

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LEGAL)

ANTIVICTIMIZATION PROGRAM	A district shall provide child abuse antivictimization programs in elementary and secondary schools. <i>Education Code 38.004</i>
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. <i>Family Code 261.101(a)</i>
ABUSE OF PERSONS WITH DISABILITIES	<p>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).</p> <p>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.</p> <p>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.</p> <p><i>Human Resources Code 48.051, .052, .054</i></p>
BY A PROFESSIONAL	<p>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.</p> <p>A professional may not delegate to or rely on another person to make the report.</p> <p>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.</p> <p><i>Family Code 261.101(b)</i></p>
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)*

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	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>
COERCION	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>
CONFIDENTIALITY OF REPORT	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

	<p>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> <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. <i>Family Code 261.101(d)</i></p>
INVESTIGATIONS REPORTS TO DISTRICT	<p>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. <i>Family Code 261.105(d)</i></p> <p>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. <i>Family Code 261.406(b)</i></p>
INTERVIEW OF STUDENT	<p>The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. <i>Family Code 261.302(b)</i> [See GRA]</p>
INTERFERENCE WITH INVESTIGATION CONFIDENTIALITY	<p>A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. <i>Family Code 261.303(a)</i></p> <p>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. <i>Human Resources Code 42.004</i></p>
REPORTING POLICY	<p>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.</p> <p>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.</p> <p>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</p>

investigation of abuse by school personnel and volunteers. [See GRA]

The policies must notify school personnel of the following:

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 website (<http://www.txabusehotline.org>) for more information on reporting abuse, neglect, and exploitation.

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