

Bowles Rice

# Reporting Abuse and Neglect

Mingo County Board of Education

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# **It's the Law: Mandatory Reporting of Suspected Abuse & Neglect**

**West Virginia Code § 49-2-803  
[handout, page 2]**

# Abuse and Neglect

- Abuse or neglect of a child is:
  - physical, mental or emotional injury
  - sexual abuse or exploitation
  - sale or attempted sale
  - negligent treatment or maltreatment
- by a parent, guardian, or custodian responsible for the child's welfare
- under circumstances which harm or threaten the child's health and welfare

- A school employee, coach, or volunteer who
  - has reasonable cause to suspect that a child is neglected or abused, or
  - observes the child being subjected to conditions that are likely to result in abuse or neglect,
- must ***immediately***, and within 24 hours, report the matter to both
  - the Department of Health and Human Services, and
  - the person in charge of the school or facility

- Where serious physical abuse, sexual abuse, or sexual assault is involved:
  - the employee, coach or volunteer must also immediately contact the State Police and other law enforcement with jurisdiction

- If the person in charge of the school or facility receives such a report from an employee, coach or volunteer, he or she “MAY”
  - make a report to DHHR and, in appropriate cases, the State Police and law enforcement, or supplement the report that was already made
- But the employee, coach or volunteer is the one who MUST report

# Protection for People who Report

- By law, all reports of suspected abuse or neglect are confidential
  - West Virginia Code § 49-2-809(b) [handout p. 3]
- Persons who in good faith make a report are “immune from any civil or criminal liability that otherwise might result”
  - W. Va. Code § 49-2-810 [handout p. 3]

# Consequences for People Who Are Required to Report But Don't

- If a person either
  - is required to report but does not, or
  - knowingly prevents another person from doing so,
- He or she
  - “shall be guilty of a misdemeanor” punishable by jail and/or a fine
    - West Virginia Code § 49-2-812 [handout, page 3]
  - might be sued for damages
  - might be fired
  - might lose all professional certifications



# Advice

- Report in every situation that literally falls within the law's requirements
- Don't protect people out of
  - friendship, or
  - any characterization of the suspected victim, or
  - based on a "he would never do such a thing" mentality, or
  - because you don't want to "ruin his reputation" if he didn't do anything wrong

# Advice

- The 24-hour deadline is the latest deadline to report. But the law requires you to make *immediate* reports. It is better not to wait
- Document that you made the report(s)

# Advice

- All employees must be provided with a written statement setting forth the requirements of the mandatory reporter law
- County boards must obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement
- Best practice: Explain to employees the points on the prior slides that affect their duty to report

# Advice

- As a best practice, be sure that the requirements of the statute are known to volunteers
- Be aware that many employees still believe that they can offload their reporting obligation onto the building administrator
  - Correct that misunderstanding

# Advice

- Also be aware that some employees may be reticent or, for other reasons, disinclined to perform their reporting duty
  - If they try to offload on you, you may now become a mandatory reporter if the information they offload gives you reason to suspect that a child is abused or neglected
  - Best practice: Call CPS and, if applicable, State Police or law enforcement, in the employee's presence and, on speakerphone, ask the employee to tell CPS and, if applicable, State Police or law enforcement what they told you

# A New Mandatory Reporter Duty for Principals

- “It shall be the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours of the allegation”
- “Nothing in this subsection supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child abuse and neglect”
  - W. Va. Code § 18A-2-8(e) [handout, p. 1]

**See something,  
Say something**