This memorandum outlines the general child-abuse reporting requirement and addresses some frequently-asked questions regarding the obligation to report in a distance-learning environment.

**Summary of “Mandatory Reporter” Obligations**

A school employee, including an employee of a higher-education institution, has a duty to report child abuse when there is *reasonable cause to believe that*:

a) any child with whom the employee comes in contact has suffered abuse; or  
b) any person with whom the employee comes in contact has abused a child.

The report must be oral, and must be made *immediately* to:

a) the local office of the Department of Human Services; or  
b) to a law enforcement agency* within the county where the person making the report is located.

*A “law enforcement agency” is defined as: a city or municipal police department; a county sheriff’s office; the Oregon State Police; a police department established by a university; and a county juvenile department.

School employees should also report to a district administrator who has been designated to receive abuse reports.

**Additional Information Regarding the Reporting of “Sexual Conduct”**

“Sexual conduct” must also be reported by school employees. Sexual conduct is any verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are:

(A) Sexual advances or requests for sexual favors directed toward the student; or  
(B) Of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student’s educational performance, or of creating an intimidating, hostile or offensive educational environment.

“Sexual conduct” *does not include* touching:

(A) That is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent or volunteer; and  
(B) For which there is no sexual intent.

For the purposes of reporting “sexual conduct,” a “student” is any person who is:

(A) In any grade from prekindergarten through grade 12; or  
(B) Twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education; or  
(C) Who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct.
FREQUENTLY ASKED QUESTIONS

What constitutes “abuse”?

Assault, as defined in Oregon criminal law (ORS chapter 163), of a child and any physical injury to 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. Also, 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.

Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in Oregon law (ORS chapter 163).

Sexual abuse, as described in Oregon criminal law (ORS chapter 163).

*excerpts from ORS 163.415, Sexual Abuse in the Third Degree:

A person commits the crime of sexual abuse in the third degree if the person subjects another person to sexual contact and the victim is incapable of consent by reason of being under 18 years of age.

“Sexual Contact” means any touching of the sexual or other intimate parts* of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

*“Intimate Parts” means, according to one definition, body parts that a person ordinarily allows to be touched only by other people with whom the person has a close personal relationship marked by love, ardent liking, or mutual cherishing. State v. Meyrovich, 204 Or App 385 (2006).

Sexual exploitation, including but not limited to:

Contributing to the sexual delinquency of a minor (“statutory rape”), as defined in Oregon criminal law (ORS chapter 163), and any 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) 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) or which is designed to serve educational or other legitimate purposes; and allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 (Prostitution) or a commercial sex act as defined in ORS 163.266 (Trafficking in persons), to purchase sex with a minor as described in ORS 163.413 (Purchasing sex with a minor) or to engage in commercial sexual solicitation as described in ORS 167.008 (Commercial sexual solicitation).

Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.
Buying or selling a person under 18 years of age as described in ORS 163.537 (Buying or selling a person under 18 years of age).

Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

Unlawful exposure to a controlled substance*, as defined in ORS 475.005 (Definitions for ORS 475.005 to 475.285 and 475.752 to 475.980), or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015 (Definitions for ORS 475B.010 to 475B.545), that subjects a child to a substantial risk of harm to the child’s health or safety.  
*Note: cannabis is no longer a controlled substance in Oregon. However, exposure of a child to any substance, legal or not, that creates a substantial risk of harm to the child’s health or welfare may constitute “threatened harm to a child” which, as noted above, must be reported.

Is a local leader on full release from the employer to perform union duties a mandatory reporter?  
Yes. The local leader is still considered a “school employee” while on leave.

Am I required to report suspected abuse that I learn through distance-learning education sessions?  
Yes. Mandatory reporters are never “off duty” when it comes to reporting abuse. Suspected abuse must be reported whether it is discovered during or after work hours and regardless of whether the child at issue is your student.

What does “reasonable cause to believe” mean?  
This term is not well defined or explained. One workable definition is, “to have knowledge of facts which, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing.”

How quickly must I report the suspected abuse?  
Immediately. Do not wait until the end of the work day. Report right away.

Does notifying my supervisor or an administrator fully satisfy my duty to report?  
No. You must also report to law enforcement or DHS in addition to reporting to the designated administrator.

What if I think, or know, that the abuse has already been reported?  
The reporting statute states that,  

a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

So, for example, if you learn of suspected abuse from a police officer who says she is following up on a report, then you do not need to report. However, if a student tells you and a colleague about abuse, and the colleague says he reported it, you are still obligated to report.

What if I see what I believe is evidence of a malnourished student? What if I also see evidence of very young children being left alone for long periods of time without adequate supervision?  
Negligent treatment or maltreatment of a child must be reported. This includes, but is not limited to, the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child. Inadequate supervision my also constitute negligent treatment if it is likely to endanger the health or welfare of a child.
When I am engaging in distance-learning education, I constantly see one of my students in pajamas. It looks like the student wears pajamas all day every day. Is this evidence of abuse?

According to DHS, one should ask oneself whether the child’s clothing is appropriate to the environment. Another question would be whether the health and/or welfare of the child appear to be endangered. Assuming the constant pajama-wearing in the household setting is the only potential source of concern, the student’s attire does not appear to lead to a reasonable cause to believe abuse has occurred. However, if there is a lingering doubt as to whether to report or not, DHS suggests that you call DHS and consult with a screener.

When does discipline of a child rise to the level of “child abuse?”

Reasonable discipline does not constitute abuse unless the discipline constitutes an assault, as defined in ORS chapter 163, of a child or results in a physical injury to 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.

What if I see evidence of domestic violence in the home?

DHS takes the position that a report to DHS or law enforcement is necessary when there is reasonable cause to believe:

1. There is current domestic violence or the alleged abuser has a history of domestic violence; and
2. One of the following:
   » There is a reason to believe the child will intervene or is intervening in a violent situation, placing the child at a risk of substantial harm.
   » The child is likely to be harmed during the violence (being held during the violence, physically restrained from leaving, etc.).
   » The alleged abuser is not allowing the adult caregiver and child access to basic needs, impacting their health or safety.
   » The alleged abuser has killed or inflicted substantial harm, or is making a believable threat to do so to anyone in the family, including extended family members and pets.
   » The child’s ability to function on a daily basis is substantially impaired by being in a constant state of fear.

If you believe a child is witnessing repeated or serious domestic violence and you are unsure of the impact on the child, call and consult with a CPS screener.

Do I have to investigate a situation where I have a slight suspicion that abuse may have occurred?

Generally, no. The statute does not require one to perform an investigation. The professionals in law enforcement and DHS are typically better equipped and trained to investigate these sensitive matters. DHS gives the following advice:

If you have questions about whether or not to report, please call your local DHS office to consult with CPS-trained staff. They can tell you if it is a situation that should be formally reported. Sometimes different people have different information about a child. You might be the second or third person to call about a particular child, giving us the critical piece of information we need to be able to help.

Can I be sued if I make a report?

Oregon law provides that a person acting in good faith in making a report, and who has reasonable grounds for making the report, is immune from any liability, both civil and criminal.

PRACTICAL ADVICE

When in doubt, report or at least call DHS to speak with a screener.

If you believe you need to report, report immediately.

Document the date and time the report was made, and the name of the people to whom you reported.

Do not trust that someone has already made a report about a potential abuse-situation of which you and others are aware.