



## **An Educator's Obligation to Report Child Abuse**

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Child abuse is a problem that has reached epidemic proportions. Over 3 million cases of child abuse are reported in the United States each year, but it is estimated that many more cases go unreported. Despite nearly a decade of highly publicized incidents of child sexual abuse among members of the Roman Catholic clergy, the problem of reporting abuse persists. Most recently, allegations of child sexual abuse by a former football coach at Penn State University have raised questions about legal responsibilities toward children and underscored the importance of reporting suspected abuse.

Under Arizona law, school personnel play an important role in identifying and reporting child abuse. Educators are in a unique position to observe and interact with children on a daily basis. As a result, they are more likely to see changes in a child that would indicate abuse or neglect. Children may also confide in school personnel, relating experiences that indicate they were subjected to abuse.

For these reasons, school personnel must be mindful of their obligations under the Arizona child abuse reporting statute. The law describes school personnel as “mandatory reporters” and sets forth the standard for determining under which conditions school officials are required to report abuse. Moreover, courts have held that a failure to report suspected child abuse to the proper authorities could result in criminal sanctions and liability for money damages. This article will discuss the basic reporting requirements under Arizona law and summarize educators’ immunities from liability for reporting abuse.

### **Arizona's Child Abuse Reporting Law**

Arizona law requires school personnel (among other professionals) who reasonably believe a child is a victim of abuse to immediately report the matter to a law enforcement officer or to CPS. A.R.S. § 13-3620. In general, the statute requires school personnel to report six categories of offenses. They are:

1. Physical Injury
2. Abuse
3. Child Abuse
4. Reportable Offenses
5. Neglect
6. Denial or Deprivation of Necessary Medical Treatment, Surgical Care or Nourishment of an Infant

While the basic list of offenses that must be reported is short, each of these six terms has a specific statutory definition that is referenced in another statute. For further guidance on each term, please refer to the Arizona Revised Statutes or contact your school attorney.

Upon developing a reasonable belief that child abuse has occurred, the statute requires school personnel to immediately report the suspected abuse by telephone or in person, followed by a written report within 72 hours. A.R.S. §13-3620(D). The report must contain (1) the names and addresses of the minor and the parents or custodians of the minor, if known; (2) the minor's age and the nature and extent of the abuse, physical injury or neglect, including evidence of prior abuse, physical injury or neglect; and (3) any other information the person reporting believes might be helpful in establishing the cause of the abuse, physical injury or neglect.

### **How much information is needed to report abuse?**

School personnel often worry that they do not have sufficient information to require that they report suspected abuse to authorities. The legal requirements state that anyone who is a mandatory reporter and "reasonably believes" that a child has been the victim of abuse must report. This begs the question - what is "reasonable belief"? The phrase is not defined under Arizona law. However, it may be helpful to know that the law was changed in 2003 from "reasonable grounds" to the current standard, "reasonably believes." To the extent that this standard differs from the earlier reporting standard, it is, if anything, more subjective, and a report is more easily justified, and immunities more readily available for reporting, by relying upon the educator's own intuition applied to the facts.

The change in law makes it clear that the legislature intended to make it easier for suspected child abuse to be reported. As a result, school personnel are advised to report whenever they believe a child has been the victim of abuse. It is not necessary to have visual evidence of the abuse before forming a reasonable belief. Educators are not responsible for determining whether or not abuse has actually occurred; they only have a duty to report. Law enforcement and CPS are responsible for investigating reports of abuse and determining how each case progresses.

### ***L.A.R. v. Ludwig***

In 1991, the Arizona Court of Appeals dealt with the question of how much information was necessary to trigger a child abuse report. Rose Ludwig was a mental health counselor working with a five-year old child. After several weeks of counseling, the child's mother telephoned Ludwig and related an incident in which her other child, three-year old daughter J.R., had described being molested by her father. The mother went to Ludwig's office at Ludwig's request. Ludwig then told the mother that they had to report the incident to Child Protective Services (CPS) and to the police.

The only information Ludwig relied on in her reports to authorities was the information given to her by the child's mother. Ludwig believed that she had an immediate duty to report the alleged abuse to authorities and that she was under no obligation to investigate. After reporting what she had heard to police, an investigation ensued. The father was subsequently indicted for sexual conduct with a minor and molestation of a child. However, the charges were later dismissed and the father, along with his two minor children, initiated a lawsuit against Ludwig.

The Court, in *L.A.R. v. Ludwig*, 821 P.2d 291 (Ariz. Ct. App. 1991), held that, under Arizona law, the counselor was not liable to the father for failing to personally examine or question the child prior to reporting the molestation claims. Counselors, like school personnel, are mandatory reporters who have a narrow duty. The Court found that the counselor “examined the alleged abuse sufficiently to require her to make a report pursuant to A.R.S. § 13-3620(A),” noting that “the statute does not contemplate that a person must fully investigate before making a report. All the person must do is make a report.”

### **Failure to Report**

The statute sets forth specific criminal penalties for failure to initiate required reports of suspected child abuse. Under the statute, “a person who violates any provision of this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense the person is guilty of a Class 6 felony.”

### **Immunity**

Educators concerned about the child’s welfare may also fear that reporting child abuse could trigger a lawsuit by the person being reported. However, Arizona law provides protection for those persons who report abuse where the report is not motivated by malice. A.R.S. § 13-3260(J). The law defines “malice” to include “a wish to vex, annoy or injure another person, or an intent to do a wrongful act”, A.R.S. § 1-215. As long as school personnel are reporting information that has been observed or reliably reported, which has led them to a reasonable belief that abuse has occurred, it will be unlikely that the report is found to be motivated by malice.

### **Lessons Learned**

Arizona’s mandatory child abuse reporting law is difficult to read and interpret. Although the statute lists six general reportable offenses, it refers to over twenty-four separate laws describing various offenses or circumstances that the reader must understand in order to determine whether reporting is required. For help understanding these issues, schools are encouraged to contact their attorney. This article is intended to be a general discussion of mandatory child abuse reporting requirements and is not intended to provide legal advice regarding a particular situation that may arise.

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