

Child Abuse Protocol

School district personnel play an integral role in the intervention and prosecution of child abuse. The educator's role in the process is critical to successful intervention in the lives of our children.

- Duty to Report. The Idaho Legislature has made it mandatory that school teachers or any other person "having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected . . . shall report or cause to be reported within twenty-four (24) hours such conditions and circumstances."

Definitions

Abused: Any case in which a child has been the victim of:

- Conduct or omissions resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling.....sexual conduct including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child abandonment or neglect.

Abandoned: The failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

Neglected: A child:

- Who is without proper parental care and control, or subsistence, education, medical, or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian, or other custodian or their neglect or refusal to provide them; provided, however no child whose parent or guardian chooses for such child treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to Idaho Code 16-1616.
- Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity.
- Who has been placed for care or adoption in violation of the law.

The statute clearly requires anyone, specifically teachers and other employees within a school system, to report suspected child abuse, abandonment and neglect to the Department of Health and Welfare or law enforcement; however, reporting abuse, abandonment, or neglect does not envision that a teacher will report every bruise or scratch noticed upon a child. It requires reporting on a basis of indicators which give reasonable cause to believe that a child is being abused. That conclusion requires an element of judgment to separate an incident from a pattern, the trivial from the serious. The school district employees shall notify their supervisor immediately of the case. The supervisor shall immediately notify the Superintendent or the Superintendent's designee, who shall in turn report or caused to be reported the case to local law enforcement or the Department of Health and Welfare.

Investigation forming, "reasonable belief" does not amount to conducting an investigation; it requires only a report. Therefore, teachers and other school personnel should refrain from conducting any type of interview or other intervention into a child abuse case. The responsibility for such an investigation lies with law enforcement and or the Department of Health and Welfare. The entity conducting the investigation has authority to conduct interviews and other matters within the school premises. School districts hereby agree to cooperate with law enforcement and/or the Department of Health and Welfare in conducting any investigation upon or within the school premises. The school will endeavor to make available a private room or other secure place for conducting such interviews. The entity conducting the interview also has the authority to determine who is present during an interview. Pursuant to Idaho Code, the Department of Health and Welfare has great latitude in determining how investigations of child abuse cases should proceed. The dangers of not conducting a proper investigation are obvious. The presence of an unwanted individual in the interview could hinder the investigation, or worse, taint the potential evidence for future court proceedings.

Communications made by a child to a teacher or other personnel are not privileged. Such statements are subject to disclosure to the Department of Health and Welfare or to others conducting the investigation. Parents/guardians are not to be notified of a pending investigation by any member or the school district staff. Any notification given to a family will be made by the Department of Health and Welfare, and is not required until the department deems it necessary to ensure that the best interests and needs of the child are met.

Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in Idaho Code § 16-1605 shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any person who reports in bad faith or with malice is not entitled to immunity from any civil or criminal liability that might otherwise be incurred or imposed. I.C. § 16-1606.

In addition, "any person who makes a report or allegation of child abuse, abandonment or neglect knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against whom the report was made for the amount of actual damages sustained or statutory damages of five hundred dollars (\$500), whichever is

greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.” I.C. § 16-1607

Any District employee who fails to report a suspected case of abuse, abandonment or neglect to the Department of Health and Welfare or local law enforcement, or who prevents another person from doing so, may be civilly liable for the damages proximately caused by such failure or prevention, and is guilty of a misdemeanor. The employee will also be subject to disciplinary action up to and including termination

Legal Source: Idaho Code 16-1616 “Authorization of emergency medical treatment.”
Idaho Code 16-1619 “Reporting abuse, abandonment or neglect.”
Idaho Code 16-1625 “Authorization for department act.”
Idaho Code 16-1605 “Reporting of Abuse, Abandonment or Neglect.”
Idaho Code 16-1606 “Immunity.”
Idaho Code 16-1607 “Reporting in Bad Faith-Civil Damages.”
Idaho Code 16-1602 “Definitions”

Adopted: October 28, 1998

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