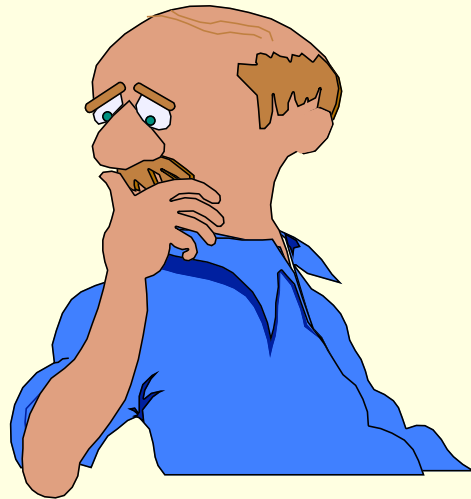


To Call, or Not to Call...

That is the Question.



Mandatory Reporting of Suspected Child Abuse

Edgemont UFSD 2025

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Two Distinct Bodies of Law

- Education Law Article 23-B §§ 1125-1134
 - Child Abuse in an Educational Setting

- Social Services Law Title 6 §§ 411-428
 - All other Child Abuse/Maltreatment

**STATUTORY HIGHLIGHTS
OF EDUCATION LAW
ARTICLE 23-B**

Education Law § 1125

■ Child Abuse:

- (a) intentional or reckless infliction of physical injury or death; or
- (b) intentional or reckless engagement in conduct which creates substantial risk
- (c) child sexual abuse
- (d) commission or attempt of crime of dissemination of indecent materials to minors
- (e) corporal punishment

Education Law § 1125

- Child: person under 21 years AND enrolled

- Employee:
 - (i) receiving comp OR
 - (ii) duties involve direct student contact AND
 - (a) receives comp from contractor w/District
 - (b) employee of contractor w/District

Education Law § 1125

- Volunteer: provides services to school
- Educational Setting:
 - Buildings & grounds
 - Vehicles for student transportation
 - Field trips
 - Extracurricular activity sites
 - ANY OTHER LOCATION where employee & student have direct contact

Education Law § 1125

- Administrator: principal or equivalent title in a school, or other chief school officer

- Law Enforcement Authorities:
 - Local police
 - Local sheriff
 - State police
 - DOES NOT INCLUDE CPS

Education Law § 1125

- Parent: any person legally responsible for child
- Child Sexual Abuse: as defined in NY Penal Laws 132 and 263

Education Law § 1126

- Mandated Reporters: licensed and certificated staff members
- Duties of Mandated Reporters upon receipt of allegation (oral or written) of child abuse in an educational setting by employee/volunteer:
 - **PROMPTLY** complete written report upon **PRESCRIBED FORM** and **PROMPTLY PERSONALLY deliver** to school administrator

Education Law § 1126

- Employees who REASONABLY and in GOOD FAITH make report as prescribed are immune from civil liability in connection with report

Education Law § 1127

- Reports and other written materials submitted with report shall be confidential and not redisclosed *except* to law enforcement involved in investigation or pursuant to *court-ordered* subpoena.
- Willful disclosure = Class A misdemeanor
- Class A misdemeanor: up to \$1,000 fine and/or ONE YEAR IN JAIL

Education Law § 1128

- Duties of school admins and superintendents:
 - PROMPTLY notify parent
 - PROMPTLY provide parent with copy of report
 - PROMPTLY provide parent with statement setting forth parental rights & responsibilities
 - PROMPTLY forward report to appropriate law enforcement (typically local police)

- NOTE: in no event shall reporting to law enforcement be delayed due to inability to contact superintendent

Education Law § 1128

- Any school admin or superintendent who REASONABLY and in GOOD FAITH makes report AND in good faith transmits it to law enforcement consistent with this Article shall be immune from civil liability in connection with that report

Education Law § 1128-A

- Superintendent shall refer report to Commissioner of Education IF alleged perpetrator holds license or certification issued by SED
- Report that does not result in criminal conviction shall be **EXPUNGED** from all school records after 5 years or sooner at the discretion of the Board of Education

Education Law § 1129

- Willful failure to report: Class A misdemeanor
- Willful failure of school admin to submit report to law enforcement: Class A misdemeanor (with enhanced penalty of \$5,000 max)

Education Law § 1131

- Employee convicted of crime involving child abuse will result in commencement of Part 83 review to determine whether employee has the good moral character to maintain license or certification
- Employee/Volunteer who has adverse consequences imposed is entitled to copy of report and opportunity to respond

Education Law § 1133

- School admin/superintendent shall not make any agreement to withhold from law enforcement, the superintendent or, where appropriate, the Commissioner the fact that a report of suspected abuse has been made, in return for resignation of alleged perpetrator
- Violation: Class E felony (fine up to \$20,000 and up to 4 YEARS in state prison)

Comparative Procedural Overview

SOCIAL SERVICES LAW

- 18 years old
- Some Discretion
- Report to SCR
- Inform Building Supervisor (who then handles all follow-up)
- Parents need not be notified
- Local CPS investigates. Determination (indicated/unfounded) within 60 days.

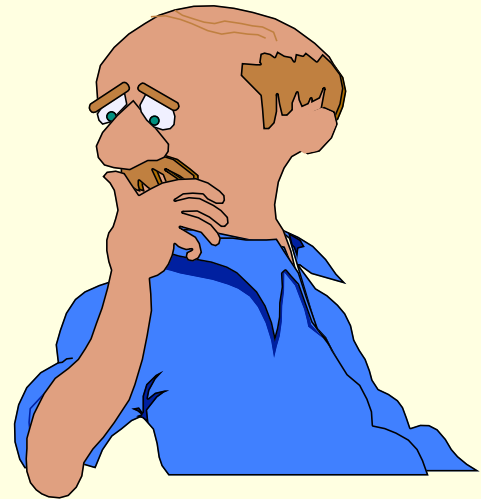
EDUCATION LAW

- 21 years old
- NO Discretion
- Inform School Building Administrator *in writing* (who then handles all follow-up which differs with circumstances)
- Parents must be notified
- Local law enforcement and district attorney investigate.

Miscellaneous

- Every MR has an independent, non-delegable duty to report – BUT only one report need/should be made per incident
- NO ONE can direct MR not to report if MR believes s/he has reasonable basis to make good faith report – This includes follow-up reports of new/additional information
- School admin can require MR to make report together, even if it is only admin who actually calls hotline

So.....do I have to report?



Consequences and Protections

Generally speaking, the laws protect good faith reporters from any liability stemming from the report. Both Social Services Law and Education Law provide reporters confidentiality (though written reports can be demanded by law enforcement agencies and courts).

Failure to report, however, constitutes a misdemeanor punishable, potentially, by a fine and/or jail time.

Consequently, err on the side of reporting.

Other Relevant Education Laws

- §3023: Requires District to protect employees and hold them harmless from financial loss arising out of any claim connected to alleged negligence resulting in accidental injury. 10 DAYS.
- §3028: Requires District to provide and pay for attorney in defense of employee in civil or criminal proceeding arising out of disciplinary action against student. 10 DAYS.
- §3811: Requires District to provide and pay for attorney in defense of employee in civil proceeding. 5 DAYS.

*ALL DAYS ARE **CALENDAR** DAYS.

*MUST HAVE OCCURRED **WITHIN SCOPE OF DUTIES** FOR THE DISTRICT

Remember...

- **NO ONE** can direct you to break the law. If you are required to report, you *must* report even if directed not to by a superior.
- **FAILURE TO REPORT** endangers children and can cost you.
- After report is made, **ADMINS** handle follow up.
- Some situations may involve **BOTH AREAS** of the law. Both statutory procedures and all District procedure policies must be followed.

Any questions?

