

## Reporting of Suspected Child Abuse

### 1. Definitions (ORS 419B.005)

#### a. "Abuse" means:

- (1) Any assault, as defined by ORS chapter 163, of a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury;
- (2) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child;
- (3) Rape of a child which includes but is not limited to, rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163;
- (4) Sexual exploitation including, but not limited to:
  - (a) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 (Definitions for ORS 167.002 to 167.027 or described in ORS 163.665 (Definitions for ORS 163.670 to 163.693 and 163.670 (Using child in display of sexually explicit conduct, sexual abuse involving a child or rape of a child but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 (Duty of department or law enforcement agency receiving report) and which is designed to serve educational or other legitimate purpose; and
  - (b) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in Oregon Revised Statutes.
- (5) Negligent treatment or maltreatment of a child including, but not limited to, the failure to provide adequate food, clothing, shelter or medical care. However, any child who is under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or the child's parents/guardians shall not, for this reason alone, be considered a neglected or maltreated child;
- (6) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare;
- (7) Buying or selling a person under 18 years of age as describe in ORS 163.537 (Buying or selling a person under 18 years of age);
- (8) Permitting a person under 18 year of age to enter or remain in or upon premises where methamphetamines are being manufactured;

- (9) Unlawful exposure to a controlled substance, as defined in ORS 475.005 (Definitions for ORS 475.005 to 475.285 and 475.840 to 475.980), that subjects a child to a substantial risk of harm to the child's health or safety.

"Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

- b. "Child" means an unmarried person who is under 18 years of age.
- c. "Law enforcement agency" means:
  - (1) Any city or municipal police department;
  - (2) Any county sheriff's office;
  - (3) The Oregon State Police;
  - (4) A county juvenile department.

## 2. Reporting

- a. All district employees shall promptly comply with the statutory requirements concerning the reporting of a suspected child abuse and use protective social services to prevent further abuse, as well as safeguard and enhance the welfare of abused children. In particular, any district employee having reasonable cause to believe that any child with whom the employee comes in contact has suffered abuse, or that any person with whom the employee comes in contact has abused a child, shall orally report or cause an oral report to be made immediately made by telephone or otherwise to the local office of the Oregon Department of Human Services, Child Protective Services division or to a law enforcement agency within the county where the person making the report is at the time of his/her contact. The district employee must also immediately inform his/her supervisor, building principal and file a report with the Director of Human Resources.
- b. If known, such report shall contain the names and addresses of the child, the child's parents or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, the explanation given for the suspected abuse, any other information which the person making the report believes might be helpful in establishing the possible cause of the suspected abuse and the identity of a possible perpetrator. See attached form.
- c. A written record of the child abuse report shall also be made by the employee suspecting the child abuse using the district's child abuse reporting form, see attached. The written record of the child abuse report shall not be placed in the student's educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the Director of Human Resources.

## 3. Failure to Comply

Any district employee who fails to report a suspected child abuse as provided by this policy and the prescribed Oregon law commits a violation punishable by law. A district employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report suspected child abuse or fails to maintain confidentiality of records as required by this policy, the employee will be disciplined.

4. Suspected Child Abuse by District Employee

- a. When the district receives a report of suspected child abuse by one of its employees, and the director of human resources determines that there is reasonable cause to support the report, the district shall place the district employee on paid administrative leave until the Department of Human services or a law enforcement agency either:
  - (1) determines that the report is unfounded or that the report will not be pursued; or
  - (2) determines that the report is founded and the education provider takes the appropriate disciplinary action against the school district employee.
- b. If the Department of Human Services or a law enforcement agency is unable to determine whether the child abuse occurred the district may either reinstate the employee or take disciplinary action at the district's discretion.

5. Cooperation with Investigator

The district staff shall make every effort in suspected child abuse cases to cooperate with investigating officials as follows:

- a. Investigators wishing to interview or remove a student from the premises shall present themselves at the office and contact the principal or designee. Building sign-in procedures will be followed for all individuals participating in the investigation. All investigators must present valid agency photo identification.
- b. Any investigation of child abuse will be directed by the Oregon Department of Human Services or law enforcement officials as required by law. The principal or designee will request documentation from the investigating official demonstrating that the official has a warrant, a court order, exigent circumstances or parental consent to conduct the interview, or that the interview is not considered a "seizure" pursuant to *Greene v. Camreta* (9th Cir. 2009). If the investigating official does not have this documentation, the principal or designee may deny the official's request to interview the student on school property. The principal or designee shall require the investigating official to complete the form "Child Abuse Investigations Conducted on District Premises" as provided.
- c. If the student is to be interviewed at the school, the principal or designee shall make a confidential conference space available. The principal or designee of the school may, at the discretion of the investigator, be present during the interview, but should not ask questions or interfere with the investigation, except to protect the student's rights.
- d. The principal or representative shall advise the investigator of any conditions of disability prior to any interview with the affected child.
- e. In the event the investigator desires to remove a student from school premises, the officer shall sign the student out on the Child Abuse Investigations Conducted on District Premises form.
- f. When the subject matter of the interview or investigation is identified to be related to suspected child abuse, district employees shall not notify parents. District employees may contact parents when authorized by law enforcement.

- g. District employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

6. Confidentiality of Records

- a. The written record of each reported incident of child abuse, action taken by the district and any findings as a result of the report shall be maintained by the district.
- b. The name, address and other identifying information about the employee who made a child abuse report are confidential and are not accessible for public inspection.
- c. The disciplinary records of a district employee or former district employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. Therefore, if a district employee or former employee is convicted of a crime listed in ORS 342.143, the district that is or was the employer of that employee when the crime was committed shall disclose the disciplinary records of the employee to any person upon request. However, prior to the disclosure of a disciplinary record the district shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school district employee who is not the subject of the disciplinary record.