

MANDATORY REPORTING STATUTES

The Messenger

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School personnel are required to report allegations of child abuse, neglect and "reportable sex offenses" under two Arizona laws: A.R.S. §13-3620 and A.R.S. §13-3620. This paper is designed to guide school employees through the process of reporting allegations of child abuse and professional misconduct to the appropriate authorities. Failure to comply with these laws can result in the needless victimization of children, and may also lead to criminal and administrative proceedings against those who fail to make the required reports.

A. ALL SCHOOL EMPLOYEES' DUTY TO REPORT TO LAW ENFORCEMENT AND OR CPS.

Under A.R.S. §13-3620 a school employee may be subject to a class six felony criminal charge for failing to make a mandatory report concerning a "reportable sex offense." A school employee may also be subject to a class one misdemeanor criminal charge for failing to make a mandatory report concerning child abuse or neglect.

1. Under what circumstances must a report be made?

A.R.S. §13-3620 provides that any district employee who "reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense, or neglect that has been inflicted on the minor by other than accidental means... shall immediately report or cause reports to be made of this information to a peace officer or to 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...." (The offenses designated in A.R.S. §13-3620 shall collectively be referred to in this memorandum as "child offenses.")

See Exhibit A for examples of child abuse, neglect and reportable sex offenses (hereafter referred to as child offenses).

2. What does "reasonable belief" mean? Should an employee conduct some type of investigation either before or after learning of information about possible child offenses?

Reasonable belief is a very low standard. The recent revisions to the statute clarify that school personnel do not need visual evidence of a child offense to meet the reporting threshold. Information about possible child offenses is often received in one of three ways:

- A child may self-report information.
 - Efforts should be made to provide a quiet, private place to facilitate the conversation.
 - Do not interview the child. Multiple interviews of a child are to be avoided. Let law enforcement interview the child.

- Only ask the child the following questions: What happened? Who did it?
 - One sentence of information from a child may be enough to trigger the reporting statute.
 - Document child's exact words on reporting form.
- The employee himself or herself may observe bruising, injury, or may observe the child exhibiting unusual behavior.
 - A third party, who may or may not be a school employee, may report information. A third party may also be another child.

Any of these circumstances is sufficient to trigger the reporting requirement. The employee's duty is not to investigate to determine if the information is or is not true prior to deciding to report.

Unless and until authorized by law enforcement or the District's legal counsel:

- Do not inform the alleged abuser of the allegations.
- Do not initiate an internal investigation.
- Do not remove the alleged abuser from the classroom and place him or her on administrative leave.

3. *What is the timeframe for making a report?*

The district employee's duty is to make an oral report immediately upon receiving enough information to form a "reasonable belief."

Any oral report must be followed up by a written report within seventy-two hours. Reports should contain the following: name and address of the minor and parents; the minor's age and nature and extent of the suspected child offense, including any evidence of a previous offense, and any other information that might be helpful.

4. *Is the obligation to report satisfied by the employee informing his or her supervisor of the situation?*

NO! Remember that each employee who has a reasonable belief that a minor has been a victim of a child offense has an independent obligation to make or cause a report to be made. Only one initial report and one written follow-up report need to be made. An employee cannot avoid the obligations of the statute, however, by claiming that he or she "expected" or "assumed" that another school employee (including a supervisor) would make a required report.

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

A good rule of thumb is to make a report to law enforcement by dialing 911 or by contacting your school resource officer. Another good rule of thumb is to obtain a law enforcement case number when reporting to assure that there is evidence that a report has

been made. A report to CPS only complies with the statutory mandate where the suspect has care custody or control of the minor. Therefore we recommend that in every case a report should be made to law enforcement.

6. *What about consensual sexual conduct between teenagers?*

A report is not required for consensual conduct involving only minors who are fourteen, fifteen, sixteen or seventeen years of age. In addition, a report is not required if the conduct is consensual and the adult is eighteen, and is not more than twenty-four months older than the minor. Finally, a report is not required if the conduct is consensual and the adult is attending high school, the adult is not more than twenty-four months older than the 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 under the statute is immune from any civil or criminal liability unless the person acted with malice.

B. ALL CERTIFICATED INDIVIDUALS' AND SCHOOL BOARD MEMBERS' DUTY TO REPORT TO THE ARIZONA STATE BOARD OF EDUCATION

1. *Who and what must be reported under A.R.S. §15-514 (A)?*

All certified individuals (including teachers and administrators) and all governing board members in the state of Arizona are required to make a report when they reasonably suspect or receive a reasonable allegation that a person certificated by the State Board of Education has engaged in conduct involving minors that would be subject to the reporting requirements of A.R.S. §13-3620.

2. *Who and what must be reported under A.R.S. §15-514 (B)?*

All school district superintendents and chief administrators of charter schools are required to report pursuant to A.R.S. §15-514(B) when they suspect or receive a reasonable allegation that a person certificated by the State Board of Education has committed an immoral or unprofessional act that would constitute grounds for dismissal or criminal charges. The State Board of Education has developed rules defining unprofessional conduct found at A.A.C. R7-2-1308.

3. *Who and what must be reported under A.R.S. §15-514 (F)?*

A governing board member or school district employee charged with personnel decisions may not accept the resignation of a certificated employee that is suspected of committing any reportable violation involving minors until the suspicion or allegation is first reported to the Investigative Unit of the State Board of Education ("the Investigative Unit").

4. *How and when should reports be made?*

Reports that may be made by telephone should be made by calling the Arizona State Board of Education, Investigative Unit at (602) 542-2972. Written reports should be mailed to Arizona State Board of Education, Investigative Unit, 1535 W. Jefferson, Phoenix, AZ 85007 or by e-mailing a report by using its website.

An A.R.S. §15-514(A) report must be made in writing as soon as is reasonably practicable, but no later than three business days after the person first suspects or receives an allegation of misconduct. An A.R.S. §15-514 (B) report may be made in writing or by telephone. A.R.S. §15-514 (B) does not prescribe a specific timeframe for reports to be made; however, the Investigative Unit encourages reports to be submitted as soon as reasonably practicable. An A.R.S. §15-514(F) report may be made in writing or by telephone. Reports must be made before the individual's resignation is accepted.

C. SCHOOL BUS DRIVERS AND REPORTS TO DPS

The Department of Public Safety takes the position that pursuant to R17-9-104(E) any time a report is made under A.R.S. § 13-3620 concerning a bus driver, an oral report should also be immediately made to the Arizona Department of Public Safety, Student Transportation Unit, which is the entity that issues school bus driver certificates. A written report should follow the oral report within 72 hours.

MANDATED REPORTING GUIDELINES
 (Examples of cases that mandated reporters may encounter)
 Prepared by the Pima County Sheriffs Office

	Report required	Report recommended
Child discloses or displays:		
Inflicted injury	Yes	
Deprivation of medical care	Yes	
Malnourishment	Yes	
Emotional damage caused by caregiver	Yes	
Health endangered	Yes	
Inadequate clothing with risk	Yes	
Inadequate shelter with risk	Yes	
Inadequate supervision with risk	Yes	
DIRECT/INDIRECT CONTACT: fondle/touch		
Breast	Yes	
Penis	Yes	
Vagina	Yes	
Anus	Yes	
ORAL CONTACT:		
Breast	Yes	
Penis	Yes	
Vagina	Yes	
Anus	Yes	

	Report required	Report recommended
Child discloses or displays:		
Consensual Sex. Int. (Both parties 14-17)	No	
Other intercourse	Yes	
Consensual masturbatory Contact (14-17)	No	
Other masturbatory contact	Yes	
Child prostitution	Yes	
Sexual exploitation (Child pornography)	Yes	
Sexual Assault (Rape)	Yes	
Consensual oral sex (14-17)	No	
Other oral sex	Yes	
Indecent Exposure	Yes	
Physical Contact:		
Grab buttocks	No	Yes
Fight	No	Yes
Goosing	No	Yes
Nipple twist (boys)	No	Yes

	Report required	Report recommended
VERBAL by children:		
Body comments	No	
Sexual propositions	No	Yes*
Sexual conversations	No	
Profane Statements	No	
VERBAL by adult:		
Body comments	No	Yes
Sexual propositions	No	Yes
Sexual conversations	No	Yes
Profane statements	No	Yes

Exhibit B
Examples for Training re Mandatory Report Statute

1.
Fifth grade bully is teasing fifth grade class president on the monkey bars. Class president lightly pushes bully away. Bully loses his balance and falls, breaking his arm.
2.
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 are never home.
3.
Student in regular 9th grade 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 and then pulls the student from under the table by grasping the student's feet. In addition to pulling the student from under the table, the teacher 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.
4.
Sixteen year old girl reports to her male high school physics teacher that her best friend, who is also a high school student, is having sex with the high school football coach. The physics teacher and the football coach are great friends, and the physics teacher does not believe that the story can possibly be true.

Would the answer be any different if the girl had simply said that her friend was having an "affair" with the football coach without explaining what "affair" meant and the physics teacher didn't ask? What if the girl had said that her friend was having sex with a teacher, but didn't indicate which teacher?
5.
Seventeen year old girl reaches down on floor to pick up a cell phone. Male student grabs girl's head and shoves her face into his crotch.

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