

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

FFG
(LEGAL)

ANTIVICTIMIZATION
PROGRAM

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

DUTY TO REPORT
BY ANY PERSON

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

ABUSE OF
PERSONS WITH
DISABILITIES

A person having cause to believe that a person with a disability who is over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

BY A
PROFESSIONAL

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

Family Code 261.101(b)

ADULT VICTIMS OF
ABUSE

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*

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PSYCHOTROPIC
DRUGS AND
PSYCHOLOGICAL
TESTING

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFAC]

CONTENTS OF
REPORT

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.103, .104

TO WHOM REPORTED

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(a)(1)

JJAEPS

Any report of alleged abuse, neglect, or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a

	juvenile justice alternative education program. <i>Family Code 261.405(a)(2)(A), (b)</i>
IMMUNITY FROM LIABILITY	<p>A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. <i>Family Code 261.106</i></p> <p>A district may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. <i>Family Code 261.110</i> [See DG]</p>
CRIMINAL OFFENSES	
FAILURE TO REPORT	<p>A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see DUTY TO REPORT, above] and knowingly fails to make a report as provided by law.</p> <p>A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see DUTY TO REPORT] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.</p> <p><i>Family Code 261.109</i></p> <p>Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 Administrative Code Chapter 249. <i>19 TAC 61.1051(a)(2)(A)</i></p>
FALSE REPORT	<p>A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i></p>
COERCION	<p>A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i></p>
CONFIDENTIALITY OF REPORT	<p>A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. <i>Family Code 261.201</i></p>

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

INVESTIGATIONS
REPORTS TO
DISTRICT

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

INTERVIEW OF
STUDENT

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

INTERFERENCE
WITH
INVESTIGATION
CONFIDENTIALITY

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

REPORTING POLICY

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see TO WHOM REPORTED, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion.

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (relating to CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must notify school personnel of the following:

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1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
 - a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
 - b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with a district's reporting policy;
6. The prohibition under Education Code 26.0091 [see PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING, above]; and
7. The current toll-free number for DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051(a)

ANNUAL
DISTRIBUTION
AND STAFF
DEVELOPMENT

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(b)*

Each school year, a district shall provide training as required by Education Code 38.0041 to all new district employees as a part of new employee orientation. [See DH and DMA] *Education Code 38.0041; 19 TAC 61.1051(c)*

REQUIRED POSTER

A district shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public

area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
 - a. The current toll-free DFPS Abuse Hotline telephone number (in bold print);
 - b. Instructions to call 911 for emergencies; and
 - c. Directions for accessing the DFPS [Texas Abuse Hotline Website](#)¹ for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f)

¹ Texas Abuse Hotline Website: <http://www.txabusehotline.org>

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REPORTING CHILD
ABUSE AND NEGLECT

Any person who has cause to believe that a child has been or may be abused or neglected by any person shall make a report immediately as required by law.

Reports shall be made in accordance with FFG(EXHIBIT).

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

What are the District's policies addressing child abuse or neglect and my responsibilities for reporting suspected child abuse or neglect?

The applicable District policies—FFG(LEGAL) and (LOCAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact the Superintendent at (254) 853-2172.

What are my legal responsibilities for reporting if I suspect that a child has been or may be abused or neglected?

Anyone who suspects that a child has been or may be abused or neglected has a legal responsibility, under state law, for reporting the suspected abuse or neglect to law enforcement or to Child Protective Services (CPS).

Any District employee, agent, or contractor has an additional legal obligation to submit the oral or written report within 48 hours of learning of the facts giving rise to the suspicion.

An employee will make a report if the employee has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

Are there any restrictions on reporting?

Under state law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

- Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

To whom do I make a report?

Reports may be made to any of the following:

- A law enforcement agency: The Moody Police Department, at (254) 853-2314;
- The CPS division of the Texas Department of Family and Protective Services at (800) 252-5400 or [Texas Abuse Hotline Website](#)¹; or

- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

Will my report be kept confidential?

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

Will I be liable in any way for making a report?

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

What will happen if I don't report suspected child abuse or neglect?

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

What are my responsibilities regarding investigations of abuse or neglect?

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

¹ Texas Abuse Hotline Website: <http://www.txabusehotline.org>

RELATIONS WITH GOVERNMENTAL ENTITIES
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

GRA
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CPS INVESTIGATIONS
AT SCHOOL

A school official may not refuse to permit a Child Protective Services (CPS) investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit district personnel to be present at a student interview conducted at school. *Family Code 261.302(b), .303(a); Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of a CPS investigation shall release that information to the Texas Department of Family and Protective Services (DFPS) on request. The release of information to DFPS as required by this subsection by a person is not subject to Government Code 552.352 or any other law providing liability for the release of confidential information. *Family Code 261.303(e)*

CPS INVESTIGATIONS
OF SCHOOLS

On receipt of a report of alleged or suspected child abuse or neglect in a public school, DFPS shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in DFPS rule. *Family Code 261.406; 40 TAC 700.401-.412*

NOTICE TO
PRINCIPAL

Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator.

40 TAC 700.407

INTERVIEWS

School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.

PARTICIPANTS

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an

alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or
2. A better interview or examination of the child would result without school personnel or volunteers being present.

Family Code 261.303; 40 TAC 700.409(a)

REPORT OF
FINDINGS

After DFPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the board president, and the school principal, unless the principal is the alleged perpetrator.

CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

40 TAC 700.411(a), (d)

STUDENTS TAKEN
INTO CUSTODY

A child may be taken into custody under Family Code Title 3 (Juvenile Justice Code):

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer, including a school district peace officer, if there is probable cause to believe the student has engaged in a criminal violation, delinquent conduct, conduct indicating a need for supervision, or conduct that violates a condition of probation.
4. By a probation officer, if there is probable cause to believe the student has violated a condition of probation or a condition of release.
5. Pursuant to a directive to apprehend issued by a juvenile court.
6. By a law enforcement officer, to take the child's fingerprints or photograph, as set forth at Family Code 58.0021.

Family Code 52.01(a), 58.0021

In addition, a child may be taken into custody without a court order:

1. By an authorized representative of the DFPS, a law enforcement officer, or a juvenile probation officer under the condi-

RELATIONS WITH GOVERNMENTAL ENTITIES
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tions set out in Family Code 262.104, relating to the student's physical health or safety; or

2. As otherwise provided by Family Code Chapter 262 (Suit by Governmental Entity to Protect Health and Safety of Child).

Family Code Ch. 262

STUDENTS IN
CUSTODY

A person taking a child into custody may, if school is in session and the child is a student, bring the child to the campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. *Family Code 52.02(a)(7)*

RELATIONS WITH GOVERNMENTAL ENTITIES
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CHILD ABUSE
INVESTIGATION

When a representative of the Department of Family and Protective Services or another lawful authority requests to question or interview a student at school as part of a child abuse investigation, the principal shall cooperate fully with the official's requests regarding the conditions of the interview or questioning.

OTHER QUESTIONING
OF STUDENTS

When law enforcement officers or other lawful authorities request to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The principal ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student. If the interviewer raises what the principal considers to be a valid objection to the notification, the parent shall not be notified.
3. The principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the principal considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

STUDENTS TAKEN
INTO CUSTODY

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the principal shall verify the official's identity. To the best of his or her ability, the principal shall verify the official's authority to take custody of the student and then shall deliver over the student.

The principal shall immediately notify the Superintendent and ordinarily shall notify the parent or other person having lawful control of the student. If the officer or other authorized person raises what the principal considers to be a valid objection to notifying the parent at that time, the principal shall not notify the parent.

[See FO for notification requirements by the campus behavior coordinator under Education Code Chapter 37.]

RECOMMENDED
PROGRAMS

The Texas Department of State Health Services (TDSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. The District may select from the list a program or programs appropriate for implementation in the District.

The list must include programs in the following areas:

1. Early mental health intervention;
2. Mental health promotion and positive youth development;
3. Substance abuse prevention;
4. Substance abuse intervention; and
5. Suicide prevention.

TDSHS, TEA, and each ESC shall make the list easily accessible on their Web sites.

The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
3. Intervene effectively with students described by items 1 or 2 above, by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

TRAINING

The District shall provide training described in the components set forth above for teachers, school counselors, principals, and all other appropriate personnel. The District is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. The District may implement a program on the list to satisfy the training requirements.

If the District provides the training, a District employee must participate in the training at least one time, and the District shall maintain records that include the name of each District employee who participated in the training.

POLICY

The Board may adopt a policy concerning mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention that:

1. Establishes a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
2. Establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;
3. Establishes that the District may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the District for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and
4. Sets out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The policy and any necessary procedures adopted must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

District policy and procedures are not intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. District policy and procedures are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. School districts do not have the authority

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to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

Health and Safety Code 161.325

IMMUNITY

These requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Health and Safety Code 161.326*

