

\*406- Investigating and Reporting Suspected Child Abuse, Abandonment or Neglect. The Idaho public records law was amended in 2018 to provide that the identity of a reporting party maintained by any law enforcement entity or the Department of Health and Welfare relating to the investigation of child abuse, neglect or abandonment is exempt from disclosure unless the reporting party consents in writing to the disclosure or the disclosure of the reporting party's identity is required in any administrative or judicial proceeding. This policy update reflects the amendment.

## **REPORTING REQUIREMENTS**

Any school district employee or volunteer having reason to believe that any child under the age of eighteen (18) has been abused, abandoned, or neglected, or who observed the child being subjected to conditions or circumstances which had recently resulted in abuse, abandonment, or neglect, will report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the Department of Health and Welfare.

Failure to report abuse, abandonment, or neglect is a misdemeanor under Idaho law.

## **DEFINITIONS**

### Abused:

Any case in which the child has been the victim of: (1) conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive, or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or (2) sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photography, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

### Abandoned:

The failure of the parent to maintain a normal parental relationship with the child, including, but not limited to, reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year will constitute prima facie evidence of abandonment.

### Neglected:

A child (1) who is without proper parental care or control, or subsistence, or education, or medical or other care or control necessary for his or her well-being because of the conduct or omission of the parents, guardian, or other custodian or their neglect or refusal to provide them; however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment will be deemed for that reason alone to be neglected or to lack parental care necessary for his or her health and well-being; or (2) whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child and, as a result of such inability, the child lacks the parental care necessary for his/her health, safety or well-being; or (3) who has been placed for care or adoption in violation of law; or (4) who is without proper education because of the failure to comply with Idaho Code §33-202.

### **PROCEDURE FOR REPORTING**

1. Any school district employee or volunteer will report or cause to be reported any suspected child abuse, abandonment or neglect within twenty-four (24) hours. The employee or volunteer may ask the building principal to call the appropriate agency on his/her behalf.
2. The reporting party (district employee or volunteer initiating the report) will complete a written statement setting forth the reasons believed that a child has been abused, abandoned, or neglected. The date and time will be set forth on the written report.
3. The agencies contacted and the names of the individuals with whom the reporting party spoke will also be set forth.
4. Any prior suspicions will also be set forth.

The written report will be delivered to the building principal, who will then deliver a copy of the written report to the superintendent.

In all cases, the building administrator or program supervisor will be notified as soon as possible.

Because of the specialized training that may be necessary to conduct an investigation of alleged child abuse, abandonment, or neglect, any formal investigations of the matter will be conducted by the Idaho Department of Health and Welfare or the local law enforcement agency. All school district employees and volunteers will cooperate with these organizations in their investigatory capacities.

### **REPORTING IMMUNITY**

Any person who has reason to believe that a child has been abused, abandoned, or neglected and, acting upon that belief, makes a report of abuse, abandonment, or neglect, as required, will have

immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant will have the same immunity in respect to participation in any judicial proceedings resulting from the report. Any person who reports in bad faith or with malice will not be protected. Any privilege between husband and wife, or between any professional person, except the lawyer-client privilege, including, but not limited to, physicians, counselors, hospitals, clinics, day care centers, and schools and their clients, will not be grounds for excluding evidence in any proceedings regarding the abuse, abandonment, or neglect of the child or the cause thereof.

Although “reasonable belief” is not defined within Idaho Code, this standard generally means what a similarly situated person would do under similar circumstances.

Any person who makes a report or allegation of child abuse, abandonment, or neglect knowing the report to be false, or who reports or alleges such in bad faith or with malice, will be liable to the person or parties against whom the report was made for the amount of actual damages sustained or statutory damages of five hundred dollars (\$500), whichever is greater, plus attorney fees and costs of suit. If a court finds that the individual acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

### **CONFIDENTIALITY**

The identity of a reporting party maintained by any law enforcement entity or the Department of Health and Welfare relating to the investigation of child abuse, neglect or abandonment is exempt from disclosure pursuant to the Idaho Public Records Law unless the reporting party consents in writing to the disclosure or the disclosure of the reporting party’s identity is required in any administrative or judicial proceeding.



### **LEGAL REFERENCE:**

Idaho Code Sections

16-1602 – Child Protective Act Definitions

16-1605 – Reporting of Abuse, Abandonment and Neglect

16-1606 – Immunity

16-1607 – Reporting in Bad Faith

74-124(1)(g) – Exemptions from Disclosure; Confidentiality

A.G. OP’N NO. 93-2

*White by White v. Pierce County*, 797 F.2d 812 (9<sup>th</sup> Cir. 1986)

**ADOPTED:**

**AMENDED:**