

Sec. 3.11.1. DEFINITIONS

The following words and terms have the following meanings when used in this policy:

“*Child abuse or neglect*” includes the definitions of “abuse” and “neglect” found in Texas Family Code § 261.001(1), (4), as well as the trafficking of a child in accordance with Texas Education Code § 38.004.

“*Other maltreatment*” has the meaning assigned by Texas Human Resources Code § 42.002.

“*Trafficking of a child*” has the meaning assigned by Texas Penal Code § 20A.02(a)(5), (6), (7), or (8).

Sec. 3.11.2. CHILD ABUSE REPORTING AND PROGRAMS

Life School will provide child abuse antivictimization programs in elementary and secondary grade levels. *Education Code 38.004.*

Sec. 3.11.3. REPORTING OBLIGATION

Sec. 3.11.3.1. Required Reports

A person having cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law.

Additionally, any Life School employee, agent, or contractor who suspects a child’s physical or mental health or welfare has been adversely affected by abuse or neglect must submit a written or oral report to at least one of the following authorities within 48 hours or less after learning of facts giving rise to the suspicion:

1. A local or state law enforcement agency;
2. The Texas Department of Family and Protective Services (DFPS), Child Protective Services Division (CPS);
3. A local CPS office, where available; or
4. The state agency that operates, licenses, or registers the facility in which the alleged child abuse or neglect occurred.

Family Code 261.101(a); 19 Tex. Admin. Code § 61.1051(b)(1).

Life School may not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above. *19 Tex. Admin. Code § 61.1051(b)(5).*

Sec. 3.11.3.2. Required Reports By A Professional

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect. A professional may not delegate to or rely on another person to make the report.

A “professional” is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers. *Family Code 261.101(b)*.

Sec. 3.11.3.3. Reporting Abuse of Persons with Disabilities

A person having cause to believe that a person with a disability who is over the age of 18, or who is under 18 years of age and has had the disabilities of minority removed, is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. *Human Resources Code 48.051, .054*.

Sec. 3.11.3.4. Adult Victims of Abuse

A person or professional shall make a report in the manner required by law if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*.

Sec. 3.11.3.5. Refusal of Psychiatric or Psychological Treatment of a Child

An employee may not use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to a child, or to consent to any other psychiatric or psychological treatment of a child, as the sole basis for making a report of neglect of the child unless the refusal to consent:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or

2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111.

Sec. 3.11.4. CONTENTS OF REPORT

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.103, .104.

Sec. 3.11.5. ENTITIES TO WHICH REPORTS MUST BE MADE

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility.

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103(a); 19 TAC 61.1051(a)(1).

Sec. 3.11.6. IMMUNITIES

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106.*

Life School may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110.*

Sec. 3.11.7. CRIMINAL OFFENSES

Sec. 3.11.7.1. Failure to Report

A person commits a class A misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *Family Code 261.109; 19 TAC 61.1051(a)(2)(A).*

Sec. 3.11.7.2. False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a).*

Sec. 3.11.7.3. Coercion

A school employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency may be subject to Class C misdemeanor penalties. *Penal Code 39.06.*

Sec. 3.11.8. POTENTIAL SBEC PENALTIES

The State Board for Educator Certification (SBEC) may take action as allowed under 19 TAC 249.15(a) based on satisfactory evidence that a person has failed to report or has hindered the reporting of child abuse as required under Family Code 261.001, or has failed to notify the SBEC or the Superintendent or designee under the circumstances and in the manner required by Education Code 21.006 and 19 TAC 249.14(d)-(f). *19 TAC 249.15(b)(4).*

Sec. 3.11.9. CONFIDENTIALITY

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. *Family Code 261.201.*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d).*

Sec. 3.11.10. INVESTIGATIONS

Sec. 3.11.10.1. Reports to the School

If the DFPS initiates an investigation and determines that the abuse or neglect involves a Life School employee, and that the child is a student at Life School, the department shall orally notify the Superintendent. *Family Code 261.105(d)*.

The DFPS shall send a written report of its investigation, as appropriate, to the Principal, unless the Principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. *Family Code 261.406(b)*.

Sec. 3.11.10.2. Interviewing Students

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)*. Life School employees may not require the presence of a parent or school administrator during an interview by an investigator.

Sec. 3.11.10.3. Interference with Investigation Confidentiality

A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. *Family Code 261.303(a)*.

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*.

Sec. 3.11.11. ANNUAL POLICY REVIEW

The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261, 19 TAC 61.1051, and 40 TAC Chapter 700 with respect to investigations by the DFPS.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above (see "To Whom Reported") within 48 hours or less, as determined by the Board, after learning of facts giving rise to the suspicion.

The policies must also be consistent with 40 TAC Chapter 700 regarding investigations by the DFPS, including regulations governing investigation of abuse by school personnel and volunteers.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above. *19 TAC 61.1051(a)*.

Sec. 3.11.11.1. Policy Violations

Any Life School employee who violates the reporting requirements under Chapter 261, Family Code, is subject to disciplinary action, up to and including termination of employment.

Sec. 3.11.11.2. Annual Distribution and Staff Development

The Superintendent or designee shall develop additional guidelines concerning the reporting of suspected child abuse and neglect. Such guidelines shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(b)*.

Each school year, Life School shall provide training as required by Education Code 38.0041 to all new school employees as part of new employee orientation. *Education Code 38.0041; 19 TAC 61.1051(c)*.

Sec. 3.11.12. REQUIRED POSTER

Life School shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
 - a. The current toll-free DFPS abuse Hotline telephone number (in bold print);
 - b. Instructions to call 911 for emergencies; and
 - c. Directions for accessing the DFPS website (<http://www.txabusehotline.org>) for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f).