

# 2020-2021 Harassment/Abuse Training



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Harassment  
Bullying  
Child Abuse



# Relevant Harassment Policies

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- DAA Equal Employment Opportunity
- DH Employee Standards of Conduct
- DIA Freedom from Discrimination, Harassment & Retaliation – Employee Welfare
- FB Equal Educational Opportunity
- FDB Admissions
- FFH Freedom from Discrimination, Harassment & Retaliation – Student Welfare
- FFI Freedom from Bullying
- FO Student Discipline



# How can harassment occur?

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- Employee – Employee (DIA)
- Employee – Student (DIA, FFH, FB)
- Student – Student (FFH, FB)
- Student – Employee (FFH)
- Bullying (FFH, FFI)



# Employee – Employee

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- “The District prohibits sexual harassment and harassment based on a person’s race, color, gender, national origin, disability, religion, or age.”
- “Employees shall not tolerate harassment of others and shall make reports as required.”



# Prohibited Harassment

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- Race
- Color
- Gender
- National Origin
- Disability
- Religion
- Age
- Sex/Sexual Harassment



# When?

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- Verbal, physical, or nonverbal conduct that is so severe, persistent, or pervasive that the conduct:
  - Creates a hostile, intimidating, threatening work environment; or
  - Has the purpose or effect of unreasonably interfering with an individual's work performance; or
  - Otherwise adversely affects employment opportunities.



# Examples

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- Offensive or derogatory language or actions directed at another person's:
  - Religious beliefs or practices
  - Accent
  - Skin color
  - Need for workplace accommodation



# Examples

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- Threatening or intimidating conduct
- Offensive jokes (forwards)
- Name calling
- Slurs
- Rumors
- Physical aggression or assault
- Display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes
- Damage to property; theft
- Dating violence and stalking





# What is sexual harassment among employees?

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- Unwelcome sexual advances
- Requests for sexual favors
- Sexually motivated physical, verbal, or nonverbal conduct
- Dating violence and stalking
- Or other conduct or communication of a sexual nature



# When? (Sexual Harassment)

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- Submission to the conduct is either explicitly or implicitly a condition of an employee's employment; or
- When submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
- The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.



# Types of sexual harassment

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- Is same sex sexual harassment prohibited? YES
- Can the aggressor be a man or a woman? YES
- Can the victim be a man or a woman? YES

# Policy FFH:

## Employee-Student Harassment

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- Can be sexual harassment
- Can be other forms of prohibited harassment
  - Race
  - Color
  - National origin
  - Disability
  - Religion
  - Gender



# Policy FFH

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Sexual harassment of a student **by an employee** includes:

- any **welcome or unwelcome** sexual advances,
- requests for sexual favors, and
- sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature



# When?

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- Physical, verbal, or nonverbal conduct that
  - Affects a student's ability to participate in or benefit from an educational program, activity or creates a threatening, hostile, or offensive educational environment; or
  - Has the purpose or effect of substantially interfering with the student's academic performance; or
  - Otherwise adversely affects the student's educational opportunities.



# When?

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- A District employee causes the student to believe that:
  - The student must submit to the sexually harassing conduct to participate in a school program or activity; or
  - The employee will make an educational decision based on whether or not the student submits to the sexually harassing conduct.



# What is it?

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It also includes such activities as:

- engaging in sexually oriented conversations for purposes of personal sexual gratification
- **Telephoning or texting or e-mailing** a student at home or elsewhere to solicit inappropriate social relationships
- physical contact that would be reasonably construed as sexual in nature
- enticing or threatening a student to engage in sexual behavior in exchange for grades or other school-related benefit, like participation in a school program or activity.





# IT IS A CRIME!!!

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- A romantic relationship between a student and an employee is never ok.
- Texas Penal Code § 21.12 IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT
- (b) An offense under this section is a **felony of the second degree**.
- It does not matter if the student is 18 years-old or older or if the relationship is allegedly consensual.
- If convicted, forfeit TRS annuity payments.



# TEA rules

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- TEA has severe sanctions for an educator engaging in a romantic relationship with a student.
- A teacher's certificate "shall" be permanently revoked if an educator engages in or solicits a romantic relationship.
- Permanently revoked means forever.



# SB 7

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- The 2017 Legislature cracked down harder on improper relationships between educators and students:
  - Educator does not need to be certified
  - Student does not need to attend educator's school



# SB 7 con't

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- Reporting standards are tighter:
  - Supt must report to SBEC within seven days if an educator is terminated/resigned and *there is evidence* of an improper relationship (or other criminal behavior)
  - Principals must notify supt within 7 days if termination or resignation follows alleged incident of misconduct or the principal knew about educator's criminal record



# SB 7 con't

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- Sanctions against supt and principal possible for failure to report:
  - \$500-\$10,000 fine, and
  - possible nonrenewal of certification
- Administrator's certificate can be revoked for knowingly employing an applicant adjudicated or convicted of an inappropriate relationship
- Certificate revocation/suspension for knowingly assisting a person who engaged in sexual misconduct with a minor obtain a job



## SB 7 con't

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- Must notify parent of alleged improper relationship between educator and student as soon as possible after district becomes aware of alleged misconduct.



# Student to Student Harassment –Policy FFH

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- Sexual harassment
- Harassment based on other factors
  - Race
  - Religion
  - Disability
  - Color
  - National origin
  - Gender (includes actual or perceived sexual orientation or identity)



# When?

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- Physical, verbal, or nonverbal conduct that
  - Affects a student's ability to participate in or benefit from an educational program, activity or creates a threatening, hostile, or offensive educational environment; or
  - Has the purpose or effect of substantially interfering with the student's academic performance; or
  - Otherwise adversely affects the student's educational opportunities





# Gender-Based Harassment

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- Harassment based on:
  - Student's gender; or
  - Student's expression of characteristics perceived as stereotypical for the student's gender; or
  - Student's failure to conform to stereotypical notions of masculinity or femininity.
- Harassment regardless of the student or the harasser's actual or perceived sexual orientation or gender identity.



# Dating Violence

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- All school districts must have a policy
  - Policy FFH
  - “Dating violence occurs when one partner in a dating relationship, either past or current, intentionally uses physical, sexual, verbal or emotional abuse to harm, threaten, intimidate, or control the other partner or a person in a relationship with the individual who is or was in a relationship with the person committing the offense.”



# Dating violence - examples

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- Physical or sexual assaults
- Name-calling
- Put-downs
- Threats to harm student or members of family or household
- Destroying property of student
- Threats to commit suicide or homicide
- Attempts to isolate student from family or friends
- Stalking
- Encouraging others to engage in these behaviors
- Threatening current partner



# Prevention

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- The District should take all steps necessary to prevent harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment, and developing methods to sensitize all concerned.



# Reporting

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- Employees who suspect, observe, or are made aware of harassment of any kind (between employees, between students, or between employees and students) should report that conduct immediately.
  - Campus principal
  - Immediate supervisor
  - 504 Coordinator (disability harassment)
    - Jessica Edwards
  - Title IX coordinator (sexual harassment)
    - Dyann Polzin
  - Superintendent (all other forms of harassment)



# District reporting procedures

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- Reports of harassment (and bullying to be discussed later) shall be made as soon as possible after the alleged acts. A failure to immediately report may impair the District's ability to investigate and address the harassment.
- **Reports should be in writing.**



# Report Procedures – Student

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- Principal or appropriate official shall notify parents of any student alleged to have experienced prohibited harassment by District employee or another adult.
- If student-student harassment occurs, District shall promptly notify parents when allegations presented, if proven, would constitute harassment
- If harassment is severe enough to be abuse, employees must consider whether a CPS report is required within 48 hours.

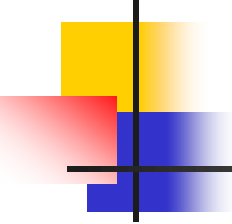


# District investigation procedures

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- Take all reports seriously.
- Reports are confidential to the greatest extent possible.

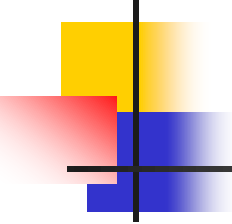




# Investigation (Non-Sexual Harassment)

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- Determine if the allegations if proven would constitute prohibited conduct
- If so, begin investigation or refer to appropriate individual to begin investigation
- If not, if involving a student, refer complaint for consideration under FFI (Bullying)
- If investigation required under FFH, must also determine whether bullying occurred under FFI as part of conclusions



# Investigation (Non-Sexual Harassment)

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- Take necessary interim action to address conduct during investigation
- Absent extenuating circumstances, conclude within 10 business days from date of initial report
- Investigate even if police or SBEC are investigating, but the District should notify the investigating agency that GISD will be conducting its own investigation



# Concluding investigation (Non-Sexual Harassment)

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- Prepare written report including a determination of whether prohibited conduct or bullying occurred
- File report with District official overseeing the investigation
- If prohibited conduct found to have occurred, take appropriate disciplinary and corrective actions



# Corrective action examples

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- Training for those involved or school as a whole
- Counseling
- Follow up
- Increase staff monitoring
- Reaffirming policies



## If Bullying found...

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- Refer to FFI for appropriate parent notice and District action
- May refer to FDB for transfer options



# Bullying

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- Policy FFI
- Works with FFH and must be read and applied in conjunction with the District's harassment policy under FFH
- Not all bullying constitutes harassment based on a protected characteristic (ex. race, gender, religion, etc..)



# Bullying

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- Bullying will not be tolerated.
- Defined as “a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power.”
- Numerous changes to bullying law as a result of David’s Law, passed in May, 2017



# Bullying

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- Can be girls or boys
  - NSBA/TASB reports bullies are increasingly becoming girls
- Can be
  - Physical conduct (hitting, kicking, assaulting)
  - Written conduct (teasing, threatening, taunting)
  - Oral conduct (teasing, threatening, taunting)
  - **Expression through electronic means, including social media, cell phones, camera, and texting (“Cyberbullying”)**





# Effect of Bullying

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- Has or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or damage to the student's property; or



## Effect of Bullying, con't.

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- Is sufficiently severe, persistent, **or** pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student, or



## Effect of Bullying, con't.

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- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school, or



# Effect of Bullying, con't.

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- Infringes on the rights of the victim at school.



# Bullying

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- Can occur
  - On school property
  - At a school-sponsored or school-related activity on or off school property
  - In a publicly or privately-owned vehicle being used to transport students to or from school or a school related activity.



# Cyberbullying

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- Cyberbullying can occur off school property and outside of a school-related event if it:
  - Interferes with a student's educational opportunities or
  - Substantially disrupts the class, school, or school-related activity.



# Bullying

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- Does not have to be based on a protected class
- May include
  - Harassment
  - Hazing
  - Threats
  - Taunts
  - Confinement
  - Assault
  - Ostracism



# Employee reporting

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- Any employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall promptly notify principal or designee
- Principal shall reduce oral reports to writing





# Determination of Harassment

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- Principal or designee shall determine whether the allegations in the report, if proven, constitute harassment prohibited by FFH
  - Allegations of sexual harassment should be referred to the Title IX Coordinator
- If so, proceed under FFH
- If conduct could be both bullying and harassment, must determine whether either or both occurred



# Investigation

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Principal or designee to conduct appropriate investigation based on allegations in report

Take interim action as necessary



# Be Careful!!

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- HB 1810 creates a new offense—  
Possessing or Accessing Lewd Visual  
Material Depicting a Minor
- Does not except possession or access of  
material collected as evidence in an  
investigation



# Concluding investigation

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- Absent extenuating circumstances, should be concluded in 10 business days from date of initial report
- Final, written report
- Must include determination of whether bullying occurred and if so, whether victim used reasonable self defense



# Notice to parents

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- If an incident of bullying is *reported* (not “confirmed”), principal or designee shall notify parents of the victim within three business days of the report.
- Must notify parent of alleged bully within a reasonable amount of time.



# Report to Law Enforcement

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- Principal or designee may report to law enforcement if a bullying investigation reveals student engaged in assault or harassment through repeated electronic communications



# Bullying and FERPA

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- Under FERPA, the parents may not be entitled to know the identify of the victim or bully...



# Action

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- Appropriate under Student Code of Conduct
- Cannot discipline victim who used reasonable self defense
- Training, follow up with staff if appropriate
- Counseling if appropriate
- Transfers of victim/bully may be appropriate





# Transferring the victim/bully

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- Policy FDB
- After investigation finding bullying occurred
- Classroom or campus
- Transfer the victim only at the parent's request
- Special Education/ 504 Students-always consult with the ARD Committee before changing a student's placement



# AEP or Expulsion of Bully

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- A student may be placed in an AEP or expelled if he/she:
  - Engages in bullying that encourages suicide
  - Incites violence against a student through group bullying
  - Releases/threatens to release intimate visual material of a student without student's consent



# What else?

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- It is illegal to retaliate against someone who makes a good faith report, participates in an investigation, or who has experienced harassment or bullying.



# CPS Reporting

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- Board Policies

- FFG

- GRA

- DG



# Reporting Requirement

- Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect or
- Any person who has cause to believe that an adult was a victim of abuse or neglect as a child and determines in good faith that disclosure is necessary to protect the health and safety of a child or elderly or disabled person .....



# Reporting Requirement

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- is required by law to make an oral report to the Texas Department of Protective and Regulatory Services (“CPS”) within 48 hours after the person first suspects abuse or neglect.
- The reporting requirement applies to all District employees, not just teachers or administrators.

# Prevention: Risk Factors for Abuse or Neglect



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- Children younger than 4
- Special needs that may increase caregiver burden
- Parents' lack of understanding of children's needs, child development, and parenting skills
- Parents' history of child maltreatment in family of origin
- Substance abuse and/or mental health issues including depression in the family
- Parental characteristics such as young age, education level, single parenthood, large number of dependent children, and low income



# Prevention: Risk factors for Abuse or Neglect

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- Non-biological, transient caregivers in the home
- Parental thoughts and emotions that tend to support or justify maltreatment behaviors
- Social isolation
- Family disorganization, dissolution, and violence, including intimate partner violence
- Parenting stress, poor parent-child relationships, and negative interactions
- Community violence
- Concentrated neighborhood disadvantage and poor social connections

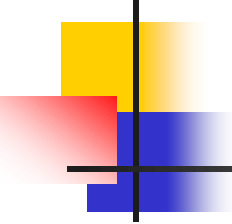




# Prevention: Techniques for Reducing Risk of Abused/Neglected

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- Communication and parent education
- Encourage parental involvement
- Referral to outside agencies for assistance
- Community-based programs



# Prevention: Internal Procedures for Seeking Assistance for Children At Risk of Abuse or Neglect

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- Consultation with school counselor
- Referral to school counselor
- Referral to district crisis counselor
- Communication with campus administrator



# Abuse

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- Causing or permitting mental or emotional injuries to a child's growth, development, or psychological functioning
- Physical injury resulting in substantial harm to a child or the genuine threat of substantial harm
- Failing to make reasonable efforts to prevent the above injuries
- Sexual contact harmful to a child's mental, emotional, or physical welfare
- Failure to make a reasonable effort to prevent sexual contact harmful to a child
- Compelling or encouraging a child to engage in sexual conduct as defined by 43.01 of the Texas Penal Code.



# Neglect

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- Placing or failing to remove a child from a situation where the child is exposed to “substantial risk” of harm
- Placing or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child’s level of maturity, physical condition, or mental abilities resulting in bodily injury or a “substantial risk” of immediate harm to the child
- Failing to seek, obtain, or follow through with medical care for a child resulting in or presenting a “substantial risk” of death, disfigurement, or bodily injury or resulting in an observable and material impairment to the growth, development, or functioning of the child
- Failing to provide a child with food, clothing, or shelter necessary to sustain life or health, excluding failure caused primarily by financial inability unless relief services have been offered and refused
- Placing or failing to remove a child from a situation where child would be exposed to “substantial risk” of harmful sexual contact



# Signs of abuse

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## ■ Physical

- Difficulty sitting or walking
- Pain during urination or bowel movements
- Discharge, itching in genital area
- Stained or bloody underclothing

## ■ Behavioral

- Sophisticated/unusual sexual knowledge/behavior
- Victimization of others
- Infantile behavior or extreme fear of being alone with certain adults
- Unwilling to change clothes for PE
- Feelings of guilt or shame
- Sleep disorders
- Self-abusive behavior
- Depression
- Frequent absence from school
- Poor hygiene; excessive bathing



# Signs of Neglect

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- Physical

- Obvious malnourishment
- Lack of personal cleanliness
- Torn and/or dirty clothes
- Insufficient clothing for warmth and protection
- Need for medical or dental attention

- Behavioral

- Stealing
- Hoarding
- Begging for food
- Frequent absence or tardiness
- Always hungry, tired, listless



# To whom do I make report?

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- Child Protective Services Division of the Texas Department of Family and Protective Services
  - 1-800-252-5400
  - [www.txabusehotline.org](http://www.txabusehotline.org)
  - 911 for emergencies
- Be as precise as possible in reports



# Always improper to report to....

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- School counselor
- Principal, assistant principal
- Superintendent
- Any other member of school staff
- Parents
- School district cannot require report to administrator before calling CPS or local law enforcement authority





# Confidentiality

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- State law requires that the identity of the person making the report of suspected child abuse or neglect be kept confidential.
- Except for purposes consistent with the law (investigations)
- Generally not disclosable under TPIA



# Failure to Report

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- You may be endangering a child.
- You are violating the law and may be subject to legal penalties, including criminal sanctions.
- You are violating Board Policy and may be subject to disciplinary action, including termination.
  - Commissioner has held this is good cause
- Your certification from SBEC may be suspended, revoked, or cancelled.