

# MESA PUBLIC SCHOOLS CHILD ABUSE REPORTING PROTOCOL

## **PREFACE**

Protecting the health and welfare of our students is the most fundamental responsibility of every Mesa Public Schools employee and volunteer. It is imperative that all personnel understand and carry out Arizona's law regarding the duty to report allegations of child abuse. Failure to comply with this law is a crime and a serious violation of district policy that may result in dismissal from employment. Above all, it is an act of neglect toward a child who may need the help of caring adults.

This Protocol will guide Mesa Public Schools employees and volunteers through the process of reporting allegations of child abuse and possible unprofessional conduct by certificated teachers and administrators. Please familiarize yourself with this Protocol and maintain it as a resource for reporting allegations of child abuse.

## **Additional Information**

For further information, contact the MPS Child Abuse Policy and Protocol Coordinator:

Al Moore (480-472-1150)  
Director of School Safety and Security

## **PART I. THE CHILD ABUSE REPORTING LAW**

Under Arizona law, school district personnel who, when acting in the scope of their employment, develop a reasonable belief that a child is or has been a victim of child abuse must immediately report or cause a report to be made to a law enforcement officer or the Department of Child Safety (DCS), depending on the circumstances. The initial report must be followed by completion of a report record in the district's OnBase Child Abuse Reporting System.

### **The Three Types of Child Abuse**

1. **Physical Abuse** – nonaccidental injury to the child's physical condition, including bruises, burns, bleeding, and bone fractures.
2. **Neglect** – physical and emotional neglect of the child, including denial or deprivation of medical care or nourishment and furnishing alcohol or illegal drugs to the child.
3. **Sexual Abuse** – any intentional physical contact with a child's genital area or a female child's breast, including sexual intercourse, assault, and molestation. Also, sexual exploitation of a child, whether by physical contact or by video or other media. (The complete list of defined sexual offenses is in Part III of this Protocol.)

### **Important Notes about Sexual Abuse Allegations**

Sexual abuse excludes consensual sexual relations between children who are 14 through 17 years old. Consensual sexual relations between students should be referred to the school counselor for evaluation to determine what action, if any, is appropriate.

Sexual abuse excludes sexual harassment that does not involve physical contact with a child's genital areas or a female child's breast. If it is unclear whether a student who alleges sexual harassment was touched in the genital area or the breast, the incident should be handled as possible child abuse. If the sexual harassment allegations do not indicate touching of the genital areas or breast, the incident should be referred to a school administrator for investigation.

## **PART II. CHILD ABUSE REPORTING PROCEDURES**

### **The Reporting Process**

#### **Step 1. An employee receives information that a child may be a victim of child abuse.**

- The duty to report applies to **all** district employees when acting in the scope of their employment with Mesa Public Schools. MPS volunteers should also report suspected child abuse.
- The information may come from the child, from the informant's personal observations, or from third parties. The employee should not make judgments about the credibility of information provided by a third party without advising the school administration.

- A district employee who receives information while working in an after-school program operated by an organization other than the district remains under the duty to report. In this situation, the employee should follow the child abuse reporting protocol established by that organization. If that organization has no established protocol, the employee may follow the MPS child abuse reporting procedures or independently submit a child abuse report to law enforcement or DCS. In any event, the employee must also advise the school administration so that he or she can assist law enforcement or DCS if an investigator comes to the school.
- Field trips are considered on-duty school activities regardless of the time, day, or the location of the event. Out-of-state incidents should be reported immediately to local law enforcement.

**Step 2. The employee immediately informs a supervisor or school administration.**

- The employee should avoid gathering any more information once he/she has determined that enough information is known to establish that child abuse is suspected.
- If the employee is unable to immediately inform a supervisor or administrator (for example, because the employee becomes aware of the suspected abuse at the end of the day and a supervisor or administrator is not available), the employee should call local law enforcement or DCS to report the suspected abuse. The employee should not delay a telephone report to local law enforcement or DCS until the next day.

**Step 3. The employee or supervisor/administrator questions the child or third party only to the extent necessary to establish “reasonable belief” or jurisdiction of local law enforcement or DCS.**

- All school personnel should understand that their duty is to report, not investigate, possible child abuse. Excessive questioning by school personnel — particularly when the allegations concern sexual abuse — may jeopardize a criminal investigation.
- The four basic questions to ask a child who is self-reporting possible child abuse are:
  - What happened?
  - Who did it?
  - When did it happen?
  - Where did it happen?
- No questions — other than the four basic questions — should be asked of a child who is self-reporting. When the employee or supervisor/administrator receives a sexual abuse allegation from a third party (i.e., someone outside of the district), the matter should be referred directly to law enforcement or DCS without asking the four basic questions of the child.

- No photographic or video images of the student will be recorded or maintained unless direction to do so is given by law enforcement or DCS.

**Step 4. The employee or supervisor/administrator determines whether there is sufficient information to form a reasonable belief that the child is a victim of child abuse.**

The duty to report applies when the person has sufficient information to form a reasonable belief that a child is a victim of child abuse. “Reasonable belief” is a low standard. It is met if there are any facts from which a person could reasonably conclude that a child has been abused. If it is unclear whether the standard is met, the employee or supervisor/administrator should call the Director of School Safety and Security or General Counsel for an evaluation of the situation.

*Note: Step 4 leads to two possible results – Step 4-A or Step 4-B shown below.*

**Step 4-A. If the supervisor or administrator determines that a report is not required or appropriate, the member will review the decision with the Director of School Safety and Security or General Counsel and advise the informing employee of the decision. The supervisor or administrator will also advise the informing employee that he/she may independently report the information to law enforcement or DCS. If the informing employee chooses to call law enforcement or DCS, the employee will complete the Child Abuse Report form using the district’s OnBase system. See page 12 of this Protocol for information regarding OnBase.**

**Note: The OnBase system is a district record system only. Completion of a child abuse report form using the OnBase system does not transmit the form to law enforcement or DCS. Law enforcement or DCS must be called to satisfy the duty to report child abuse.**

**[At Step 4-A, the child abuse reporting process ends.]**

**OR**

**Step 4-B. If the supervisor or administrator determines that a report is required or appropriate, he or she must call law enforcement or DCS immediately. Never delay a report until the next day. After making the call, the supervisor or administrator must complete the Child Abuse Report form using the district’s OnBase system. See page 12 of this Protocol for information regarding OnBase.**

**Whether law enforcement or DCS should be called depends upon the type of child abuse concern and whether the suspected perpetrator lives in the victim’s home.**

Type of Abuse	By Parent/Guardian or Person Living in Victim's Home	By Person Living Outside Victim's Home
Physical Abuse	Call law enforcement or DCS	Call law enforcement only
Sexual Abuse	Call law enforcement or DCS	Call law enforcement only
Neglect/Mental Abuse	Call law enforcement or DCS	Call DCS

**Call the jurisdiction where the abuse took place, if known.**

- For Mesa Police, call 480-644-2211.
- For Chandler Police, call 480-782-4130.
- For the Maricopa County Sheriff, call 602-876-1011.
- For the Salt River Pima Maricopa Indian Community, file an online report at: [https://secure.srpmic-nsn.gov/cps\\_referral](https://secure.srpmic-nsn.gov/cps_referral), including as much detail as possible. You should receive an immediate confirmation that your report has been received. If you are not contacted within an hour of submitting the report, call 480-362-2600 and ask for a caseworker.
- Outside these jurisdictions, call the appropriate law enforcement agency.
- For the DCS Hotline, call 1-888-767-2445.

**Step 5. If law enforcement or DCS investigates, the supervisor or administrator provides any assistance requested by the investigator, including providing a private room for the investigator to interview the child.**

- If the law enforcement or DCS investigator may be delayed past the time for release of the child from school, the supervisor or administrator will request direction from law enforcement or DCS as to whether the child should remain at the school. If law enforcement or DCS declines to give specific directions to hold the student, the school will release the student to go home at the end of the school day. In any situation where a supervisor or administrator is uncertain of the appropriate action, he or she may call the Director of School Safety and Security (480-472-1152) or the Mesa Family Advocacy Center (480-644-4075) for guidance.

- If the law enforcement or DCS investigator needs to interview the child, the investigator must complete the appropriate form, indicated below, to document the purpose of the interview.
  - For an interview by DCS, a signed DCS form will be provided to the school by the DCS investigator.
  - For an interview by law enforcement, MPS's Student Interview or Custody Transfer by Law Enforcement Officer for Child Abuse Investigation [form JHG-R-F(2)] must be completed and signed by the law enforcement investigator.

**Note:** Both the MPS form and the sample DCS forms are available in the "Other Guidelines" section of the Legal Services website located at: [www.mpsaz.org/legal/employees/other\\_guidelines/](http://www.mpsaz.org/legal/employees/other_guidelines/).

- School employees should not participate in a child abuse interview unless requested by the law enforcement or DCS investigator.

- If the child will be taken into temporary custody by law enforcement, the investigator must check the appropriate box and sign the Student Interview or Custody Transfer By Law Enforcement Officer [form JHG-R-F(2)] to confirm that the child has been taken into temporary custody and that law enforcement will notify the parent or guardian of the child's removal.
- If the child will be taken into temporary custody by DCS, then DCS will give the school a Notice of Removal and will provide the parent or guardian with a Temporary Custody Notice.
- School employees should not notify the parent or guardian of a child who is a possible child abuse victim unless authorized by the law enforcement or DCS investigator. However, if the parent or guardian asks if the child has been contacted by a law enforcement or DCS investigator, school employees may confirm the contact and refer the parent or guardian to the appropriate agency. If the parent or guardian asks for a phone number to contact law enforcement or DCS, that information may be provided.

**Step 6. If the alleged child abuse involves possible misconduct by a Mesa Public Schools employee, the supervisor or administrator will immediately advise the appropriate area assistant superintendent. The area assistant superintendent or designee will file a report with the Arizona Department of Education in compliance with A.R.S. 15-514 and advise the school principal and informing employee that this duty has been completed.**

### **Confidentiality**

Law enforcement and DCS occasionally request educational records of a student in connection with their child abuse investigations. Under FERPA (Family Educational Rights and Privacy Act), these officials may have immediate access to a student's educational records if they advise the school administrator that the records are needed to respond to an immediate health or safety emergency. If law enforcement or DCS cannot confirm a health or safety emergency, the only information that can be provided immediately is "directory information," such as the student's name, address, telephone number and enrollment dates. Other information can be provided only with parent consent or after receipt of a subpoena or court order.

All school employees must exercise care to maintain the confidentiality of information concerning a child abuse report, including the identity of alleged victims, alleged perpetrators, and persons who report. Inquiries from a parent or guardian regarding the identity of the informing school employee or supervisor/ administrator who made a child abuse report will be declined. If requested by a parent, the school will provide contact information regarding the agency that interviewed or removed the child from the school.

A record entered in the district's OnBase child abuse reporting system and all forms signed or presented by law enforcement or DCS to interview or remove a student are confidential records and will not be disclosed without authorization of the superintendent or designee.

## **PART III. QUESTIONS AND ANSWERS ABOUT CHILD ABUSE REPORTING**

### **Frequently Asked Questions**

Arizona Revised Statute §13-3620 (the "Child Abuse Reporting Law") requires school personnel who reasonably believe that a child is the victim of child abuse to immediately report the matter to a law enforcement officer or to DCS. Here are answers to some of the most common questions asked about child abuse reporting. Questions regarding the duty to report child abuse in specific situations can be obtained by calling the DCS child abuse hotline at 1-888-767-2445.

**Question: Who must report?**

**Answer:** The Child Abuse Reporting Law places a duty to report on all persons who are caregivers to children. All school personnel, including certificated and classified staff, have a duty to report child abuse when acting in the course of their employment. Thus, a teacher who, while at home, happens to hear of possible child abuse by a neighbor, is not legally obligated to report the matter. However, school personnel who are not working for the district, but who are providing child care services for another employer, such as the Mesa Parks & Recreation Department, Boys & Girls Club, etc., continue to have a duty to report child abuse while acting in the scope of their other employment.

**Question: What offenses fall under the Child Abuse Reporting Law?**

**Answer:** For the purposes of the Mesa Public Schools Child Abuse Reporting Protocol, it's helpful to think of the child abuse reporting duty as covering three basic categories of child abuse: physical abuse, neglect, and sexual abuse. The Child Abuse Reporting Law, however, creates a more complex and, thus, confusing list of offenses and acts that must be reported.

The Child Abuse Reporting Law actually lists six categories of offenses or acts that must be reported:

**1. Physical Injury**

The Child Abuse Reporting Law does not define "physical injury," but this term is defined in §13-3623 as "the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare." The descriptive title of the statute indicates that, like neglect, a physical injury is not reportable unless the reporter reasonably believes that the physical injury was "inflicted on the minor by other than accidental means" or that the physical injury "is not explained by the available medical history as being accidental in nature."

**2. Abuse**

"Abuse" means the "infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression,

withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-821 and is caused by the acts or omissions of an individual having care, custody and control of a child.” Abuse includes all “reportable offenses” described below.

### **3. Child Abuse**

Child abuse occurs when a person causes a child “to suffer physical injury or abuse,” or “to cause or permit a child or health of a child to be injured, or to cause or permit a child to be placed in a situation where the child or health of the child is endangered.” The language of the statute that defines “child abuse” (13-3623) indicates that child abuse (as defined in the statute) is a crime only if the actions of the abuser are intentional, reckless, or criminally negligent.

### **4. Reportable Offenses**

Reportable offenses are any of the following:

- **Child prostitution** (§13-3212), which is knowingly causing, using, or permitting a minor to engage in "prostitution" (i.e., "engaging, agreeing or offering to engage in direct or indirect fondling or manipulating of any part of the genitals, anus or female breast, penetration into the penis, vulva or anus by any part of the body or by any object, oral contact with the penis, vulva or anus or flagellation or torture by or upon a person who is nude, clad in undergarments or in revealing or bizarre costume or while fettered, bound or otherwise physically restrained") or receiving any benefit from placing a minor into prostitution, financing, managing, supervising, controlling or owning prostitution activity involving a minor, or transporting a minor with the intent that the minor engage in prostitution.
- **Commercial sexual exploitation of a minor** (§13-3552), which is knowingly using, employing, persuading, enticing, inducing or coercing any minor, or permitting a minor under the perpetrator's custody or control, either (1) to engage in or assist others to engage in "exploitative exhibition" (i.e., "actual or simulated exhibition of the genitals or pubic or rectal areas for the purpose of sexual stimulation of the viewer") or other "sexual conduct" (i.e., "actual or simulated sexual intercourse, penetration of the vagina or rectum by any object, bestiality, or masturbation, sadomasochistic abuse or defecation or urination for the purpose of sexual stimulation") for the purpose of producing any visual or print medium or live act depicting such conduct; or (2) to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain, or transporting or financing the transportation of any minor with the intent that such minor engage in prostitution, exploitative exhibition or other sexual conduct for the purpose of producing a visual or print medium or live act depicting such conduct.
- **Furnishing to a minor over the Internet items that are harmful to a minor** (§13-3506.01)
- **Incest** (§13-3608), which is knowingly committing fornication or marriage between persons 15 or more years of age who may not legally marry.

- **Indecent exposure** (§13-1402), which is exposure of one's genitals or anus or the nipple or areola of the female breast when another person is present and a reasonable person would be offended.
- **Molestation of a child** (§13-1410), which is intentionally or knowingly engaging in or causing a person to engage in "sexual contact" except sexual contact with the female breast, with a child under fifteen years of age.
- **Public sexual indecency** (§13-1403), which is recklessly engaging in sexual contact, sexual intercourse, or bestiality when another person is present and a reasonable person would be offended or alarmed by such act.
- **Sexual abuse** (§13-1404), which is "intentionally or knowingly engaging in sexual contact" (i.e., "any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object, or causing a person to engage in such contact") with any person fifteen or more years of age without the consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast.
- **Sexual assault** (§13-1406), which is intentionally or knowingly engaging in "sexual intercourse" or "oral sexual contact" with any person without consent of such person.
- **Sexual conduct with a minor** (§13-1405), which is intentionally or knowingly engaging in "sexual intercourse" (i.e., "penetration into the penis, vulva or anus by any part of the body or by any object, or masturbatory contact with the penis or vulva") or "oral sexual contact" (i.e., "oral contact with the penis, vulva or anus") with any person who is under 18 years of age.

**Note:** Reporting is not required for sexual conduct with a minor "if the conduct involves only minors age 14, 15, 16 or 17 and there is nothing to indicate that the conduct is other than consensual."

- **Sexual exploitation** (§13-3553), which is knowingly recording, filming, photographing, developing, duplicating, distributing, transporting, exhibiting, receiving, selling, purchasing, possessing or exchanging any visual or print medium, in which minors are engaged in "exploitative exhibition" or other "sexual conduct."
- **Surreptitious photographing, videotaping, filming or digitally recording of a minor** (§13-3019), which is use of a photography, videotape, film, or digital recording device to secretly view or record a minor, without the minor's consent, under either of the following circumstances: (1) in a restroom, bathroom, locker room, bedroom or other location where the minor has a reasonable expectation of privacy; and (2) while the minor is urinating, defecating, dressing, undressing, nude, or involved in sexual intercourse or sexual contact.

## **5. Neglect**

“Neglect” is not defined in the statute but is limited to “neglect that appears to have been inflicted upon such minor by other than accidental means or which is not explained by the available medical history as being accidental in nature.”

## **6. Denial or Deprivation of Necessary Medical Treatment, Surgical Care or Nourishment of an Infant**

“Denial or deprivation of necessary medical treatment, surgical care or nourishment” is not defined in the statute but is limited to denial or deprivation of necessary medical treatment, surgical care or nourishment “with the intent to cause or allow the death of an infant protected under §36-2281.” A.R.S. §36-2281 protects a child less than one year of age that is born with a handicap, not wanted by the parent(s) or guardian, born alive by natural or artificial means, or in need of necessary lifesaving medical or surgical care.

**Question:** Does the age of the alleged victim or perpetrator make a difference?

**Answer:** No. The reporting duty applies when the victim is a minor, that is, a person younger than 18 years old. The age of the person suspected of inflicting child abuse is not relevant to the reporting obligation, except in the instance of consensual sexual conduct between minors. Reporting is not required for sexual conduct between minors “if the conduct involves only minors age 14, 15, 16 or 17 and there is nothing to indicate that the conduct is other than consensual.”

**Question:** How certain must a person be that child abuse has occurred to have a **duty** to report?

**Answer:** The duty to report applies whenever a school employee “reasonably believes that the minor is or has been a victim” of child abuse. The law imposes a duty to report possible child abuse, not to investigate it. School personnel should understand that the reporting threshold is met whenever there is sufficient information — regardless of the source — to form a reasonable belief that a child is a victim of child abuse. Visual evidence of physical abuse is not necessary to meet the mandatory reporting threshold.

**Question:** How should a person report child abuse?

**Answer:** Mesa Public Schools has established a district child abuse reporting protocol. A staff member who believes that a student may be a victim of child abuse should report the matter to his or her supervisor or administrator and determine who will call law enforcement or DCS, and assist law enforcement or DCS with its investigation. A telephone report is made by immediately calling a law enforcement agency or DCS to report the matter.

**Note:** If the employee is unable to immediately inform a supervisor or administrator (for example, because the employee becomes aware of the suspected abuse at the end of the day and a supervisor or administrator is not available), the employee should call local law enforcement or DCS to report the

suspected abuse. The employee should not delay a telephone report to local law enforcement or DCS until the next day.

A staff member who reports possible child abuse may ask the principal or nurse/health assistant to clarify whether a report was made. If the staff member is dissatisfied with the status of the matter, he/she may make a child abuse report independently of the school.

A record of the child abuse report must be created and stored in the district's OnBase system.

The report record must include:

- The student's name, location, and permanent ID and the report date.
- The name of the DCS case worker or law enforcement officer's name, badge number, and report number.
- The nature of the suspected abuse or neglect.

**Question:** **Could a person be sued for making a child abuse report?**

**Answer:** Yes, a reporter could be sued, but the risk of an employee suffering a financial loss is minimal. First, the law grants immunity to a reporter unless he/she "acts with malice." The "malice" requirement creates a very difficult evidentiary standard and, thus, acts as a significant deterrent to a lawsuit. Also, Mesa Public Schools will defend and indemnify its employee who is sued for acts in good faith and in the scope of employment. An employee who reports possible child abuse to the school principal or nurse/health assistant in accordance with the district's Child Abuse Reporting Protocol is clearly acting within the scope of his or her duties.

**Question:** **What are the penalties for failing to report child abuse?**

**Answer:** A school employee who fails to report sexual child abuse in violation of the Child Abuse Reporting Law is guilty of a class 6 felony. All other violations are a class 1 misdemeanor. A violation may also be grounds for revocation of an educator's teaching or administrative certificate by the State Board of Education.

## PART IV. FORMS

### MESA PUBLIC SCHOOLS FORMS

- **Child Abuse Report (electronic form using OnBase)**

***To view completion instructions for this form,** go to the lower right-hand corner of the District's main web page and select "Employees" under "More Resources." Under "Quick links" on the "Employee Resources" page, see "Child Abuse Reporting" and select "OnBase instructions."*

***To locate the form,** use Chrome and either:*

- Enter <http://Onbase.mpsaz.org> as the URL **or**
- Select "Employees" under "More Resources" in the lower right-hand corner of the District's main webpage and then select the "OnBase Application" button under "Resources" on the right side of the page.

***Please note:** To log in, you will need your Active Directory user name and password .*

***Also:** If you do not see an option for the "Child Abuse Report" after logging in to OnBase, select the down arrow to the right of "Document." Next, select "Workview" and either "Select an Application" or "Child Abuse Report." Then click on "Create" to open the form.*

- **Student Interview or Custody Transfer by Law Enforcement Officer for Child Abuse Investigation**

***To locate this form,** see JHG-R-F(2) in the forms index on the Legal Services website.*

### DEPARTMENT OF CHILD SAFETY FORMS

DCS investigators should provide the school with forms when they need to access student records or interview a student in conjunction with a child abuse investigation.

Sample copies of the forms used by DCS investigators are available in the forms index on the Legal Services website. To view or print these forms, go to section "J" in the forms index and scroll past MPS form JHG-R-F(2).

### SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY FORM

A sample of the SRPMIC CPS student interview form is available on the Legal Services forms index. If other SRPMIC forms become available, they will also be posted on the Legal Services forms index.