

Your Mandatory Reporting Obligations

By

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Your general obligation to
report certain criminal
activity...

Deadly Weapons and Drugs (A.R.S. 15-515).



If any school personnel see weapons or drugs on school property, they must report the violations to the school administrator who must then report to law enforcement.



The criminal statutes violated:

- 13-3102 (A) (12). A person commits misconduct involving weapons by knowingly possessing a deadly weapon on school grounds
- 13-3411. It is unlawful to possess, use, sell or transfer drugs in a drug-free school zone. Failure of an administrator to report the violation is a class 3 misdemeanor

Suspected Crimes

A.R.S. 15-341(A)(31)



The governing board or delegate must report serious offenses; deadly weapons, dangerous instruments, serious physical injury; and conduct that poses a threat of death or serious physical injury to students, employees and others on school property to law enforcement, and may report all other crimes.

“Serious Offense” Includes:

- 1st/2nd degree murder or manslaughter
- Aggravated assault
- Sexual assault
- *Any dangerous crime against children.*
- Arson of an occupied structure.
- Armed Robbery.
- Burglary in the first degree.
- Kidnapping.
- Sexual conduct w/ minor under 15 years of age.

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TIP:

When it comes to the safety of your students, staff, and campus, don't get hung up on definitions.

If you suspect criminal activity, report this to your School Resource officer or to your local law enforcement agency. What do you have to lose by reporting? What do you risk if you do nothing?

**Your obligation to report
suspected child abuse...**

What are YOU required to Do?

A.R.S. §13-3620

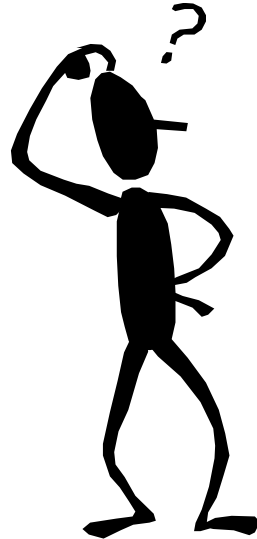
Duty to Report:

Who?

What?

How?

Who Has the Duty to Report?



“School Personnel” Must Report

- “School Personnel” is and is meant to be **BROAD**.
- It’s not just the duty of the Principal or School Nurse.
- ALL School Personnel have a duty to report if they have reasonable belief that a minor has been harmed.
- This can include, but is NOT limited to: Principals, nurses, teachers, cafeteria workers, secretaries, paraprofessionals, coaches, bus drivers, custodians, psychologists, related service providers, crossing guards, ...

A Report is Required by:

- Any school employee who *reasonably* believes a minor is/has been the victim of:
 - physical injury,
 - abuse,
 - child abuse,
 - a reportable offense, or
 - neglect
- That appears to have been inflicted on the minor *by other than accidental means* or
- That is not explained by the available medical history as being accidental in nature or

A Report is Required by: (Continued)

[Any employee who]

- Reasonably believes there has been a denial or deprivation of necessary
 - medical treatment; or
 - surgical care; or
 - nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281

What is Meant by “Physical Injury”

What is meant by “physical injury”?

- Intentional/Non-accidental
- Impairment of physical condition and includes:
 - Skin bruising
 - Pressure sores
 - Bleeding
 - Failure to thrive
 - Malnutrition
 - Dehydration

- Burns
- Fracture of any bone
- Subdural hematoma
- Soft tissue swelling
- Injury to any internal organ
- Or any physical condition that imperils health or welfare



The injury need not be serious or life threatening to be “reportable”.

So, does the duty to report include non-accidental injuries that are just a bruise, cut or scratch?

- Yes, for bruising.
- Yes, for cuts and scratches, if they are accompanied by any bleeding.

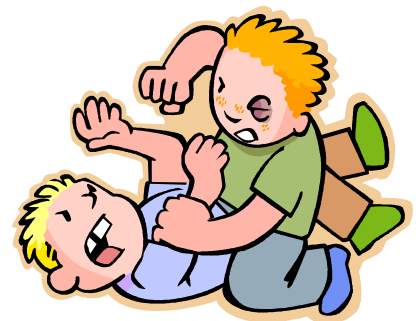


(Again, the injury need not be “life-threatening” to be reportable)

Do you have to report injuries from student fights or horseplay?

- Yes.
- “Labels such as ‘horseplay’ or school yard ‘fights’ are imprecise and cannot be used as a litmus test to dismiss the reporting obligation where the conduct fairly falls within the statute.”

– *AZ Attorney General*



If a child with disabilities who lacks the cognitive ability to control his behavior or understand right from wrong causes the injury, must it be reported?

- Yes.
- “From the injured child’s point of view, it makes little difference whether a perpetrator has the cognitive ability to control or appreciate his conduct. Indeed, such lack of control or understanding may make the situation more likely to reoccur.”
- -AZ Attorney General

What is Meant by “Abuse” or “Child Abuse”

“Abuse” Means:

- The infliction or allowing of physical injury, impairment of bodily function or disfigurement; or
- The infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and is caused by the acts or omissions of an individual having care, custody and control of a child.

“Abuse” Also Includes:

- Inflicting or allowing: sexual abuse, sexual conduct with a minor, sexual assault, child molestation, commercial sexual exploitation of a minor, sexual exploitation of a minor, incest, or child prostitution.
- Physical injury resulting from permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug.
- Unreasonable confinement of a child.

What is Meant by “Reportable Offense”

“Reportable Offense” Includes:

- Indecent Exposure
- Public Sexual Indecency
- Sexual Abuse
- Sexual Conduct With a Minor

(Note: You are not required to report the consensual sexual contact of minors with other minors ages 14,15,16, or 17)

- Sexual Assault
- Molestation of a Child
- Bestiality
- Sexual Misconduct by a Behavioral Health Professional
- Unlawful Sexual Conduct by Corrections Personnel
- Voyeurism
- Unlawful Distribution of Nude Images

“Reportable Offense” Includes:

- Commercial Sexual Exploitation of a Minor
- Sexual Exploitation of a Minor
- Luring and Aggravated Luring a Minor for Sexual Exploitation
- Admitting Minors to Public Displays of Sexual Conduct
- Furnishing Harmful Items to Minors Via the Internet
- Surreptitious Photographing, Videotaping, Filming or Digitally Recording of a Minor
- Child Prostitution
- Incest
- Unlawful mutilation or Knowing Transportation of a female under 18 for the purpose of mutilation

What is Meant by “Neglect”

“Neglect” Includes:

- The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes unreasonable risk of harm to the child's health or welfare, except if the inability of a parent, guardian or custodian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

“Neglect” Also Includes:

- Permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purposes of manufacturing a dangerous drug.
- Deliberate exposure (or reckless disregard of whether or not the child is present) of a child by a parent, guardian or custodian to sexual conduct, to sexual contact, oral sexual contact or sexual intercourse, bestiality, or explicit sexual materials.

“Neglect” Also Includes:

- Denial or Deprivation of Necessary Medical Treatment or Surgical Care or Nourishment With the Intent to Cause or Allow the Death of an Infant
- Presence of Alcohol or Drugs in a Newborn.
- Look at the totality of the circumstances. If you think that a child is being neglected, err on the side of making a report.



TIP:

Again, don't get hung up on definitions.

If you suspect that a child has been harmed or is at risk of being harmed in some physical, sexual, or neglectful manner, make a report to DCS or to your local law enforcement agency.

What do you have to lose by reporting?

What do you risk if you do nothing?

What is the Penalty for Not Reporting?



Penalty for NOT Reporting

- Failure to Report is a Class 1 Misdemeanor
 - fine of up to \$4000
 - 6 months in jail
 - three years probation
- Class 6 Felony for “Reportable Offenses”
 - Fine of up to \$150,000
 - Presumptive one year prison term, minimum six months
 - Statue of Limitations – 7 year discovery rule
- Can also result in loss of your job (See District Policy GCQF) and/or loss of your professional license



**Can I Get in Trouble for Making a
Report?**

Immunity When Making a Report

- Abuse Reporting: “A person furnishing a report, . . . under this section.. shall be immune from any civil or criminal liability by reason of such action unless the person acted with malice. . . .” A.R.S. § 13-3620(J).
- General Reporting: “A school district and its employees are immune from liability for any good faith actions taken in furtherance of this paragraph.” --A.R.S. § 15-341(A)(33)

**When Do I Have a “Reasonable
Belief” to Make a Report?**

What Constitutes “Observation or Examination”?

- First hand observation; or
- Report from a third party who observed or examined the child, if reliable, enough to trigger the reporting requirement.



What Constitutes a “Reasonable Belief”?

- Any facts from which one could reasonably conclude that a child had been abused.
- “Reasonable grounds is a low standard.”
 - L.A.R. v. Ludwig 170 Ariz. 24 (App 1991)



What Constitutes a “Reasonable Belief”? (Continued)

- No need to investigate prior to reporting.

“The statute does not contemplate that a person must fully investigate the suspected abuse before making a report. All the person must do is make the report. It is the responsibility of Child Protective Services and the police to investigate the allegations...We do not believe our legislature intended persons with knowledge of alleged child abuse to conduct their own investigation to decide whether enough evidence of abuse exists to warrant a report.”

See L.A.R. v. Ludwig, 170 Ariz. 24 (1991)

When Should a Report be Made and How?



When and How to Make a Report

A mandatory reporter must report the abuse, child abuse, reportable offense, or neglect;

OR

CAUSE IT TO BE reported

In all cases, the reporter is responsible for ensuring the report is, or has been made!

Does the duty to report end if the employee has a reasonable belief or knows that another employee has previously reported the event?

- “Specific knowledge that the incident has been reported by another caregiver satisfies this obligation. Mere belief without verification is insufficient.”
- So, the question is...Do ya’ feel lucky?
- Or, more to the point, are you willing to bet your license or liberty on it?

When do you report?

- A person who reasonably believes that a non-accidental injury, abuse, child abuse, neglect or a reportable offense has occurred shall **immediately** report or cause reports to be made of this information.



What does “immediate” mean??

- Time is of the essence...if a school employee forms a reasonable belief of abuse early in the school day, the statute “would require the teacher to make a report, or cause the report to be made, as soon as possible.”
- “In short, to comply with the reporting statute, a covered person should make the required report immediately and without delay as soon as the person forms a reasonable belief that a child has been abused.”
- Tip: Same day is good, but as soon as you can is better.





How is a Report Made?

- By telephone, in-person, or electronically.
- Written report within 72 hours, including:
 - Names and addresses of minor and minors parents or custodians;
 - Minor's age and extent of minor's injuries or physical neglect, including any evidence of previous injuries or physical neglect;
 - Other information that may be helpful in establishing the cause of the injury or physical neglect.

To Whom Should You Report?



- **to a peace officer** (likely your school resource officer or “SRO”) **or**
- **to the Department of Child Safety** (formerly Child Protective Services or “CPS”),
- **except** if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a **peace officer only**.
- (Tip: It’s always a good idea to report to your SRO even if you have made a report to DCS)

DCS Information

- To submit a report electronically, go to:
https://www.azdes.gov/dcyf/cps/mandated_reporters/
- To make a report to DCS via phone, call:
1-888-SOS-CHILD
(1-888-767-2445)
TDD: 602-530-1831
(1-800-530-1831),
- The DCS website advises that if your concern involves an emergency situation (a child in imminent harm), to call 911 immediately.

Other Considerations and Closing Remarks

Reports to Department of Education

- If the alleged abuser is a certificated employee, a report must also be made to the Arizona Department of Education.
- Reports can be made by telephone by calling the Investigative Unit at (602) 542-2972.
- Written reports should be sent to:

Arizona State Board of Education
Investigative Unit
1535 W. Jefferson
Phoenix, AZ 85007

District Policy and Regulations

- District Policies and Regulations concerning the duty to report child abuse can be found in the policy manual at JLF and JLF-R.
- Note: District policy requires that when a school employee has made a report to DCS or law enforcement that the employee must also notify the principal of the report no later than the next working day.

Abuse of Incapacitated Persons, Ages 18 and Older

- Arizona law mandates that any “person who has responsibility for the care of an incapacitated or vulnerable adult . . . who has a reasonable basis to believe that abuse of the adult . . . has occurred, must immediately report or cause reports to be made . . . to a peace officer or Adult Protective Services.”
- Immunity for reporting similar to child abuse statute.
- As with child abuse statute, criminal sanctions apply for failure to report.

Abuse of Incapacitated Persons, Ages 18 and Older (Cont.)

- This reporting obligation, in the school setting, most often becomes applicable when an employee suspects that an adult student with a disability has been the victim of abuse.
- You can report abuse, neglect, and exploitation of Arizona's vulnerable or incapacitated adults at: (877) 767-2385, (877- SOS-ADULT), TDD (877) 815-8390.
- An electronic report can be made at: <https://www.azdes.gov/landing.aspx?id=7307>

Again, Don't Get Caught Up in Definitions...

You must report non-accidental injury, abuse, child abuse, reportable offense or neglect-

EVEN IF it is **ALSO** being reported as

- A violation of school behavioral policies
- A violation of the anti-bullying policies
- A violation of the anti-hazing policies

Rules to Live By

- Do ***not*** confront the alleged abuser.
- Do ***not*** let parents, the nurse, the principal, or others decide whether to report. It's about the individual's reasonable belief.
- Do ***not*** notify parents if one or both parents are suspects.
- You do not have to know all the answers to make a report
- If in doubt, call DCS/Police anyway.
- In short... REPORT!