

MANDATORY REPORTING

Alice Callison
DeConcini McDonald Yetwin & Lacy
P.C.
"The Messenger"
February 2005

REPORTING FOR ALL SCHOOL EMPLOYEES A.R.S. §13-3620

- Protecting the welfare of students is the most important responsibility of every professional educator.
- The purpose of the law is to ensure the safety of children.

REPORTING FOR ALL SCHOOL EMPLOYEES A.R.S. §13-3620

- It is a Class 6 felony to fail to report "reportable offenses."
- It is a misdemeanor to fail to report physical injury, child abuse, and neglect.

1. Under what circumstances must a report be made?

Any district employee who reasonably believes that a minor is or has been the victim of

- Physical injury
- Child abuse
- Abuse
- Neglect
- A reportable offense

shall immediately report or cause reports to be made of this information to law enforcement or CPS...except when the abuser is known to be someone other than a parent, guardian, or custodian, reports shall be made to law enforcement only.

"Physical Injury"

- Other than by accident
- Impairment of physical function, including any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or injury to any internal organ.

Is it an accident?

- Children will readily talk about accidental injuries.
- They will be able to recount actual events consistently.
- When a child hesitates to talk about an injury or gives an explanation that is inconsistent with his injury, this should raise suspicion that the injury was not an accident.

Student-to-Student Intentional Injuries

- Law enforcement and the Pima County Attorney's office do not want school personnel reporting every student-to-student physical injury.
- Probably do not need to report bruises, cuts or scrapes unless very severe.
- DO report broken bones and injuries needing stitches.
- DO report bully who continually causes injuries.

"Child Abuse"

- Causing a child to suffer physical injury or
- Having the care or custody of a child and
 - Causing or permitting child to be injured or
 - Causing or permitting child to be placed in a situation where child is at substantial risk of being physically injured

Example: Intoxicated parent driving child in car. Report

Example: Mom and dad have physically violent arguments in front of child. Report.

"Abuse"

- Abuse is similar to child abuse except abuse also includes "serious emotional damage."
- Only required to report serious emotional damage that has been diagnosed by a medical doctor or psychologist, which may be rare.
- However, you may report suspected emotional abuse to CPS.

"Neglect"

- The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with (1) supervision, (2) food, (3) clothing, (4) shelter, or (5) medical care if ...
- There is a substantial risk of harm to the child's health or welfare.

Example: Six-year-old left at home unsupervised and is found by neighbor wandering in street. Report.

"Reportable Offenses"

In general, "reportable offenses" involve the touching of the vagina, penis, anus, or female breast.

The touching can be over the clothing. The touching can be minor-to-minor, minor-to-adult, or adult-to-minor.

Includes penetration, fondling, touching, oral contact.

Examples of specific crimes: sexual abuse, sexual conduct with a minor, sexual assault, molestation of a child.

Other "Reportable Offenses"

- "Indecent Exposure" involves the exposing to a minor of another person's penis, anus, vagina or female breast.
- "Sexual Indecency" is the reckless exposing of a minor to an act of sexual contact, oral sexual contact, sexual intercourse, sex with an animal.

Other "Reportable Offenses"

- "Sexual Exploitation of Children" in general involves the use of minors in pornography—including enticing, soliciting, recording, photographing, duplicating, distributing, transporting, purchasing, electronically transmitting, possessing or exchanging;

Example: Boy takes picture of his penis using his cell phone and transmits picture to other children. Report!

Other "Reportable Offenses"

- "Furnishing Harmful Items to Minors" involves sending a description or presentation of nudity or sexual activity through the internet to a minor .
- "Surreptitiously Photographing, Videotaping, Filming or Digitally Recording of a Minor" while the minor is in a bathroom, locker room, bedroom or other private place when the minor is urinating, defecating, dressing, undressing, nude or is involved in sexual intercourse or sexual contact.
- "Child Prostitution" and "Incest."

The Pima County Attorney's office has developed protocols to assist school employees in complying with A.R.S. § 13-3620. The following discussion of "reasonable belief," in large part, is taken from these protocols.

The protocols can be accessed at--

<http://www.ahsc.arizona.edu/acainfo/protocol/protocol.htm>

2. What does "reasonable belief" mean?

- The Arizona court has said: "Reasonable belief is a very low standard. If there are any facts from which one could reasonably conclude that a child has been the victim of one of the offenses [where a mandatory report is required] the person knowing the facts has a duty to report. . ."

Cautions:

- You do NOT need visual evidence of the offense.
- Your obligation is NOT to determine whether the information is or is not true.
- It is NOT your job to establish that it is more probable than not that abuse has occurred or beyond a doubt that abuse has occurred.

Information may come from:

- Your observations:
 - Physical indicators
 - Emotional indicators
 - Behavioral indicators
 - You may witness an abuse incident
- The student
- A third party--adult or child

Reports by children:

- A teacher or counselor may be the first person to whom a child discloses abuse allegations.
- Appropriate handling of the situation helps the child; practice your response in advance.
- Let your body language tell the child that you hear what he/she is telling you and that you will help.
- Write down the exact words the child used in the disclosure.
- You do not have to cut a child off if they are spontaneously relating what has happened.

Reports by children:

- One sentence from the student may be enough for you to have a "reasonable belief."
- If the child has not spontaneously provided the following information about the abuse, only these exact questions should be asked: What happened to you? Who did this? Where did it happen?
- Limit questions to the above three if observations of injury and/or unusual behavior are made and the child has not disclosed the occurrence of abuse.

Reports by children:

- Gathering detailed information not only re-traumatizes the child but also compromises criminal investigation.
- It is not the job of school personnel to establish beyond a doubt that abuse has caused the observed injury or behaviors.
- Do not gather additional details in order to respond to anticipated questions by law enforcement or CPS. Law enforcement's and CPS's questions are for the purpose of gathering information that you may know, but it is not expected to be known.

Do not:

- Initiate an investigation.
- Call in student for an interview, in case of third-party reports.
- Call in school mental health practitioners to try to determine if the report is credible or if a report should be made.

Do Not:

- Speak with the alleged abuser.
- Contact or provide information to the parents. Refer all inquiries to the police or CPS.
- Promise to keep abuse information secret or use other distracting or dishonest information to reassure a child.

If the alleged abuser is a District employee, this is a District emergency!

- Dial 911.
- Notify principal and human resource director.
- Work with law enforcement. Do not notify employee or remove from classroom until authorized by law enforcement or legal counsel.
- If the alleged abuser is certificated, the incident must be reported to the Arizona State Board of Education. Call 602-542-2972.
- If the alleged abuser is a bus driver, the Department of Public Safety requires that its student transportation unit be notified.

3. What is the timeframe for making a report?

- The oral report should be made immediately.
Dictionary definition: "Occurring at once; instantly."
In practical terms, expectation is that this will be no longer than 15 minutes--the amount of time it will take to arrange temporary coverage for your duties.
- Written report must follow within 72 hours.

4. Should a matter be reported to law enforcement or CPS?

- A report to law enforcement complies with the reporting requirement in all cases. Report to law enforcement by dialing 911, or if a school resource officer ("SRO") is immediately available, the report may be made to the SRO. Do not leave a telephone message for the SRO.
- Where the alleged perpetrator is a parent, guardian or custodian, a report may be made to law enforcement and/or CPS. Make report to CPS by dialing toll free 1-888-767-2445.

5. Is the obligation to report satisfied if the matter is reported to the nurse, counselor, or principal?

- NO! The Pima County Attorney's office takes the position that each employee told about the reportable matter is also a mandatory reporter and has an independent obligation to (1) make a report or (2) cause a report to be made.
- If there is more than one mandatory reporter, only one report needs to be made. In most cases, the report should be made by the employee that first formed a "reasonable belief." After making an oral report, the employee should forward a memo or email to the others to assure them that the report has been made.
- Principals should never insist on prior screening of abuse reports. The principal, however, should be informed as soon as possible that a report has been made.

6. What about consensual sexual conduct between teenagers?

No report if consensual and:

- both parties are 14, 15, 16, 17
- adult 18 and adult no more than 24 months older than minor
- adult 19 and in high school and adult no more than 24 months older than minor

7. Are there any protections for an employee who makes a report?

Yes. A.R.S. §13-3620 provides that a person who furnishes a report is immune from any civil or criminal liability unless the person acted with malice.

Example One:

Sally and Joan are friends. Sally confides in Joan that her (Sally's) brother touches her "pee pee." Joan reports this to her mother, and Joan's mother immediately reports this to you, the third grade teacher. You report the matter to the school nurse and the school nurse reports the matter to the principal.

- Should you talk to Sally and/or Joan?
- Should you talk to Sally's mother or Joan's mother?
- How many mandatory reporters are there?
- How many reports need to be made?

Example Two:

A bus driver reports to you that he observed a nine-year-old boy playing "doctor" on the bus with his six-year-old sister, touching the girl's vaginal area.

Do you report?

- Who should make the report?
- Key point: Age of the alleged abuser doesn't matter. This should be reported.

Example Three:

A seventeen-year-old girl reaches down on the floor to pick up a cell phone. Male student grabs girl's head and shoves her face into his crotch. You are the school administrator, and you suspend the male student, citing school's sexual harassment policy.

Do you report?

- Does it matter that the touching was over the clothes?
- Key point: Even if a matter is dealt with as sexual harassment, it is still a "reportable offense" if it involves touching of penis, vagina, breast, or anus.

Example Four:

Sixteen-year-old girl reports to you that her best friend, who is also a high school student, is having sex with the high school football coach. The football coach and you are great friends, and the physics teacher does not believe that the story can possibly be true.

Do you report?

- Would answer be different if girl had simply said that friend was having an "affair" with the football coach without explaining what "affair" meant?
- What if girl said that friend was having sex with a teacher, but didn't indicate which teacher?
- Should the principal immediately remove the teacher from the classroom when the matter is first reported to him?

Example Five:

Child comes to school with a black eye, bloody ear, and a large bruise on the side of his head. When you ask the child what happened, the child hesitates and says that he fell off of his bicycle.

Do you report?

Example Six:

Student in Biology class becomes angry with teacher and sits under one of the lab tables. Biology teacher, who was nominated teacher of the year last year, asks the student several times to get out from under the table. Teacher then pulls the student from under the table by grasping the student's feet and drags the student approximately 20 feet. The student sustains a severe rug burn on his back in the process of being pulled from under the table.

Do you report?

Example Seven:

The class bully and class president get into a shoving match at the top of the steps. The president pushes the bully, and the bully falls and breaks his arm.

Do you report?

Example Eight:

Fourth grade girl consistently comes to school in the winter without a coat or sweater. You suspect that parent was slightly intoxicated at your most recent parent-teacher conference. Another parent reports to you that her daughter no longer likes to go over to the girl's house because the mom and dad have drugs out on the counter and are always "high."

Do you report?

Common Questions

Should I report the following types of verbal comments by minors to other minors: body comments, sexual conversations, profane statements, sexual propositions?

There is no obligation to report this type of conduct because it does not involve the touching of the penis, anus, vagina or female breast. Recommend making report of sexual proposition by young child, because it may indicate abuse at home.

Common Questions

Should I report the following type of verbal comments by an adult to a minor: body comments, sexual conversations, profane statements, sexual propositions?

There is no obligation to report this type of conduct because it does not involve the touching of the penis, anus, vagina or female breast.

Sexual predators "groom" their victims through a pattern of gradually more inappropriate conduct: dirty jokes, sexual comments, inappropriate touching/hugging, giving small personal gifts, and sexual propositions. If you suspect that an adult is "grooming" a minor, report the matter.

If district employee — described conduct is unprofessional.

Common Questions

Should I report the following type of physical conduct between minors: (1) grabbing, pinching, or patting buttocks, (2) goosing, (3) wedgies, (4) nipple twisting boy to boy.

There is no obligation to report conduct because it does not involve the touching of the penis, anus, vagina or female breast.

Would the answer be different if the conduct involved an adult? Not mandatory report, unless part of pattern of grooming. If it is a District employee, it is unprofessional conduct and may also be sexual harassment.

Common Questions

Should I report student self-mutilation?

Self-mutilation could be one indicator of neglect. If after talking with the child and parents the behavior continues, it should be reported.

Should I report suicide threats?

Educator should follow established school procedures — this is not a mandatory report unless threat also involves risk of serious injury to others.

If parents know about teenage sexual activity between 13-year-olds, and approve, should matter be reported?

Yes, it must be reported.

Common Questions

What is the duty to report incidents concerning students who are over 18 but are "incapacitated or vulnerable adults?"

Reporting obligations are similar to those for child abuse (refer to legal opinion). The reporting agency would be law enforcement rather than CPS.

What if a parent states that CPS is already involved?

You should still make a report. You should also report any new incidents that occur.

Common Questions

When do I report cases of physical discipline by parents?

Corporal punishment is permitted in Arizona as long as:

- (1) There is no physical injury, which includes bruises; and,
- (2) The type of punishment does not place the child at substantial risk of physical injury.

Examples where report should be made even if there is no physical injury: child is being hit about the face or arms with a closed fist, belt, coat hanger or stick, or is being thrown against a brick wall.

Common Questions

As a school employee, am I obligated to report matters that I learn about outside of a school setting?

You are only required to report information that comes to your attention because you are a school employee.

Example: If you are in McDonald's and see an adult physically injure a child, you are not required to report. However, if you recognize the child as a student of the District, you ARE required to report.

Example: If a parent recognizes you because you are a District employee and approaches you in the grocery store to tell you about a situation concerning a District student, you ARE required to report.

Reasons why adults hesitate to report:

- My information is not from the victim, but from the victim's friend.
- I want to check to see whether the child making the report has a reputation for being truthful.
- Children make things up or get things confused. How do I know the child isn't making this up too?
- I want to run the matter by the school counselor first.
- I may get the child in more trouble at home.
- I am afraid of retaliation by the family.

Reasons why adults hesitate to report:

- My supervisor is not in her office. I'll report the matter to her tomorrow.
- My supervisor told me that he would take care of reporting.
- The alleged perpetrator is a child.
- 911 is just for emergencies.
- I don't want to accuse someone of something so awful.
- It happened five years ago.

Reasons why adults hesitate to report:

- I want to tell the School Resource Officer when he gets here tomorrow. He'll know what to do.
- Mother of the child told me that CPS is already involved.
- I don't like the way the police or CPS handles these cases.
- I don't want to jeopardize my relationship with the child and the family.
- **NONE** of the above are legitimate reasons for not making a report immediately!

Lessons:

- Doing your own investigation is a disaster.
- Do not hesitate to contact 911. Law Enforcement is safe harbor.
- Being charged with failure to report child abuse is a devastating experience.
- When in doubt, make the call and let law enforcement make the determination.

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