

[School District Name]

[Title of section where model policy will be inserted]

CHILD ABUSE AND NEGLECT

ANTI-VICTIMIZATION PROGRAM

The District shall provide child abuse anti-victimization programs in elementary and secondary schools. *Education Code 38.004*

DUTY TO REPORT BY ANY PERSON

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

DUTY TO REPORT BY A PROFESSIONAL

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

Family Code 261.101(b)

PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, dismemberment, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(1)

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REPORTING POLICY

The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

CONTENTS OF REPORT

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.103, 261.104

TO WHOM REPORTED

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody or welfare of the child, the report must be made to the Texas Department of Family and Protective Services (DFPS), unless the report is made under item 3, below, or the report involves a juvenile justice program or facility.

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103; 19 TAC 61.1051(a)(1)

JJAEPS

Any report of alleged abuse, neglect or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(2)(A),(b)*

IMMUNITY FROM LIABILITY

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or

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criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

The District may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of child abuse or neglect. *Family Code 261.110*

CRIMINAL OFFENSES

A person commits a class A misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. *Family Code 261.109*

FAILURE TO REPORT

Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *19 TAC 61.1051*

FALSE REPORT

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

COERCION

An employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

CONFIDENTIALITY

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. *Family Code 261.201*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

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- INVESTIGATIONS** If the DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the Superintendent of the district in which the employee is employed. *Family Code 261.105(d)*
- REPORTS TO DISTRICT** The DFPS shall send a written report of its investigation, as appropriate, to the school principal, unless the principal is alleged to have committed the abuse or neglect, to the Board and to the Superintendent. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*
- INTERVIEW OF STUDENT** The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)*
- INTERFERENCE WITH INVESTIGATION** A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. *Family Code 261.303(a)*
- REPORTING POLICY** The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.
- Specifically, the policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above (see TO WHOM REPORTED) within 48 hours or less.
- The policies must also be consistent with 40 TAC Chapter 700 regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. *19 TAC 61.1051*
- The policies must notify school personnel of the following:
- 1) Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 TAC 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
 - 2) Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
 - a) The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school;

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and

- b) The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
- 3) Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
- 4) Confidentiality provisions relating to a report of suspected child abuse or neglect;
- 5) Any disciplinary action that may result from noncompliance with the District's reporting policy;
- 6) The prohibition under Education Code 26.0091 (see PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING, above);
- 7) The current toll-free number for the DFPS (1-800-252-5400); and
- 8) The current website address for the DFPS online reporting tool – www.txabusehotline.org.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051

AWARENESS POLICY

The Board shall establish and annually review policies for increasing awareness regarding child sexual abuse and maltreatment. The policy must address methods for increasing staff, student and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment. *Education Code 38.0041(b)1*

The policy must address actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention. *Education Code 38.0041(b)2*

The policy must address available counseling options for students affected by sexual abuse or other maltreatment. *Education Code 38.0041(b)3*

New employees, including counselors, coaches, and professional staff members, are to receive training concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children as part of a new employee orientation. *Education Code 38.0041(c)*

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STAFF
AWARENESS
TRAINING

Training must include information regarding factors indicating a child is at risk for sexual abuse or other maltreatment; likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment; internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional; techniques for reducing a child's risk of sexual abuse or other maltreatment; and community organizations that have relevant, existing research-based programs that are able to provide training or other education for staff members, students, and parents. *Education Code 38.0041(c)*

ABUSE OF
DISABLED
PERSONS

A person having cause to believe that a disabled person over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to DFPS.

A person commits a class A misdemeanor if the person has cause to believe that a disabled person has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, 48.052, 48.054

ANNUAL
DISTRIBUTION
AND STAFF
DEVELOPMENT

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals as determined by the Board. *19 TAC 61.1051(b)*