

Mandated Reporter Obligations under the Child Protection Act

The Michigan Child Protection Law requires certain persons (commonly referred to as “mandated reporters”) to report suspected child abuse or neglect. School administrators, counselors, and teachers are all mandated reporters. When a school official who is a mandated reporter “has reasonable cause to suspect child abuse or child neglect,” the individual must:

1. make an immediate oral report of the suspected abuse or neglect to the Department of Human Services (DHS)/ Child Protective Services (CPS);
2. file a written report within 72 hours after making the oral report (use Form DHS-3200); and
3. notify the person in charge of the school (e.g., building administrator and superintendent) that the report has been made and provide a copy of the written report.

Mandated reporters must always report suspected child abuse or neglect to DHS; merely advising the principal of suspected abuse is not sufficient to meet the individual’s legal obligation. One written report from the school per incident meets the requirement; each individual mandated reporter is not obligated to complete a separate report.

Mandated reporters are not required to investigate or determine whether abuse or neglect has actually occurred. That responsibility belongs to DHS. While school officials should not investigate the CPS matter, they (1) must investigate alleged employee misconduct under applicable board policy and non-discrimination laws (e.g., Title IX); and (2) should attempt to uncover information that will be helpful in making the oral and written CPS reports. This information includes:

- child’s name, birthdate, race, and address;
- address where the alleged incident happened, if different;
- name of the alleged perpetrator, the relationship to the child, and whether the accused lives with the child;
- statements of the child’s disclosure and context (e.g., was the child asked about the injury or did the child volunteer the information?);
- history of the child’s behavior and patterns of attendance; and
- reasons why reporter suspects abuse or neglect.

Child abuse is defined as “harm or threatened harm to a child’s health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child’s health or welfare or by a teacher, a teacher’s aide, or a member of the clergy.” Common indicators of physical abuse include:

- questionable, multiple, or recurring bruises or welts on a body, including in the shape of an object (e.g., a belt, an electric cord, a hand);
- burns, including in the shape of an object (e.g., cigarette, cigar, iron, stove burner);
- bite marks;
- bald spots or missing clumps of hair; and
- questionable, multiple, or recurring fractures.

Common indicators of sexual abuse include:

- age-inappropriate knowledge of sexual behavior;
- age-inappropriate seductive behavior;
- sexually explicit drawings and behavior;
- unexplained fear of a person or a place;
- unexplained itching, pain, bruising or bleeding in the genital area;
- pregnancy 12 years and under; and
- venereal disease, frequent urinary or yeast infections.

Child neglect is defined as “harm or threatened harm to a child’s health or welfare by a parent, legal guardian, or any other person responsible for the child’s health or welfare” that occurs through either of the following:

- (i) negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care; or
- (ii) placing a child at an unreasonable risk to the child’s health or welfare by failure of the parent, legal guardian, or other person responsible for the child’s health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

Common indicators of neglect include:

- persistent hunger;
- stealing or hoarding food;
- abrupt, dramatic weight change;
- persistent poor hygiene;
- recurring untreated medical issues;
- ongoing lack of supervision;

- consistently inappropriate dress; and
- excessive school absences.

Mandated reporters who fail to report suspected abuse or neglect can be held liable for that failure under both civil and criminal law. In a civil action, the mandated reporter may be held liable for all damages that any person suffers due to the mandated reporter’s failure to file a report. In a criminal action, the mandated reporter may be found guilty of a misdemeanor punishable by imprisonment for up to 93 days and a fine of up to \$500.

When a mandated reporter files a report with DHS, the reporter’s identity may not be shared with any person other than the child protective services and law enforcement agencies investigating the alleged abuse or neglect unless the reporter agrees in writing or a judge orders such disclosure. Concern that a parent or other suspect could discern the identity of the mandated reporter does not alleviate the legal obligation to file a report.

When a mandated reporter files a report in good faith, the mandated reporter cannot be held liable to any person (e.g., the suspected abuser) for any damages. The mandated reporter is also immune from any criminal liability that could otherwise result. When a school official files a report with DHS, the school official is presumed to have acted in good faith. To establish otherwise, the suspected abuser must prove that the mandated reporter made the report for some reason unrelated to the child’s well-being. School officials have, on occasion been found to have acted without good faith when the report to DHS was found to have been made in retaliation for unrelated parent conduct, such as in retaliation to the parents’ filing a due process complaint against the school.