

REPORTING REQUIREMENTS

Any school district employee or volunteer having reason to believe that any child under the age of eighteen (18) has been abused, abandoned, or neglected, or who observed the child being subjected to conditions or circumstances that would reasonably result in abuse, abandonment, or neglect, shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the Department of Health and Welfare (DHW). Failure to report abuse, abandonment, or neglect is a misdemeanor under Idaho law.

DEFINITIONS

Abused:

Any case in which the child has been the victim of: (1) conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive, or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or (2) sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photography, filming or depiction for commercial purposes, human trafficking as defined in chapter 86, title 18, Idaho Code, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

Abandoned:

The failure of the parent to maintain a normal parental relationship with the 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 will constitute prima facie evidence of abandonment.

Neglected:

A child (1) who is without proper parental care or control, or subsistence, or education, or medical or other care or control necessary for his or her well-being because of the conduct or omission of the parents, guardian, or other custodian or their neglect or refusal to provide them; however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment will be deemed for that reason alone to be neglected or to lack parental care necessary for his or her health and well-being; or (2) whose

parents, guardian or other custodian are unable to discharge their responsibilities to and for the child and, as a result of such inability, the child lacks the parental care necessary for his/her health, safety or well-being; or (3) who has been placed for care or adoption in violation of law; or (4) who is without proper education because of the failure to comply with Idaho Code §33-202.

PROCEDURE FOR REPORTING

1. Any school district employee or volunteer will report or cause to be reported any suspected child abuse, abandonment or neglect within twenty-four (24) hours to their immediate supervisor. The supervisor shall immediately notify the building principal, superintendent or designee, who shall in turn report or cause to be reported the circumstances to DHW or local law enforcement.
2. The reporting party (district employee or volunteer initiating the report) will complete a written statement setting forth the reasons believed that a child has been abused, abandoned, or neglected. The date and time will be set forth on the written report.
3. The agencies contacted and the names of the individuals with whom the reporting party spoke will also be set forth.
4. Any prior suspicions will also be set forth.

The written report will be delivered to the building principal, who will then deliver a copy of the written report to the superintendent.

The district will not conduct an internal review or investigation of the alleged abuse, abandonment, or neglect of a student in lieu of reporting to DHW or the local law enforcement agency. However, where the report concerns an allegation of misconduct by a district employee, nothing in this policy shall prohibit the district from taking administrative or employment action, or conducting an internal review or investigation after a report has been made in compliance with Idaho law and this policy.

All school district employees and volunteers will cooperate with DHW and/or local law enforcement investigations of reported abuse, abandonment, or neglect.

REPORTING IMMUNITY

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, will have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant will have the same immunity in respect to participation in any judicial

proceedings resulting from the report. Any person who reports in bad faith or with malice will not be protected. Any privilege between husband and wife, or between any professional person, except the lawyer-client privilege, including, but not limited to, physicians, counselors, hospitals, clinics, day care centers, and schools and their clients, will not be grounds for excluding evidence in any proceedings regarding the abuse, abandonment, or neglect of the child or the cause thereof.

Although “reasonable belief” is not defined within Idaho Code, this standard generally means what a similarly situated person would do under similar circumstances.

Any person who makes a report or allegation of child abuse, abandonment, or neglect knowing the report to be false, or who reports or alleges such in bad faith or with malice, will be liable to the person 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 fees and costs of suit. If a court finds that the individual acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

CONFIDENTIALITY

The identity of a reporting party maintained by any law enforcement entity or the Department of Health and Welfare relating to the investigation of child abuse, neglect or abandonment is exempt from disclosure pursuant to the Idaho Public Records Law unless the reporting party consents in writing to the disclosure or the disclosure of the reporting party’s identity is required in any administrative or judicial proceeding.

DISCIPLINARY ACTION

Any district employee who fails to report a suspected case of abuse, abandonment, or neglect as required by Idaho law and this policy, 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 REFERENCE:

Idaho Code Sections

- 16-1602 – Child Protective Act Definitions
- 16-1605 – Reporting of Abuse, Abandonment and Neglect
- 16-1606 – Immunity
- 16-1607 – Reporting in Bad Faith

33-145 – Idaho Student Safety and Educator Disclosure Act
74-124(1)(g) – Exemptions from Disclosure; Confidentiality
A.G. OP’N NO. 93-2
White by White v. Pierce County, 797 F.2d 812 (9th Cir. 1986)

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