

**Understanding School Obligations
to Report Child Abuse**
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The Laws

» A review of the statutes regarding the reporting of abuse, neglect, exploitation and trafficking.

» Under Oklahoma law, School District employees have varying legal obligations to report:

- abuse,
- neglect,
- exploitation and
- trafficking.

Two Different Requirements to Report Abuse and Neglect

OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.*

- ▶ "Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services."
- ▶ Every teacher having reason to believe that a child under the age of 18 is a victim of abuse or neglect shall immediately report the matter to the DHS hotline
- ▶ Every teacher having reason to believe that a student over the age of 18 is a victim of abuse or neglect shall immediately report the matter to local law enforcement.

OKLA. STAT. tit. 70, § 1210.163

- ▶ A school employee who has reason to believe that a student is a victim of abuse or neglect shall report the matter promptly to DHS and to local law enforcement.

Who Must Report Abuse & Neglect?

OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.*

- ▶ Who must report?
 - Every Person—including teachers—when they have "reason to believe" a child is the victim of Abuse of neglect.
 - Every teacher who has "reason to believe" a student over 18 years old is a victim of abuse or neglect.

OKLA. STAT. tit. 70, § 1210.163

- ▶ Who must report?
 - Any school employee who has "reason to believe" that a student is a victim of abuse or neglect.

What must be reported?

OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.*

- ▶ What must they report?
 - Abuse or Neglect (Limited Definition)
 - "Neglect" means:
 - the failure or omission to provide any of the following:
 - adequate nutrition and affection, food, clothing, shelter, sanitation, hygiene
 - appropriate education, medical, dental or behavioral health care,
 - supervision or appropriate caretakers, or
 - Special care made necessary by the physical or mental condition of the child
 - the failure or omission to protect a child from exposure to any of the following
 - the use, possession, sale or manufacture of illegal drugs (not medical marijuana)
 - illegal activities
 - sexual acts or materials that are not age-appropriate, or
 - abandonment

What must be reported?

Pt. 2

OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.*

- ▶ What must they report?
 - Abuse or Neglect (Limited Definition)
 - Abuse: means
 - harm or threatened harm to the health, safety, or welfare of a child
 - by a person responsible for the child's health, safety, or welfare,
 - a parent
 - a legal guardian
 - custodian
 - a foster parent
 - a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child
 - an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in OKLA. STAT. tit. 10, § 175.20, or
 - an owner, operator, or employee of a child care facility as defined by OKLA. STAT. tit. 10, § 402.
 - including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation.

What must be reported?

Pt. 3

OKLA. STAT. tit. 70, § 1210.163

- ▶ What must they report?
 - Abuse or Neglect (Expanded Definition):
 - Everything included in OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.* AND
 - Other crimes, including, but not limited to:
 - sexual abuse/exploitation; contributing to the delinquency of a minor; trafficking; incest; forcible sodomy; taking or enticing a child away; involving a minor in participation or distribution of child pornography; facilitating, encouraging, offering or soliciting sexual conduct with a minor; causing, inducing, persuading or encouraging a minor to engage in or securing a minor for prostitution or any other lewd or indecent act; rape; making any oral, written or electronically or computer-generated lewd/indecent proposals to a minor under the age of 16.

To whom must the abuse or neglect be reported?

OKLA. STAT. tit. 10A, § 1-2-101 *et. seq.*

OKLA. STAT. tit. 70, § 1210.163

- For incidents involving a minor:
 - DHS via the statewide hotline:
 - Statewide 24 hour Child Abuse Hotline 1.800.522.3511
 - For incidents involving a student over 18:
 - Local Law Enforcement
- For every incident:
 - DHS via the statewide hotline:
 - Statewide 24 hour Child Abuse Hotline 1.800.522.3511; AND
 - Local Law Enforcement

Immunity and other issues

OKLA. STAT. tit. 10A, § 1-2-101 et. seq.

- ▶ Good Faith Reporting Protection
 - Immunity from state civil and criminal liability for reporting abuse or neglect in "good faith"
 - Good Faith is Presumed
- ▶ Failure to Report Child Abuse can result in:
 - A misdemeanor or
 - A felony if the individual has prolonged knowledge (> 6 months) of ongoing child abuse or neglect who knowingly and willfully fails to promptly report.
- ▶ Reporting in Bad faith may result in a misdemeanor.

OKLA. STAT. tit. 70, § 1210.163

- ▶ No civil or employment immunity expressly provided.

Another Law Regarding Reporting of Abuse, Neglect, & Exploitation

Incapacitated

OKLA. STAT. tit. 30, § 4-903

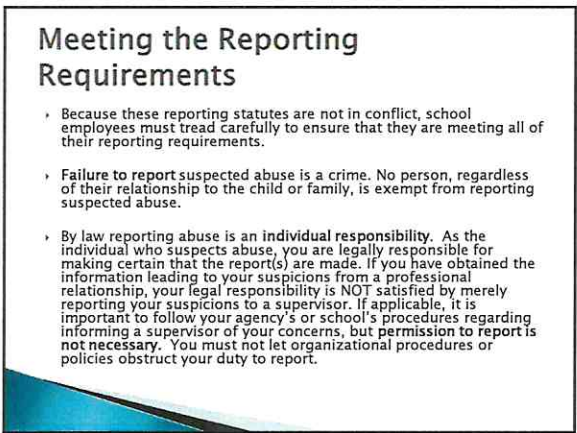
- ▶ Under another provision of law
 - "Any person having reasonable cause to believe that an incapacitated person, a partially incapacitated person, or a minor is suffering from abuse, neglect, or exploitation shall make a report to [1] the Department of Human Services, [2] the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred, or [3] the local municipal police department or sheriffs department as soon as such person is aware of the situation."
- Contains a provision regarding criminal, civil, & employment immunity for good faith reporting.
- Failure to report may result in a misdemeanor.
- Making a false report may result in civil liability.

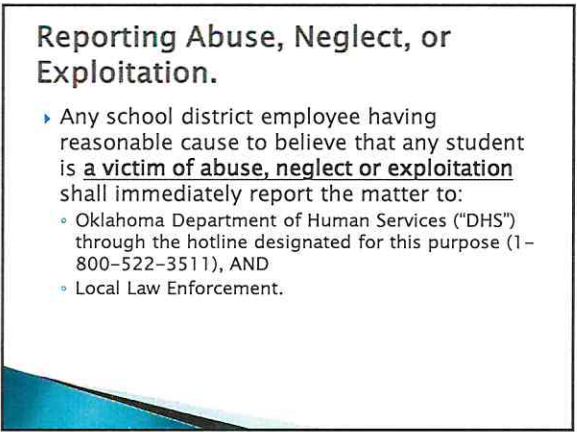
Reporting Requirement for Child Trafficking

OKLA. STAT. tit. 21, § 870

- ▶ Under Oklahoma law "Every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, . . . shall report the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control."
 - Reports should be made via the hotline for that purpose:
 - OBNDD Human Trafficking Toll Free Hotline:(855) 617-2288
 - Reports made in good faith are subject to employment action immunity.
 - Failure to report may result in license revocation or suspension.
- ▶ This reporting requirement is in addition to other reporting requirements.







Reporting Abuse, Neglect, Exploitation, or Trafficking

- ▶ Any school district employee must report **suspected child trafficking** to:
 - Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDCC) at 1-800-522-8031,
 - DHS through the hotline designated for this purpose (1-800-522-3511), AND
 - Local Law Enforcement.

What Information Should I be Ready to Report?

- The names, addresses and whereabouts of the child and the child's parents, or other persons responsible for the child's welfare;
- The child's age;
- The nature and extent of the abuse or neglect;
- If the child has tested positive for alcohol or a controlled dangerous substance; and
- Any other information you believe might be helpful in establishing the cause of the injuries and the identity of the person responsible.

What should I document when reporting?

- ▶ For each entity reported to, you should document:
 - Date of Report
 - Time of Report
 - Name of the Individual you are reporting to
 - Case, Report or Confirmation Number
- For reports to local law enforcement, you should also document the method by which you reported.

PROTECT YOURSELF – ERROR ON THE SIDE OF REPORTING

Special Reporting Issues Related to Schools

- What are special reporting issues related to schools?

State law specifies that schools are not responsible for notifying parents that a child was interviewed at the school regarding a child abuse report. The task for notifying parents is the responsibility of OKDHS.

School personnel, as well as medical, public health, mental health professionals, or any other professional person interacting with children should **NOT** delve into a child's situation beyond determining whether there is a **REASON to BELIEVE** the child is being abused or neglected, or in danger of being abused or neglected, assessing the risk of harm for reporting purposes and obtaining enough information to report to OKDHS.

Additional Issue - Threatening Behavior:

- ▶ New provision of law now requires an "officer or employee" of a school to notify law enforcement any verbal threat or act of threatening behavior which reasonably may have the potential to endanger students, school personnel or school property.
- ▶ Threatening behavior defined as "any verbal threat or threatening behavior, whether or not direct at another person, which indicates a potential for future harm to students, school personnel or school property."
- ▶ Grants civil immunity and immunity from employment discipline for reports made in good faith.

OKLA. STAT. tit. 70, § 24-100.8

RFR's Resources

- ▶ Chalkboard
- ▶ Sign up for weekly Legislative Advisories and Red Banner updates from RFR.
- ▶ Use our Client Legislative Update portal at rfrlaw.com.
- ▶ Email Haley Drusen at hdrusen@rfrlaw.com.



