



# SafeSport

Where your game plan starts

November 15, 2011

## Reporting Child Abuse & Neglect

Whether and when to report abuse under federal and/or state law is a legal question, which turns on several factors. Below is a summary of information available from the U.S. Department of Health & Human Services (DHHS) ([www.childwelfare.gov](http://www.childwelfare.gov)), as well as links to state definitions, statutes, and resources. Note, however, that States frequently amend their laws.

Reporting laws reflect our community's paramount obligation to protect children from maltreatment. While the requirements listed below are the legal minimums, we encourage you to take immediate action if you believe the health or welfare of a child is at stake. If you have any questions concerning reporting, you should also speak with your legal team immediately.

### Federal Law

Federal legislation – the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C.A. § 5106g), as amended by the CAPTA Reauthorization Act of 2010 – sets minimum standards for defining child abuse and neglect for those States that accept federal funding. Under federal law, the minimum acts or behaviors constituting child abuse and neglect by parents and other caregivers are:

- “Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation”; or
- “An act or failure to act which presents an imminent risk of serious harm.”

### State Law

As noted, whether to report child abuse and neglect under state law turns on several factors:

- **What is “child abuse and neglect”?**  
Although federal legislation sets minimum standards for defining child abuse and neglect, the definitions of child abuse and neglect vary by State. It is thus critical that you work with your attorney to determine (1) what law governs your reporting obligations; and (2) what the law was when the alleged child maltreatment occurred.
- **Who is required to report?**  
Many States identify **professionals** who are required to report child maltreatment (“mandatory reporters”) – e.g., social workers and teachers. Note, however, that who constitutes a mandatory reporter varies by state. In addition, several states also require **any person** who suspects child abuse or neglect to report, regardless of profession.
- **Who is permitted to report?**  
Your legal obligations may vary with your ethical obligations. For those states that do not require all persons to report suspected abuse or neglect, any person is *permitted* to report (“permissive reporters”). Be aware that certain professions also have their own professional codes of conduct that they must follow and that may affect how and when an individual may report.

- **What is the standard for reporting?**

The circumstances under which a mandatory reporter is required to report vary by State. The DHHS summarizes two typical reporting standards, for both mandatory and permissive reporters: (1) “the reporter, in his or her official capacity, *suspects* or *has reasons to believe* that a child has been abused or neglected”; and (2) the reporter has knowledge of, or observes a child being subjected to, conditions that would reasonably result in harm to the child.” Again, work with your attorney to determine when you are required to or should make a report to a state agency.

- **Is the communication privileged?**

Some States identify when a communication is privileged, i.e., there is a right to maintain a confidential communication between a professional and their client or patient. However, this privilege is greatly restricted for mandatory reporters. For instance, States commonly provide that the physician-patient privilege is superseded by the requirement to report child abuse.

- **Who should reports be made to?** Contact your local child protective services office or law enforcement agency so professionals can assess the situation. Many States also have a toll-free number to call to report suspected child abuse or neglect. To find out where to call, visit: [http://www.childwelfare.gov/pubs/reslist/rl\\_dsp.cfm?rs\\_id=5&rate\\_chno=W-00082](http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?rs_id=5&rate_chno=W-00082). Finally, **check your organization’s internal reporting requirements.**

- **Will the report be anonymous?**

Most States permit anonymous reports.

- **Will the reporter’s identity be disclosed?**

If a reporter does disclose his/her identity, many states protect the identity of the reporter from disclosure to the alleged perpetrator. In some cases, however, a reporter’s identity may be released (i.e., by court order or by waiver and/or consent).

We also encourage the community to read more about abuse and neglect, familiarize themselves with the resources available to report abuse, and learn about the counseling and referral services that are available.

To read more about **mandatory reporting**, with a summary of **state reporting laws**, visit: [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/manda.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm)

For **state (toll-free) child abuse reporting numbers**, visit:

[http://www.childwelfare.gov/pubs/reslist/rl\\_dsp.cfm?rs\\_id=5&rate\\_chno=W-00082](http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?rs_id=5&rate_chno=W-00082)

To search the **definitions** of child maltreatment by state, visit:

[http://www.childwelfare.gov/systemwide/laws\\_policies/state/](http://www.childwelfare.gov/systemwide/laws_policies/state/)

For **crisis assistance, counseling, and referral services**:

Childhelp is a national organization that provides crisis assistance and other counseling and referral services. The Childhelp National Child Abuse Hotline is staffed 24 hours a day, 7 days a week, with professional crisis counselors. **All calls are anonymous.** Contact them at 1.800.4.A.CHILD (1.800.422.4453), or visit <http://www.childhelp.org/>.