

PROTECTION OF MINORS POLICY

Effective 1/1/2015

I. PURPOSE

In order to comply with recently enacted state legislation, Mercyhurst University has developed this policy. Mercyhurst University (“University”) is committed to the safety of all individuals within its community. The University has particular concern for those who are more vulnerable, including minor children, who require special attention and protection. This Policy establishes guidelines for those in, and external to, the University community who may work or interact with individuals under 18 years of age on University property or while conducting University business, with the goal of promoting the safety and well-being of minors.

II. SCOPE

This Policy provides guidelines that apply broadly to interactions between minors and University students, faculty, staff, and volunteers¹ in University-sponsored or -affiliated programs or activities. This Policy also establishes requirements for non-University organizations and entities that operate programs or activities involving minors on campus, at other University locations, and University agreements with such organizations and entities shall reflect these requirements. Independent contractors may also be subject to this Policy. All Mercyhurst University students, faculty, staff, volunteers, and third parties are responsible for understanding and complying with this Policy. Appendices to this Policy set forth specific requirements and procedures. This Policy does not apply to general public events where parents/guardians are expected to provide supervision of minors. The guidelines contained in the Policy do not and cannot outline every situation or circumstance that may be encountered involving minors on campus or at other University locations.

This Policy is administered by the Human Resources Department.

III. DEFINITIONS

Minor/Child - Any person under the age of 18. **Child Abuse** - Child abuse is defined consistent with 23 Pa. C.S. §6303. That definition includes non-accidental actions or omissions that cause physical or mental injuries to a child or sexual abuse/sexual exploitation of a child including: (1) Physical abuse: Acts of omissions that cause, or fail to prevent, a serious physical injury to a child; (2) Sexual abuse: Includes, but is not limited to, rape, sexual assault, molestation, incest, indecent exposure, or otherwise exploiting a child in a manner in which the child is used for gratification or sexual enjoyment by another person including, but not limited to, the use of social media to engage in such conduct.; (3) Emotional or Mental Abuse: Acts or omissions that have an actual or likely severe negative impact on a child’s emotional and behavioral

¹ Those who are not members of the University’s faculty, staff or student body but who volunteer to assist the University or University faculty, staff or students with University-run or -affiliated programs involving minors are subject to some or all of the requirements of this Policy. Those engaging volunteers should contact the Human Resources Department to discuss their situation and how the Policy requirements apply.

development, including those resulting from persistent or severe emotional mistreatment; and (4) Neglect: A severe or persistent failure to provide for a child's physical, emotional, or basic needs, including the failure to make reasonable efforts to prevent the infliction of abuse upon a person under age 18.

Direct volunteer contact - Providing care, supervision, guidance, or control; and routine interaction with minors.

Person responsible for the child's welfare – A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. Any person who has direct or regular contact with a child through any program, activity or service sponsored by the school.

Matriculated student – A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma, or degree.

Routine interaction – Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

University-sponsored or -affiliated programs and activities - Programs or activities involving minors that Mercyhurst University operates, sponsors or participates in, or in which University students, faculty, staff or volunteers engage through their University or volunteer roles. This term does not include programs or activities in which one may engage that are unrelated to one's status as a member of the University's faculty, staff or student body.

Non-University Programs – A program or activity involving minors that is operated by an individual, organization or entity external to Mercyhurst University. The University leases facilities/premises to the third party and may offer other services for payment, but is not involved in the program operations, participant supervision or management unless contractually obligated.

Clearance Required Position – A position, paid or unpaid, that results in routine interaction and direct contact with minors participating in University-sponsored activities when those minors are not matriculated students or prospective students visiting campus. Individuals holding these positions may be subject to obtaining clearances as a condition of the work or volunteer position. This would include, but is not limited to, persons who routinely interact with, treat, supervise, chaperone, control, provide temporary care, or otherwise oversee minors participating in University-sponsored activities. The Human Resources Department and senior management will make determinations regarding which positions require clearances either by statute or by internal considerations. Faculty, staff, volunteers, graduate and undergraduate students, interns, employees of temporary employment agencies, and/or contractors may be required to obtain clearances as a condition of employment and/or volunteer work.

Mandated Reporter – An adult employee or volunteer, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity, or service, is a person responsible for the child's welfare or is a person who has direct contact with children and suspects child abuse is a mandatory reporter. Any adult who has direct contact with children in

the course of employment and is supervised or managed by a person with responsibility for a child's welfare or who has direct contact with children is also a mandatory reporter.

Approved Training/Education Program – A training or education program approved by the institution for the purpose of training mandatory reporters on the signs of child abuse.

Program Sponsor – The University department, unit or affiliate, employee, or third party entity that operates a program or activity involving minors.

Area Representative – An individual within each functional area of the University who is designated to answer questions about this policy and its application.

Criminal History Clearances – The following laws comprise the clearances which will be used to determine whether an individual can participate in activities or programs involving minors, whether it is University-sponsored or affiliated or a non-University program or activity:

- Act 33 – Pennsylvania Department of Public Welfare Child Abuse History Clearance
- Act 34 – Pennsylvania State Police Criminal Record Check
- Act 73 – FBI National Criminal History Background Check (fingerprinting)

IV. MINORS ON CAMPUS

Mercyhurst University's primary mission is higher education. The University hosts many events (e.g. sporting and cultural events, speakers, camps, etc.) and the campus is purposely designed to be an environment that is welcoming and hospitable to members of the regional community and to the students and employees who are a part of the Mercyhurst community. While we strive to create a welcoming and hospitable environment, we must also be careful to ensure that Mercyhurst is a place that is safe and secure for any minors who may visit the campus.

Accordingly, minors who are brought onto campus should be properly supervised at all times by a parent or guardian. In situations where the presence of a minor on campus is creating a safety concern or disrupting other members of the community, the University may take action to address the situation. Any visitors to the campus, employees or students who become aware of a safety or disruption issue should contact the appropriate administrative department, which in most cases will be Police and Safety or Human Resources.

V. GUIDELINES AND RESPONSIBILITIES

All employees, volunteers, and students who serve in a clearance-required position must:

- Participate in an Approved Training/Education program prior to working with minors

- Be familiar with the informational material included in Appendix A concerning Guidelines for Working with Minors and Signs of Abuse and Neglect
- Promptly report suspected instances of abuse or neglect, or violations of this policy or law, as provided in Section VII
- Meet the requirements of this Policy relating to criminal history clearances
- Acknowledge this policy through completion of the certification form in Appendix C (at least once per calendar year)
- Meet any additional requirements that relate to the specific program and activity

For the purposes of clearances, minors are those under the age of 18 who are neither matriculated students nor prospective student visitors to campus. This would include any dual-enrolled students who are attending a secondary school and taking classes at Mercyhurst University and are under 18 years of age. It would also include any minors (children under 18) who are attending camps, programs, or services on campus or through University-sponsored or affiliated programs.

For the purposes of mandated reporters, minors are considered anyone under the age of 18, regardless of matriculation status, etc. Anyone covered by this Policy who knows or suspects that a minor in a University-sponsored or affiliated program has been abused or neglected must make reports as directed by Section VII.

Program sponsors are responsible for ensuring that non-University organizations and entities that operate programs or activities involving minors on campus or at other University locations are aware of, and comply with, this Policy.

Criminal History Clearances

Individuals in clearance required positions will be required to obtain criminal history clearances prior to participation in University-sponsored or -affiliated programs and activities involving minors.² The categories of individuals who must undergo criminal history clearances are listed in Appendix B. If a criminal history clearance reveals adverse information, the University will conduct an individualized assessment using criteria designed to identify potential risks to minors. Except where required by law, criminal history clearances of University faculty, staff, students, and volunteers that are conducted pursuant to this Policy will be used only for purposes consistent with this Policy and will otherwise be kept confidential. Records of clearances will be maintained separately from an individual's personnel, student or volunteer file. Mercyhurst University reserves the rights to terminate employment, volunteer positions, or third-party contracts based on the findings of the criminal background check(s) after an assessment of the findings in relationship to the position held and the nature of the work being performed.

² These clearances are in addition to any background screening that may be requested of employees or applicants based on their position at the University.

Non-University organizations and entities that operate programs or activities on campus involving minors must obtain criminal history clearances of their employees, volunteers, and representatives that meet University standards. The University may request any additional information or impose additional conditions it deems necessary to meet the requirements of this Policy including, but not limited to, requiring such organizations or entities to maintain specified insurance coverage.

Independent contractors and vendors that are on campus or at other University locations where contact with minors is routine must adhere to the University's policy on criminal history clearances. The University may request any additional information or impose additional conditions to meet the requirements of this Policy including, but not limited to, requiring such contractors or vendors to maintain specified insurance coverage.

Specific requirements and procedures for criminal history clearances appear in Appendix B.

VI. REPORTING POTENTIAL CRIMES INVOLVING MINORS

In a situation of suspected child abuse, all University administrators, faculty, coaches, staff, student workers, contractors, and/or volunteers who are in clearance required positions and/or have direct contact with children, are considered mandated reporters for purposes of this Policy. Everyone who is deemed a mandated reporter pursuant to this Policy shall be trained as a mandated reporter consistent with Pennsylvania law.

All mandated reporters shall make an immediate report of suspected child abuse or cause a report to be made if they have reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

- The mandated reporter comes into contact with the child in the course of employment, occupation, and practice of a profession or through a regularly scheduled program, activity, or service.
- The mandated reporter is directly responsible for the care, supervision, guidance, or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization, or other entity that is directly responsible for the care, supervision, guidance, or training of the child.
- A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

The minor is not required to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse. The mandated reporter does not need to determine the identity of the person responsible for the child abuse to make a report of suspected child abuse.

Reporting Procedure

Mandated reporters must immediately make an oral report of suspected child abuse to the Pennsylvania Department of Human Services (DHS) by either calling ChildLine at 1-800-932-0313 or by submitting an electronic report via the DHS ChildLine website. If an oral report is made, a written report shall also be made within 48 hours to DHS or to the county agency assigned to the case, as prescribed by DHS.

The following information shall be included in the written reports, if available:

1. The names and addresses of the child and the parents or other person responsible for the care of the child, if known.
2. Where the suspected abuse occurred.
3. The age and sex of the subjects of the report.
4. The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.
5. The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.
6. Family composition.
7. The source of the report.
8. The person making the report and where that person can be reached.
9. The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.
10. Other information which the Department of Human Services may require by regulation.

Immediately following the report to DHS, the mandated reporter must notify the Mercyhurst University Police & Safety Department or another designated University official who will assume responsibility for facilitating the University's cooperation with the investigation of the report.

Mercyhurst University Police & Safety Department and 9-1-1 are both available 24/7. Regardless of the reporting mechanism, the appropriate law enforcement agency and/or child welfare agency will be notified of the alleged abuse.

Responsibility to report potential crimes involving minors

In addition to the reporting procedure for individuals designated as Mandated Reporters under this policy, as outlined above, all persons have a responsibility to report to the Mercyhurst University Police & Safety Department any suspicion or belief that a minor:

- Is being abused (including sexual abuse);
- Is being neglected; or
- Is otherwise in need of assistance.

In situations involving possible abuse (including sexual abuse) of minors who are students at University, involved in University Programs, or visitors to any University facility or location, individuals should immediately contact:

- The Mercyhurst University Police & Safety Department at 814-824-2000; or
- 9-1-1

Protection for good faith reports

Any individual who makes a report in good faith to law enforcement in accordance with this Policy will not be subject to adverse action by MU.

Responsibility to report

All individuals with knowledge of possible abuse of minors have an obligation to report. Failure to report may result in disciplinary action, up to and including termination of employment, in addition to any legal consequences imposed by law enforcement agencies.

Questions

Any questions regarding reporting under this provision should be directed to Public Safety, Human Resources, Student Life, the Counseling Center, an Area Representative or one's supervisor.

VII. REGISTRATION

All University-sponsored or affiliated programs and activities and non-University program(s) covered by this Policy are required to register the program at least 60 days prior to the scheduled start date of the program through completion of the Event Registration Form provided on the University Protection of Minors Policy website.

The Program Sponsor will be responsible for registration of the program and compliance with the Policy, including the assurance that all program participants have fulfilled the requirements of the Policy, including the attainment of necessary background clearances and completion of the certification form in Appendix C. For non-University programs, a University Program Sponsor will be identified during the contract process. Typically, this will be a University employee from Conference & Facility Services. For vendors and other contractors, the program sponsor will be the University employee engaging the services of the company/individual.

VIII. ENFORCEMENT

Sanctions for violations of this Policy will depend on the circumstances and the nature of the violation, but may include the full range of available University sanctions applicable to the individual including, but not limited to, suspension, dismissal, termination, exclusion from campus, and/or notification to law enforcement agencies and/or child welfare agencies. The University may also take appropriate interim actions before determining whether a violation has occurred. The University may terminate relationships and/or take other appropriate actions against non-University entities that violate this Policy.

IX. RANDOM AUDITS, POLICY IMPLEMENTATION AND MODIFICATION

All University-sponsored or affiliated programs and activities, non-University organizations and entities, and independent contractors who operate under this Policy are subject to random audits to verify compliance with the responsibilities and requirements set forth herein.

Questions about the interpretation or application of this Policy should be directed to one's Area Representative or the Human Resources Department, which is responsible for oversight and implementation of the Policy.

Appendices

- Appendix A: Guidelines for Working with Minors
- Appendix B: Criminal Background Checks
- Appendix C: Certification

Appendix A

General Guidelines for Working with Minors

Those associated with programs or activities involving minors should observe the following "dos" and "don'ts" in order to provide a safe and positive experience for program participants, encourage parental confidence, and avoid mistaken allegations.³

DO:

- Maintain the highest standards of personal behavior at all times when interacting with minors
- Whenever possible, try to have another adult present when working with minors in an unsupervised setting. Conduct necessary one-on-one interactions with minors in a public environment where interactions can be observed
- Listen to and interact with minors and provide appropriate praise and positive reinforcement
- Treat all minors in a group consistently and fairly, and with respect and dignity
- Be friendly with minors within the context of the formal program or activity while maintaining appropriate personal-space boundaries
- Maintain discipline and discourage inappropriate behavior by minors, consulting with supervisors if assistance is needed with misbehaving youth
- Be aware of how your actions and intentions might be perceived and could be misinterpreted
- Provide open door counseling for any sessions with minors or conduct such sessions in an area that allows for private conversation while remaining in the view of others
- Consult with other adult supervisors or colleagues when uncertain about a situation
- Use good judgment about verbal, electronic or other forms of social media communications with or about minors, and refrain from discussing personal or intimate information
- Comply with additional rules and/or policies of sponsoring organizations which provide for the protection of minors, and which are provided to individuals involved with applicable programs or activities
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³ These guidelines are not meant to limit medical, psychiatric or other professional interactions with minors where professional standards apply.

DON'T:

- Spend time alone with one minor away from the group or conduct private interactions with minors in enclosed spaces or behind closed doors
- Engage in inappropriate touching or physical contact with a minor
- Use inappropriate language, tell risqué jokes or make sexually suggestive comments around minors, even if minors themselves are doing so
- Give personal gifts to, or do special favors for, a minor or do things that may be interpreted as favoring one minor over others
- Share information with minors about one's private life or have informal or purely social contact with minor program participants outside of program activities
- Strike or hit a minor, or use corporal punishment or other punishment involving physical pain or discomfort
- Relate to minors as if they were peers, conduct private correspondence, utilize social media or take on the role of "confidant" (outside of a professional counseling relationship)
- "Friend" minors or approach them on social media sites
- Date or become romantically or sexually involved with a minor
- Show or share sexually inappropriate or pornographic materials to minors or involve minors in sexually inappropriate or pornographic activities
- Provide alcohol or drugs to minors or use them in the presence of minors
- Participate in or allow others to engage in any form of hazing
- Dress, undress, shower or bathe with or in the presence of minors
- Share sleeping locations with minors, except in open areas so long as adults and minors have separate defined sleeping areas
- Transport minors to or from their homes (other than the driver's children) whether before, during or after a program or activity

Appendix B

Criminal History Clearances for Those Interacting with Minors

The following categories of adults (faculty, staff, students, and volunteers) are required to obtain criminal history clearances prior to their participation in University-sponsored or –affiliated activities or programs involving minors:

- Directors and supervisors of programs and/or activities involving minors, including those who are responsible for supervising those who interact with minors;
- Those who stay overnight with minors as part of their responsibilities in a program or activity involving minors;
- Those who would likely spend significant time with minors as part of their job responsibilities or role in a program involving minors;
- Those who would likely have regular contact with minors during the evening or off campus;
- Those who transport minors for authorized programs and activities;
- Those who would likely have regular, direct contact with minors; and
- Those who would likely have regular access to minors in various states of dress.

The Human Resources Department will oversee the processing of criminal history clearances. A criminal history clearance may consist of a search of the federal, state, or county databases for criminal history for the past seven years, and a sex offender registry search subject to the following laws:

- Act 33 – Pennsylvania Department of Public Welfare Child Abuse History Clearance
- Act 34 – Pennsylvania State Police Criminal Record Check
- Act 73 – FBI National Criminal History Background Check (fingerprinting)

In addition to the clearances listed above, the Human Resources Department may require affected individuals and/or their parent(s) to complete an affirmation statement that no disqualifying event has occurred. The Human Resources Department will make a determination regarding which clearances and affirmation statements are required based on several factors outlined in HB 1276, including length of residency in PA, and visa-status in the United States.

If a criminal history clearance reveals adverse information or unfavorable results, an individualized assessment will be conducted, taking into account the following:

- The nature of the finding;
- The job or responsibilities for which the individual is being considered;

- The underlying event(s) that occurred;
- The time elapsed since the finding;
- The individual's employment history and/or other evidence of his or her activities in the intervening time since the finding; and
- Other relevant information.

A prior arrest or conviction shall not automatically disqualify an individual from participating in a program or activity, but shall be considered using the criteria identified above. Mercyhurst University reserves the rights to terminate employment, volunteer positions, or third-party contracts based on the findings of the criminal background check(s) after an assessment of the findings in relationship to the position held and the nature of the work being performed. All reviews will be conducted in compliance with the Fair Credit Reporting Act.

For University-sponsored or -affiliated programs or activities, only valid Act 33, 34, and 73 criminal history clearances will be accepted for purposes of this Policy.

Criminal history clearances for Mercyhurst University faculty, staff, students, and volunteers who participate in University-sponsored or -affiliated programs or activities involving minors must be renewed every 60 months. Any faculty, staff, student or volunteer who is required by this Policy to have a criminal history clearance is under a continuing obligation to disclose immediately any new felony or misdemeanor conviction to his/her supervisor and Human Resources within 72 hours. An individualized assessment will be conducted as outlined earlier in this section.

The Human Resources Department will oversee the review of criminal history clearances for Mercyhurst University faculty, staff, students, and volunteers, and in consultation with appropriate departmental representative(s), will make determinations in cases where criminal history clearances reveal adverse information that is relevant to one's participation in a program or activity covered by this Policy.

Except where required by law, criminal history clearances of University faculty, staff, students, and volunteers will be used only for purposes consistent with this Policy and will otherwise be kept confidential. Any record of information returned as a result of the criminal history clearance will be maintained separately from an individual's personnel, student or volunteer file.

Non-University organizations and entities that operate programs or activities on campus involving minors must ensure that criminal history clearances are obtained for their employees, volunteers, and representatives that meet Mercyhurst University standards as defined by their contract/agreement with the University. The University may exclude any external program employee, volunteer or representative who does not obtain criminal history clearances that are satisfactory to the University. Non-University organizations and entities must also submit a Certification of compliance with the criminal history clearance rules described herein. The University may request any additional information or impose additional conditions it deems necessary to meet the requirements of this Policy including, but not limited to, maintaining specified insurance coverage. Individuals required to obtain a criminal history clearance under

this Policy who are not University employees or students (whether involved in a University program or activity or one operated by a non-University entity) must obtain criminal history clearances prior to the start of a program or activity involving minors and must renew the criminal history clearances every 60 months.

Independent contractors and vendors that are on campus or at other University locations where contact with minors is routine must comply with the University's criminal history clearance requirements. The University may request any additional information or impose additional conditions it deems necessary to meet the requirements of this Policy including, but not limited to, maintaining specified insurance coverage.

Appendix C

Certification

I hereby certify that I have read and understand the foregoing Protection of Minors Policy and its accompanying Appendices. I have had an opportunity to raise any questions I have about this information and have done so, if necessary.

I agree to comply with all standards regarding interactions with minors set forth in the Policy and all reporting and other obligations detailed therein.

Signature	Date
Printed Name	
Program/Activity in which you are participating	

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