

Teachers as Mandated Reporters of Child Abuse

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Unfortunately, various types of child abuse are prevalent in modern American society. Abuse spans cultural, racial, and socio-economic boundaries to create a truly universal epidemic, which has been designated a “national emergency” by the U.S. Advisory Board on Child Abuse and Neglect (Lowenthal, 2001, p.5). The National Child Abuse and Neglect Data System estimates that in 1999, there were 826,000 victims of child abuse and neglect across the United States (Duncan, 2001, “What Is Child Abuse?”). Educators play a unique role in recognizing and reporting child abuse, since they spend so much time with students and can observe both day-to-day and long-term changes. Often, however, regulations and laws for reporting seem unclear or confusing to teachers, and can lead to fewer reports or less useful information being reported. Educators should be aware of the various laws that govern their role as mandatory reporters, and should have basic training in recognizing and assisting victims of abuse.

Teachers Reporting Child Abuse

Teachers are one of the most vital participants in child abuse prevention. In her book, *Abuse and Neglect: The Educator’s Guide to Identification and Prevention of Child Maltreatment*, Barbara Lowenthal (2001) observes, “Because of their daily contact with the students in the classroom and their knowledge of child development, teachers are in a unique position to help children who are maltreated feel valued, respected, cared for, and safe at school. In addition, because of their familiarity with the families, teachers often can assist the family members in gaining access to the services they need to prevent any further abuse and neglect” (p.1). The U.S. Department of Health and Human Services recognizes that the most frequent reporters of child abuse, 16.2% in 2003, were educators (Crosson-Tower, 2003, p.14). The unique opportunity teachers have to observe the effects of abuse and the high reporting rate

among teachers highlight the need for teachers to understand the laws and regulations for reporting.

CAPTA

At the national level, child abuse reporting is governed by the Child Abuse Prevention and Treatment Act, CAPTA, passed in 1974 and most recently revised in 2003 as part of the Keeping Children and Families Safe Act (Child Welfare Information Gateway, 2004, “Introduction”). This act “provides a foundation to [state governments] by identifying the minimum set of acts or behaviors that characterize maltreatment” (Duncan, 2001, “What Is Child Abuse?”). CAPTA defines child abuse and neglect as, “at a minimum, 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”(CAPTA, 2003, 2). This definition encompasses physical and emotional abuse, as well as neglect. Sexual abuse is defined in part 4 and reads,

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

(B) the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children; (CAPTA, 2003)

Types of Abuse

Physical abuse is defined as intentional injury to a child by the caretaker and can include burning, beating, kicking, and punching. Physical abuse cannot be accidental under CAPTA, but the caretaker does not necessarily have to intend to harm the child for it to be considered abuse(Duncan, 2001, “What is Child Abuse?”). Physical abuse is the second most reported type of abuse nationwide, falling at 18.6% of cases in 2001(Crosson-Tower, 2003, p.8). Corporal punishment is legal under CAPTA, but can be taken to extremes (Duncan, 2001, “What is Child abuse?”), the details of which are explained more clearly in the Mississippi state code.

The second type of abuse is neglect. Neglect is the most commonly reported and substantiated type of abuse nationwide, with 59.2% of all reported abuse cases in 2001 falling under the category of neglect (Crosson-Tower, 2003, p.8). Nancy Duncan (2001) points out,

“Whereas physical abuse tends to be episodic, neglect is more often chronic...” (“What is Child Abuse?”). Neglect is when a child’s basic needs are not being met, and can involve lack of food, clothing, shelter, medical care or supervision. Indicators of neglect include: stealing or hoarding food and disorganized thinking or unattended needs. Educators should be careful, however, that what they perceive as neglect is not simply a different style of child rearing, lifestyle, or culture. In the case of educational neglect, or chronic truancy, Child Protective Services, CPS, only investigates to eliminate the possibility of larger neglect, assuming that local or state governments have other resources to handle chronic truancy (Duncan, 2001, “What is Child Abuse”).

Duncan (2001) defines emotional abuse as, “verbal, psychological, or mental abuse in which the damage inflicted leaves lasting scars. It can include blaming, belittling, or rejecting a child; constantly treating siblings unequally; and persistent lack of concern by the caretaker for the child’s welfare. Experts believe that many cases of emotional child abuse go unreported, because it is difficult to diagnose and prove in court due to the lack of physical evidence (“What is Child Abuse?”)

Sexual abuse is specifically defined in the text of CAPTA.

National Reporting

Based on CAPTA, national guidelines for reporting lay out the basic requirements for mandated reporters. Duncan (2001) notes that educators should be guided by the school’s reporting policies, but that sometimes these policies can be confusing (“What Is a Teacher Expected to Report?”). It is important to recognize that all states require the report to be made to a law enforcement or child protection agency. Reporting to a child’s relative does not fulfill the mandatory reporting requirements (Smith, n.d.). The National Clearinghouse on Child Abuse

and Neglect Information points out that the presence of a single sign of abuse does not necessarily prove the child is abused, but signs in combination or occurring repeatedly warrant a closer look. The agency also notes that the four types of abuse are most often found in combination with one another instead of alone. The Childhelp USA National Child Abuse Hotline provides information about where and how to file a child abuse report nationwide: 1-800-4-A-CHILD (National Clearinghouse on Child Abuse and Neglect Information, 2003, “Introduction”).

Reporting in Mississippi

Section 43-21-105 of the Mississippi Code of 1972, Annotated defines an abused child as:

a child whose parent, guardian, or custodian or any person responsible for his care or support whether legally obligated to do so or not, has caused or allowed to be caused upon said child sexual abuse, sexual exploitation, emotional abuse, mental injury, non-accidental physical injury or other maltreatment. Provided, however, that physical discipline, including spanking, performed on a child by a parent, guardian, or custodian in a reasonable manner shall not be deemed abuse under this section. (m.)

Regarding corporal punishment, it is important to note that under Mississippi law, parents are allowed to use corporal punishment, but they are not allowed to cause bruises, marks or other injuries to children. The Mississippi Department of Human Services [MDHS] (n.d.) website asserts, “Any evidence of [bruises, marks, or other injuries] will constitute abuse by the Mississippi Department of Human Services” (“What is an abused child?”).

The State of Mississippi has a twenty-four hour, seven day a week hotline for reporting child abuse within the state. Mandatory reporters should make an immediate verbal report to the county Welfare Department or the Child Abuse Hotline, 1-800-222-8000, when they suspect abuse (MDHS, n.d., “Who do I call to make a report?”).

What to Have Ready to Report

Mississippi guidelines recommend that teachers have the child's age, name, address and present location when they call the hotline. The teacher should also have the parent's name and address, the nature and extent of the injury or condition observed, and his own name, location and phone number (Perry, n.d., "What to Report"), unless he chooses to make an anonymous report, which is allowable under Mississippi law (MDHS, n.d). Connie Burrows Horton, coauthor of *Child Abuse and Neglect, The School's Response*, gives an example of an incomplete report, "When a teacher calls a CPS hotline and reports vaguely, 'I'm just really concerned about this child; she is not acting like herself lately and I did notice some bruises,' CPS typically will not pursue such a report" (Duncan, 2001, "Just the Facts"). Educators are not investigators, and should take special care not to be leading in the questions they ask, but should try to get as much specific information as possible from the child for CPS to determine if they should investigate (Duncan, 2001, "Just the Facts").

Expectations After the Report

After a report is made in Mississippi, an investigation will begin within 24 to 48 hours, depending on the type of report. First, the child will be interviewed privately in a neutral location, often the school. Second, each household member will be interviewed privately. Third, at least one non-family member like a teacher or doctor will be interviewed. When the facts support the allegation of abuse, the department will report to the district attorney within 72 hours. The district attorney decides whether criminal charges can be filed (MDHS, n.d., "What happens when I call in a report?"). It is important to note that federal law requires reasonable effort to keep a child safe within the family, so if CPS determines that the child will be safe

while the family receives services, the child will stay in the home. When the case is settled, some state and local Child Welfare Agencies will inform mandated reporters of the outcome of the case, usually by sending a letter to the reporter, but in some cases the family's right to privacy supercedes the reporters right to information (Duncan, 2001, "What to Expect When You Report").

Reasons Educators Do Not Report

Often, educators don't report child abuse because they are confused about CPS, what it does, and whether or not it helps. Sometimes, schools may not support reporting and teachers are concerned about antagonizing their administration. Also, many teachers are concerned that after they report, the child will not be removed from the home and will receive even worse abuse after the incident (Duncan, 2001).

Reasons Educators Should Report

Reports of child abuse are strictly confidential in Mississippi and nationwide. In Mississippi, your identity may only be revealed if you are called to testify, and in that case, it may only be revealed to law enforcement officials and the prosecutor only, unless some special form of authorization is obtained (Mississippi Code, 1972, § 43-21-353(7)). Nationwide, investigators can be jailed for breaking confidentiality laws (Duncan, 2001, "What Is a Teacher Expected to Report?").

Under federal law, mandatory reporters who report abuse in "good faith" are absolutely immune from criminal and civil liability (Smith, n.d., "Immunity"). Failing to report, however, when abuse is suspected is subject to a \$5000.00 fine and imprisonment of up to one year under Mississippi Code of 1972, Annotated Section 43-21-353(7) (MDHS, n.d., "What Will Happen?"). Most healthcare attorneys advise clients that legally, it is far better to report

suspected abuse and be wrong, than to not report and have the child injured or killed (Smith, n.d., “Immunity”).

Teachers have a responsibility to report suspected abuse, not only because it is required by law, but also because it is a teacher’s job to educate and protect students. A child suffering from chronic abuse will not receive adequate education, because he has other, more basic needs, that are not being met.

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