

# Regulation 0403-72

## Child Abuse/Neglect

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### Reporting Requirements

According to Idaho Code 16-1605, any person, including school personnel, having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or to the Department of Health and Welfare.

### Definitions

Idaho Code 16-1602 defines “abused,” “abandoned” and “neglected” as follows:

- **Abused:** means any case in which a child has been the victim of: conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, head injury, 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 sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, human trafficking as defined in section 18-1802, Idaho Code, or other similar forms of sexual exploitation harming or threatening the child’s health or welfare or mental injury to the child.
- **Abandoned:** means the failure of the parent to maintain a normal parental relationship with his/her student, 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 shall constitute prima facie evidence of abandonment.
- **Neglected:** means a student: who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his/her

well-being because of the conduct or omission of his/her parents, guardian or other custodian or their neglect or refusal to provide them.

## Investigation

According to the Attorney General Opinion 93-2, the Idaho Department of Health and Welfare Child Protection Services employees have the authority and specialized training to investigate reports of suspected child abuse, abandonment and neglect. The authority of the Idaho Department of Health and Welfare to investigate reports of child abuse, abandonment and neglect includes the ability to determine who may be present and/or participate in the interview process. Interviews of suspected victims of child abuse, abandonment and neglect without parental consent or notification do not violate the parent's rights to privacy. It is the responsibility of the Department of Health and Welfare to notify parents of an investigation and/or interview.

## 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 in section 16-1605, Idaho Code, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report. Any personnel who reports in bad faith or with malice shall not be protected by this section and may be subject to the same disciplinary measures as outlined below for a failure to report. (Idaho Code 16-1620)

## Failure To Report

Personnel may be subject to disciplinary action up to and including termination for failure to report or preventing District personnel from reporting a suspected case of abuse, abandonment or neglect to the Department of Health and Welfare or local law enforcement.

## Documentation And Internal Reporting

Any District personnel who makes a report of abuse, abandonment, or neglect to law enforcement or the Department of Health and Welfare shall document that a report was made, including the date and time, to whom the report was made and the details of what was reported.

The occurrence of a report being made, along with the documentation of the act of reporting, shall be provided to the principal or supervisor by the personnel making the report.

Consistent with sections 33-6001(3) and 74-104, Idaho Code, the District shall not provide to a parent, legal guardian, or pursuant to a public record request, a copy of any child's educational or health records created, maintained or used by the public school when such documentation relates to physical/sexual abuse, abandonment or neglect by the parent or legal guardian of a student, absent an appropriate court order.

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