings, the Niagara Catholic District School Board may, in consultation with Family and Children's Services Niagara and/or the Niagara Regional Police Services, continue an internal investigation based on their preliminary findings relevant to the staff person's employment status. This may be done concurrently with the Family and Children's Services and Niagara Regional Police Services investigations. The outcomes and findings of each party's investigation will not necessarily be dependent upon one another. They are separate parallel inquiries.
- Niagara Catholic District School Board employees will co-operate and communicate with Family and Children's Services Niagara and the Niagara Regional Police Services personnel in order to facilitate a timely resolution to cases in which allegations have been made regarding Niagara Catholic District School Board personnel.

### **C. FAMILY AND CHILDREN'S SERVICES NIAGARA/NIAGARA REGIONAL POLICE SERVICES INVESTIGATION**

- The parties recognize that Family and Children's Services Niagara has the prime responsibility for any child protection investigation and for protection of the child, while the Niagara Regional Police Services have prime responsibility for the criminal investigation and any criminal charges arising thereof.
- Refer to the Protocol between the Niagara Catholic District School Board and the Niagara Regional Police Services regarding Police Interviewing Student on School Property as a Potential "Witness"; Police Interviewing and/or Investigating Students with Identified Special Needs; Police Interviewing Student on School Property as a "suspect."

### **D. WHAT IF A THIRD PARTY WISHES TO DISCUSS AN ABUSE/NEGLECT SITUATION WITH SCHOOL/SCHOOL BOARD PERSONNEL?**

- The Niagara Catholic District School Board employee will make the third party aware of duty to report to Family and Children's Services Niagara for all members of the community.
- A parent who insists on speaking with school personnel must speak only to the Principal. If approached, all other school staff are asked to refer the person to the Principal.
- If, despite encouragement to contact Family and Children's Services Niagara, the third party describes alleged "abuse/neglect", school Niagara Catholic District School Board employee will follow the procedure in the Family and Children's Services Protocol to determine if they now have "reasonable grounds to suspect" and need to report to Family and Children's Services Niagara.
- The Principal will consult with Family and Children's Services Niagara if in receipt of a report by a third party.

### **E. WILL SCHOOL PERSONNEL BE TOLD IF A SITUATION REGARDING A STUDENT IS REPORTED TO FAMILY AND CHILDREN'S SERVICES NIAGARA BY SOMEONE IN THE COMMUNITY AT LARGE?**

- Family and Children's Services Niagara Personnel may speak to Niagara Catholic District School Board employee during the course of an investigation of allegation; and/or
- Niagara Catholic District School Board Employee (at the school) may be part of plan of service for child/family.

## EDUCATION ACT

Education Act, R.S.O. 1990, c. E.2, as amended.

### Compulsory Attendance Requirement

All NCDSB employees considered to be Community Caregivers in Institutional Out-of-Home settings pursuant to Ministry standards and for purposes of this protocol are: Principals, Vice-Principals, Teachers, Educational Assistants, Registered Early Childhood Educators, Library Technicians, Child and Youth Workers and Social Workers.

### Compulsory Attendance

Section 21(1) Unless excused under this section,

- (a) every person who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in that year until the person attains the age of 18 years; and
- (b) every person who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which the person attains the age of 18 years.

### When attendance is excused

Section 21(2) A person is excused from attendance at school if,

- (a) the person is receiving satisfactory instruction at home or elsewhere;
- (b) the person is unable to attend school by reason of sickness or other unavoidable cause;
- (c) transportation is not provided by a board for the person and there is no school that he or she has a right to attend situated,
  - (i) within 1.6 kilometers from the person's residence measured by the nearest road if he or she has not attained the age of seven years on or before the first school day in September in the year in question, or
  - (ii) within 3.2 kilometers from the person's residence measured by the nearest road if he or she has attained the age of seven years but not the age of 10 years on or before the first school day in September in the year in question, or
  - (iii) within 4.8 kilometers from the person's residence measured by the nearest road if he or she has attained the age of 10 years on or before the first school day in September in the year in question;
- (d) the person has obtained a secondary school graduation diploma or has completed a course that gives equivalent standing;
- (e) the person is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;
- (f) the person is suspended, expelled or excluded from attendance at school under any Act or under the regulations;
- (g) the person is absent on a day regarded as a holy day by the church or religious denomination to which he or she belongs; or
- (h) the person is absent or excused as authorized under this Act and the regulations.

#### Note:

This section of the Education Act has implications for dealing with abuse or potential abuse. The "unavoidable cause" in section (b) could be an abuse cause. The temporary removal of a pupil by FACS for the purpose of investigating an abuse disclosure is also a legal absence. The school needs a form signed by the agent of FACS, which documents the absence of the pupil.



## Duty of Parent, etc.

Section 21(5) The parent or guardian of a person who is required to attend school under this section shall cause the person to attend school as required by this section unless the person is at least 16 years old and has withdrawn from parental control.

## Liability of Parent or Guardian

Section 30(1) A parent or guardian of a person required to attend school under section 21 who neglects or refuses to cause that person to attend school is, unless the person is 16 years old or older, guilty of an offence and on conviction is liable to a fine of not more than \$200.

### Note:

Since the parent is legally bound to “cause the child to attend school”, the parent is passing the responsibility of care to the adults in the school under the supervision of the Principal. This is the duty of care required by the parent of a child in the normal parenting of a child. Failure to provide the care constitutes neglect of the child’s rights that may put the child in a position of needing protection under the Child and Family Services Act.

## Duties of Pupils

R.R. O. 1990, Reg. 298, as amended. –‘Operation of Schools – General’

Section 23(1) “A pupil shall,

- (b) exercise self-discipline;
- (e) be courteous to fellow pupils and obedient and courteous to teachers
- (4) every pupil is responsible for his or her conduct to the Principal of the school that the pupil attends...

## Duties of a Teacher

Section 264 (1) – “It is the duty of a teacher and a temporary teacher,...

- (c) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues.”

## Duties of a Principal

Section 265 – “It is the duty of a Principal of a school, in addition to the Principal’s duties as a teacher, ...

- (j) to give assiduous attention to the health and comfort of the pupils; ...
- (m) subject to an appeal to the Board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the Principal’s judgment be detrimental to the physical or mental well-being of the pupils; and
- (n) maintain a visitor’s book in the school when so determined by the Board.

## Duties of Boards

Mandatory removal from the classroom of teachers charged with sexual assault (Education Act, S. 170. (1) Duties of Boards).

## **NIAGARA CATHOLIC DISTRICT SCHOOL BOARD ACCESS TO BOARD PREMISES POLICY (SAFE SCHOOLS) 302.6.3**

The Access to Board Premises Administrative Guidelines clarify the expectations and procedures governing who is and who is not permitted on school premises in keeping with O. Reg. 474/00 as amended by O. Reg. 471/07.

### **1. Subject to any restrictions set out in this regulation, the following persons are permitted to be on school premises when the premises are being used for a purpose authorized by the Board:**

- A person/pupil enrolled in the school.
- A parent or guardian of such pupil.
- A person employed or retained by the Board.
- A person on the premises for lawful purpose.

Access to school premises does not entitle the person to have access to all areas of the school.

### **2. Conditional Access is granted to the following:**

- A person invited to attend an event, class or meeting.
- A person invited by the Principal/Vice-Principal or another person authorized by Board policy to be in the school for a specific purpose.

### **3. Prohibition from Access**

- All entrances of elementary schools shall remain locked and/or secured.
- All entrances of secondary schools shall remain locked and/or secured where appropriate.
- A Principal/Vice-Principal or another person authorized by the Board has the duty to exercise his/her discretion to refuse admission to anyone whose presence on the premises would be detrimental to the safety or well-being of a person on the premises. O. Reg. 474/00, s. 3 (1)
- A Principal/Vice-Principal or another person authorized by the Board has the duty to exercise his/her discretion to refuse admission to anyone who fails to report his or her presence on the premises in a specified manner. O. Reg. 474/00, s. 3 (2)

### **4. Trespass to Property**

A Principal/Vice-Principal or designate of a school may direct a person to leave the school premises if the person is prohibited by regulation or Board policy.

If a Principal/Vice-Principal or designate observes or becomes aware of a person entering the premises where entry is prohibited, or is engaging in a prohibited activity, or fails to leave the premises immediately after being directed the following procedures will be followed:

- Approach the person.
- Ask the person to identify him/herself and the reason for his/her presence on Board property.
- If the person is a student from another school, ask for the name of the school.
- Request that the person leave the premises.
- In consultation with the Family of Schools' Superintendent, the Principal will send a Trespass to Property Letter (Appendix A) by registered mail with copies sent to the Niagara Regional Police Service, the Family of Schools' Superintendent and the Board Lawyer.
- If a Principal/Vice-Principal or designate is unable to identify the person for the purpose of sending a letter, the Principal/Vice-Principal or designate will record the incident that the person has received a verbal warning.
- If a Principal/Vice-Principal or designate observes or becomes aware of the person returning, the police will be contacted and the situation will be monitored.

### **5. Building Entrance Signage**

Schools are encouraged to make the public aware of the Education Act's Access to School Premises Regulation 474/00.

All schools are required to post signs welcoming and requiring all visitors to begin their visit to the school by reporting to the school office or designated area before going to other sections of the building.

Each school shall designate the location(s) of visitor entrances which will be identified by Board approved signs.

Schools may wish to consider other control measures to ensure that these identified entrances are the only entrances available to visitors during the regular school hours.

## 6. School Watch Program

School Watch Program signs are posted at all schools and Board sites in the Niagara Catholic District School Board. Principals/ Vice-Principals will invite community partners/neighbours by letter (Appendix B) to participate in the School Watch Program by anonymously contacting the police during non-school hours if they observe any inappropriate activities or actions on school or Board property.

## 7. Visitor's Book

Each school will keep a Visitor's Book to record pertinent information regarding all visitors. The Visitor's Book will be maintained as per the following guidelines:

- As outlined in Section 265(n) of the Education Act, the maintenance of the Visitor's Book shall be the responsibility of the school Principal.
- The Visitor's Book shall be kept in a location determined by the Principal and shall be administered by such personnel as directed by the school Principal.
- All visitors entering the school beyond the office must complete the information required in the Visitor's Book and wear a Visitor's Identification Card.

## 8. Visitors to Schools – Visitor Identification Cards

All visitors authorized to be in a school building or on Board and school property are required to wear a Visitor's Identification Card issued by the Board's Facilities Services Department. Visitor Identification Cards apply during the hours of operation of the schools.

## 9. Photo Identification Cards

Photo Identification Cards shall be issued to all Niagara Catholic employees who are required to wear the Photo Identification Card during the hours of operation of the schools. Photo Identification Cards are the property of the Board and must be returned as required when no longer in use. A lost Photo Identification Card must be reported to the Facilities Services Department.

## TEACHING PROFESSION ACT

### Teaching Profession Act, R.S.O. 1990, c. T.2, as amended.

Section 12 of the Teaching Profession Act authorizes the Board of Governors of the Ontario Teachers' Federation (the "OTF") to make regulations prescribing a code of ethics for its teacher-members.

- Changes in Adverse Reporting: Teachers are not required to inform colleagues when making a report about them with regard to sexual abuse (Teaching Profession Act, Section 12(2).)

## ONTARIO COLLEGE OF TEACHERS ACT

### The Ontario College of Teachers Act, 1996, S.O. 1996, c.12, as amended.

Paragraph 22 of section 41(1) of the Ontario College of Teachers Act empowers the College of Teachers to make by-laws prescribing professional and ethical standards applicable to members.

Pursuant to the by-laws, every member of the College of Teachers must adhere strictly to the Code of Ethics, as well as the underlying spirit and precepts thereof.

Paragraph 31 of section 40(1) of the Ontario College of Teachers Act authorizes the making of regulations defining professional misconduct for the purposes of the Ontario College of Teachers Act.

O. Reg. 437/97 – 'Professional Misconduct', in paragraph 7 of section 1, defines professional misconduct as including abusing a student verbally, physically, psychologically or emotionally and sexually.'

- A comprehensive definition of sexual abuse (Ontario College of Teachers Act, Part I, Section I, Definitions)
- Mandatory reporting by employer of sexual abuse incidents by members to the College of Teachers (Ontario College of Teachers Act, Part IX.1),
- Mandatory reporting to the College of Teachers of disciplinary action against teachers in the area of sexual misconduct (Ontario College of Teachers Act, Part IX.1),
- Failure of employers to report disciplinary action against teachers to the College of Teachers results in a \$25,000 fine (Ontario College of Teachers Act, S.48.1).

Note: Boards must provide clarity for dealing with the range of abusive conduct that is present in the schools. The challenge is to create a balance for the members of the College that preserves the social interaction relationship between students and teachers while protecting students from abuse.

## **CRIMINAL CODE**

### **The Criminal Code, R.S.C. 1985, c.46**

The Criminal Code identifies a variety of offences which criminalize sexual abuse by any adult in schools or elsewhere. These offences include sexual interference, invitation to sexual touching, sexual exploitation, indecent acts and exposure and sexual assault. Pursuant to section 161(1)(b) of the Criminal Code, an individual who has been convicted of such offences can be banned from employment in a position of trust or authority (such as teachers or other school personnel) over persons under 16 years of age. These orders are rare but would be an important tool to enhance public safety and student security. In addition, of course, the Criminal Code criminalizes physical assault.

## **ONTARIO HUMAN RIGHTS CODE**

### **The Ontario Human Rights Code, R.S.O. 1990, c. H.19 (the "Code")**

The Code takes precedence over other Ontario legislation, collective agreements and administrative policies of a school Board. It specifically addresses sexual discrimination, sexual harassment, sexual solicitations, advances and reprisals. School Boards should be aware of the provisions, as well as the spirit and intent, of the Code, when drafting harassment policies.

The term "harassment" is defined in the Code as "a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome." Sexual harassment is not specifically defined, but would involve comments or conduct of a sexual nature. The victim, or complainant, must subjectively find that the conduct is annoying or distressing. The respondent must have known (subjectively), or ought reasonably to have known (an objective test), that the behaviour is unwelcome.

## Glossary of Terms

**Abandonment:** a parent who, by their death, absence, or for other reasons, is unable to exercise their responsibility as a caregiver for a child.

**Abuse:** an action by a person towards another person that violates the safety or integrity of the individual.

**Assigned caregiver:** someone who has been assigned responsibility of care for the child by the parent/guardian e.g. daycare worker, babysitter, school volunteer, family member.

**Assumed caregiver:** includes individuals employed by a school board.

**Caregiver:** parent, step-parent, live-in partner, foster parent or other adult with custody and control of a child. Also includes an assumed caregiver such as a bus driver or residential coach.

**Child:** a person pursuant to the Child and Family Services Act who is apparently under 16 years of age.

### Community Care Giver Institutional Out-of-Home

**Setting:** Pursuant to Ministry of Children and Youth Services Child Protection Standards in Ontario, Community Caregivers in Institutional Out-of-Home Settings are any non-family-based setting such as schools (and other school facilities such as a school bus).

The Niagara Catholic District School Board employees considered to be Community Caregivers in Institutional Out-of-Home settings pursuant to Ministry standards and for purposes of this protocol are: Principals, Vice- Principals, Teachers, Educational Assistants, Registered Early Childhood Educators, Library Technicians, Child and Youth Workers and Social Workers.

**Customary Care:** Customary care refers to the traditional practice of Aboriginal child rearing and care. The child is not in the care of FACS.

**Domestic Violence:** Refers to any circumstance in which a child is exposed to adult conflict as evidenced by physical assaults between the adults and/or verbal abuse.

**Grooming:** Efforts by an adult to form a special relationship with a child, as a prelude to abuse. The intention is to test the "secrecy waters" to determine whether the child will tell others about the inappropriate behaviour. Grooming behaviours desensitize the child through progressively more sexual behaviours.

**Forthwith:** refers to acting in a timely manner, usually right away or the same instructional day, depending on the circumstances of each case.

**Harassment:** a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

**Harm:** activity that causes discomfort or fear in present or future life of a person.

**Humiliation:** an unwelcome action or comment that demeans a person.

**Kinship Care:** Kinship care refers to the full-time care by a relative, community member, or other adult with whom there is

a relationship significant to the child or youth. The child is legally in the care of the Family and Children's Services Niagara.

**Kinship Service:** Kinship care refers to the full-time care by a relative, community member, or other adult with whom there is a relationship significant to the child or youth. The child is not in the care of the Family and Children's Services Niagara.

**In need of protection:** includes any child showing evidence of physical, sexual and/or emotional abuse, neglect and/or risk of harm.

**Misconduct:** a behavior by a person that violates a rule or normal practice in interactions.

**Neglect:** omission of care or an action to protect the child.

**Sexual abuse:** includes conduct which violates the Criminal Code, such as sexual interference, invitation to sexual touching, and sexual exploitation, as well as any indecent act or exposure.

**Sexual Abuse** according to the *Ontario College of Teachers Act* includes:

sexual intercourse or other forms of physical sexual relations between the member and the student,  
touching of a sexual nature, of the student by the member, or behaviour or remarks of a sexual nature by the member towards the student.

**Sexual exploitation:** the touching of a person between the ages of 14 and 18, or the inviting, counseling or inciting of a person between the ages of 14 and 18 to touch the body of any person, for a sexual purpose, by an individual in a position of trust or authority or with whom the young person is in a relationship of dependency.

**Sexual harassment:** objectionable comments or conduct of a sexual nature that may affect a student's integrity or security in the school environment. Any activity, which demeans or causes personal embarrassment to a student based on the student's gender.

**Sexual interference:** touching, for a sexual purpose, either directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years.

**Sexual misconduct:** offensive conduct of a sexual nature, which may affect the personal integrity or security of any student or the school environment. This includes sexual abuse, sexual harassment and sexual relationships with a student under 18 years of age.

**Sexual relationship:** any sexual relationship with a student or former student under the age of 18, and any conduct directed to establishing such a relationship.

**Reasonable Grounds:** *You do not need to be sure that a child is or may be in need of protection before making a report to FACS. One need only have "reasonable grounds" to believe that a child is in need of protection.* In general, "reasonable grounds" are what an average person, given his or her training, background or experience, exercising normal and honest judgment would suspect.