

Mandated Reporters and Outcry Witnesses

All states have specific laws governing the identification and reporting of suspected child abuse. Most states now mandate teachers and other education and health professionals to take a course on child abuse and neglect in order to receive or renew their licenses. As a special education teacher you are considered one of the mandated reporters. A mandated reporter is anyone coming in contact with children on a professional basis that may suspect possible abuse or neglect and is therefore required by law to report the case.

Who Are Mandated Reporters?

Depending on the state in which you reside, “mandated reporters” may be defined as any of the following:

- 1) A teacher.
- 2) An instructional aide.
- 3) A teacher’s aide or a teacher’s assistant employed by any public or private school.
- 4) A classified employee of any public school.
- 5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- 6) An administrator of a public or private day camp.
- 7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- 8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- 9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- 10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- 11) A Head Start program teacher.

- 12)** A licensing worker or licensing evaluator employed by a licensing agency.
- 13)** A public assistance worker.
- 14)** An employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- 15)** A social worker, probation officer, or parole officer.
- 16)** An employee of a school district police or security department.
- 17)** Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- 18)** A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney.
- 19)** A peace officer
- 20)** A firefighter, except for volunteer firefighters.
- 21)** A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker
- 22)** Any emergency medical technician I or II, paramedic
- 23)** A psychological assistant
- 24)** A marriage, family and child therapist trainee
- 25)** An unlicensed marriage, family, and child therapist intern
- 26)** A state or county public health employee who treats a minor for venereal disease or any other condition.
- 27)** A coroner.
- 28)** A medical examiner, or any other person who performs autopsies.
- 29)** A commercial film and photographic print processor. A “commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- 30)** A child visitation monitor. For purposes of the California Child Abuse Reporting Law, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit

between a child and any other person when the monitoring of that visit has been ordered by a court of law.

31) An animal control officer or humane society officer. For instance, (A) “Animal control officer” may mean any person employed by a city, county, or city and county for the purpose of enforcing animal control laws and regulations. (B) “Humane society officer” may mean any person appointed or employed by a public or private entity as a humane officer.

32) A clergy member. This may mean a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

33) Any custodian of records of a clergy member

34) Any employee of any police department, county sheriff’s department, county probation department, or county welfare department.

35) An employee or volunteer of a Court Appointed Special Advocate program

36) A custodial officer

37) Any person providing services to a minor child

Note: *Unless otherwise stated, volunteers are not mandated reporters.*

Any person required to report a case of suspected abuse or neglect who willfully fails to do so may be guilty of a misdemeanor and possible civil penalties.

Immunity

Mandated reporters usually have immunity from criminal and civil liability for any report required or authorized under the Child Abuse Reporting Law. This immunity applies even though the knowledge or reasonable suspicion of abuse was acquired outside his or her professional capacity or outside the scope of his or her employment. And if a mandated reporter is sued for making a report, he or she may be able to receive compensation for legal fees incurred in defending against the action.

Any person who makes a report of child abuse, even though he or she is not a mandated reporter, has immunity unless the report is proven to be false and it is proven that the person either knew the report was false or made it with reckless disregard of its truth or falsity.

Additional Safeguards for Mandated Reporters

No supervisor or administrator may impede inhibit a mandated reporter’s reporting duties or subject the reporting person to any sanction for making a report.

Depending on the state, any supervisor or administrator who violates the above cited code may be found guilty of a misdemeanor punishable by a fine and/or imprisonment.

If however, death or great bodily injury happens to the child as a result of the abuse, the supervisor or administrator who impeded or inhibited the report is guilty of a misdemeanor and may receive more serious punishment. The mandated reporter's identity is confidential and may only be disclosed to specified persons and agencies.

Mandated reporters and others acting at their direction are not liable civilly or criminally for photographing the victim and including the photograph with their report.

Liability for Failure to Make a Required Report

A mandated reporter who fails to make a required report of child abuse may be guilty of a misdemeanor punishable by jail or fine or by both a fine and imprisonment. If however, death or great bodily injury happens to the child as a result of the abuse, the mandated reporter is guilty of a misdemeanor with more serious consequences.

According to the Collin County Children's Advocacy Center (2008) the first adult to whom the child makes an outcry is recognized as the **"Outcry Witness"**. The Outcry Witness may be contacted during the investigation of a case, and/or during any legal proceedings that occur.

When a child makes an outcry of abuse:

- do find a private place to sit down and speak with the child.
- do explain to the child that you are going to tell someone who can help.
- do be open and understanding. Listen and be supportive by responding with genuine respect
- acceptance and non-judgment.
- do maintain eye contact.
- do believe the child.

When a child makes an outcry of abuse:

- do not show shock. The child has opened him/herself to total vulnerability by telling you about the abuse.
- do not ask leading questions or investigate the facts beyond what the child describes. Otherwise, you may interfere with the investigation and ultimately with the safety of the child or the prosecution of the offender.
- do not promise anything. It is not possible to know whether there will be an investigation or what the outcome of an investigation may be.
- do not tell the family of the report. If a family member is the abuser, you place the child at great risk.
- do not impose your personal values on the child. For example, it is important to bear in mind that poverty does not equal abuse.
- do not tell anyone who does not need to know about the abuse. Respect the child's privacy. If people learn of the abuse who need not know, the investigation may be mitigated and the child may be placed at unnecessary risk.

The very best response you can make to a child who has made an outcry of abuse is:

"I am very concerned and I am going to call someone who can help you!"