

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

PURPOSE

This policy is to ensure that TSD staff shall report in accord with this policy and/or all applicable laws regarding suspected human trafficking, abuse, neglect, and exploitation, including sexual abuse. The Texas Family Code designates TSD as an investigating agency for incidents alleged to have occurred at the School. The School shall investigate all reports of suspected abuse, neglect, and exploitation, including sexual abuse. The primary purpose of this policy is to protect students from harm and to ensure compliance with Texas Family Code and corresponding state rules and regulations. Family Code §261.003, .401.

SCOPE

The law imposes a duty on everyone, from ordinary citizens to relatives, teachers, doctors, lawyers, and religious officers to report suspected child abuse and neglect under penalty of criminal prosecution for failure to do so. This policy applies to all situations in which a report regarding possible abuse, neglect, or exploitation of a student is required, regardless of the age of the student.

Situations where a student has allegedly acted improperly towards another student shall be dealt with under applicable law and other TSD policies and procedures.

**ANTI-VICTIMIZATION
PROGRAM**

TSD shall provide child abuse anti-victimization programs in elementary and secondary programs. Education Code §38.004.

TSD shall adopt and implement a policy addressing sexual abuse, human trafficking, and other maltreatment of children, to be included in the district improvement plan [see Policy BQ] and the handbook provided to students and parents. Education Code §38.0041(a).

TSD will provide training to increase staff, student, and parent awareness of issues regarding sexual abuse, trafficking and other forms of maltreatment of children, and the prevention techniques for self-protection, including likely warning signs that a child may be a victim. TSD shall coach student to obtain assistance and intervention if they become victims and provide counseling options. Reports must be made within 48 hours whenever a student's physical or mental health or welfare has been adversely affected by abuse or neglect. 19 Tex. Admin. Code §61.1051(b), .1054(b)(3).

DEFINITIONS

The following definitions apply to the School:

- (1) "Abuse" includes the following acts or omissions by a person:
 - (A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

- (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- (E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individuals under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
- (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under Section 43.021, Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
- (I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- (J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- (K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
- (L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or
- (M) forcing or coercing a child to enter into a marriage.

(2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(3) "Neglect" means an act or failure to act by a person responsible for a child's care, custody, or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child's physical health or safety and includes:

- (A) the leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
- (B) the following acts or omissions by a person:

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

- (i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child;
 - (ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
 - (iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
 - (iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child; or
 - (v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child;
- (C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away; or
- (D) a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

PROCEDURES

The Superintendent shall ensure that procedures are adopted to implement the requirements of this policy. Family Code § 261.403(b).

DUTY TO REPORT

**REPORT OF ABUSE, NEGLECT,
OR EXPLOITATION**

Any TSD employee, volunteer, or other individual working under the auspices of TSD who has cause to believe that the physical or mental health or welfare of a student regardless of age has been or may be adversely affected by abuse, neglect, or exploitation by any person shall immediately (and no later than 48 hours) report such belief to:

1. a local, or state law enforcement authority; or
2. the Texas Department of Family and Protective Services (DFPS), Child Protective Services Division toll free number 1-800-252-5400, on line at Texas Abuse Hotline Website [www.txabusehotline.org]; or
3. the appropriate TSD officials, as set forth in TSD Administrative Procedure "Reporting and Investigating Suspected Student Abuse, Neglect, and Exploitation" [abuse@tsd.state.tx.us].

See Reporting Suspected Abuse or Neglect of a Child: Reporting Basics and A Guide for Professionals [www.dfps.state.tx.us/training/reporting]

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

Family Code §261.101, .103.

Making a report is mandatory and cannot be delegated to another person. Family Code §261.103(c).

If TSD finds evidence indicating that a child may have been abused, neglected, or exploited, TSD shall report the evidence to the appropriate law enforcement agency. If a child appears to need immediate medical attention or is in imminent danger, call 911. Family Code §261.401(d), .402(b).

If a person makes a report of suspected abuse, neglect, or exploitation by an employee, volunteer, or other person working under the auspices of TSD to one of the entities in numbers 1 or 2 above, the person shall also make an immediate report to TSD in the manner specified in TSD Administrative Procedure "Reporting and Investigating Suspected Student Abuse, Neglect, and Exploitation" [abuse@tsd.state.tx.us].

**CONTENTS OF REPORT -
EXTERNAL**

A report alleging suspected abuse or neglect while the student was not in the case of TSD that is made to the Texas Department of Family or Protective Services Hotline or to a local or state law enforcement agency shall contain, 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, if available; and 3) any other pertinent information concerning the alleged or suspected abuse, neglect, or exploitation. Family Code § 261.102, .103, .104.

**REPORT OF ABUSE,
NEGLECT, OR EXPLOITATION -
INTERNAL**

Any TSD employee, volunteer, or other individual working under the auspices of TSD having cause to believe or suspect that a student of any age has been or may be exploited while in the care, custody, or control of the School, shall immediately report such belief to the appropriate TSD officials, as set forth in TSD Administrative Procedure "Reporting and Investigating Suspected Student Abuse, Neglect, and Exploitation" [abuse@tsd.state.tx.us]. Family Code § 261.401; 19 Tex. Admin. Code § 61.1051(b)(1).

**PSYCHOTROPIC DRUGS AND
PSYCHOLOGICAL TESTING**

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator of any TSD student to administer or consent to the administration of a psychotropic drug to the student, or to consent to any other psychiatric or psychological testing or treatment of the student, as the sole basis for making a report of neglect of the student under Subchapter B, Chapter 261, Family Code, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the student; or
 2. Has resulted in an observable and material impairment to the growth, development, or functioning of the student.
- Educ. Code §26.0091; Family Code §261.111(a).

Psychotropic drug means a substance that is:

1. Used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

2. Intended to have an altering effect on perception, emotion, or behavior. Family Code §261.111(a).

**PROHIBITION AGAINST
DELEGATION**

An employee, volunteer, or other individual working under the auspices of TSD may not delegate to or rely on another person to make any report required under this policy or TSD Administrative Procedure "Reporting and Investigating Suspected Student Abuse, Neglect, and Exploitation." Family Code §261.101(b). However, TSD Social Worker Investigators are available to assist employees and volunteers with making required reports to DFPS or law enforcement officials.

CONFIDENTIALITY

A report of alleged or suspected abuse or neglect and the identity of the person making the report are confidential and not subject to release under Government Code Chapter 552 (Public Information Act) and may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. Family Code §261.201(a)(1).

Unless waived in writing by the person making the report, the identity of an individual making a report 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 in accordance with Family Code §261.201. Family Code §261.101(d).

IMMUNITY FROM LIABILITY

A person filing a report in good faith 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 good faith report, testimony, or participation, unless the person acted in bad faith or with malicious purpose. Family Code §261.106.

The School may not suspend or terminate the employment of, or take any other adverse employment action against, or otherwise discriminate against a professional who makes a good faith report of abuse or neglect. Family Code §261.110(b) [See Policy DG]

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, record, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. Human Resources Code §48.051, .052, .054; 19 Tex. Admin Code §61.1051(a).

**INVESTIGATIONS BY TSD
CONDUCTING INVESTIGATIONS**

TSD shall make a prompt, thorough investigation of any report that a student has been, or may be abused, neglected, or exploited while at the School or under the care of the School. The primary purpose of the investigation shall be the protection of the student. Family Code § 261.003; .401(b), (d).

INVESTIGATIVE REPORTS

The School shall:

1. Prepare and keep on file a complete written report of each investigation conducted by the School.
2. Compile, maintain, and make available statistics on the incidence of child abuse, neglect, and exploitation in the School.

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

3. Report to the appropriate law enforcement agency evidence indicating that a child may have been abused or neglected, if the School finds such evidence.

Family Code § 261.402.

**DISCLOSURE OF
INVESTIGATIVE DOCUMENTS**

The reports of alleged or suspected abuse, neglect, or exploitation; the identity of the person making such a report; and the files and reports, records, communications, audio recordings, video recordings and working papers used or developed in an investigation or in providing services as a result of such investigation are confidential and are not subject to public release under Chapter 552, Government Code. Family Code §261.201(a); Human Resources Code §48.101.

**EXCEPTION: RELEASE OF
INFORMATION**

The Superintendent shall release information as required by Family Code §261.201(b), (b-1), and (c).

The Superintendent may release to the parent of a student about whom a report of abuse or neglect has been made information that otherwise would be confidential under Family Code §261.201(a) or Human Resources Code §48.101(b) when:

1. In the Superintendent's judgment, the release of the report is in the best interest of the student; and
2. The student's parent is not the person reported to have abused or neglected the student.

When information is released under this policy, the following information shall be excised:

1. The names and other identifying information about all students, other than the student who was reported to have been abused or neglected;
2. The name of the person making the report of abuse or neglect; and
3. The names of all witnesses.

Family Code §261.201(a); Human Resources Code §48.101(b).

COMPLAINT

If the School receives a complaint relating to an investigation conducted by a TSD official, the complaint shall be referred to the Superintendent who will place the complaint before the TSD Governing Board. Family Code § 261.403(a); Human Resources Code §48.301(e).

EMPLOYEE TRAINING

As part of new employee orientation and annually thereafter, each employee shall receive training in the responsibilities associated with this policy and the implementing procedures, including the penalties for a failure to report and interference with an investigation.

**DISTRIBUTION OF POLICY AND
PROCEDURE**

Each TSD employee shall receive a copy of this policy and its implementing procedure during new employee orientation and at the beginning of each school year and shall sign a receipt so indicating. [See Policy DH and DMA]; Educ. Code §38.0041; 19 Tex. Admin. Code §61.1051(c).

**TRAINING FOR VOLUNTEERS
AND INDIVIDUALS WORKING
UNDER TSD AUSPICES**

Any volunteer or individual working under the auspices of TSD shall receive training in the volunteer's of individual's reporting requirements under this policy and copy of the policy prior to providing services to TSD and such individuals shall sign a receipt so indicating. Educ. Code §38.0041; 19 Tex. Admin. Code §61.1051(c).

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

PERIODIC REIEW BY AUDITOR	The TSD internal auditor shall periodically review this policy and the procedures implementing this policy as a part of an annual risk assessment.
BOARD POLICY AND PERIODIC REVIEW	The Board adopts and shall periodically review this policy for reporting sex and human trafficking, child abuse and neglect. The policy shall follow the requirements of Texas Family Code Chapter 261. This policy does not require that school personnel report suspicion of child abuse or neglect to a school administrator before making a report to a local or state law enforcement agency of the Texas Department of Family and Protective Services Hotline. However, it is the policy of the Board that school personnel are encouraged to make an additional report to TSD in the manner specified in TSD Administrative Procedure "Reporting and Investigating Suspected Student Abuse, Neglect, and Exploitation" [abuse@tsd.state.tx.us]. The sole purpose for TSD's internal reporting requirement is the immediate safety of the student and must not in any way impede a thorough and timely investigation. 19 Tex. Admin. Code §61.1051(a).
TSD COLLABORATION WITH OTHER STATE OR LOCAL LAW ENFORCEMENT AGENCIES	TSD shall immediately notify the appropriate state and local law enforcement agency of any report that TSD receives, other than a report from a law enforcement agency, that concerns the suspected abuse, neglect, or exploitation of a child or death of a child from abuse or neglect. DFPS and law enforcement agencies that received a report of alleged abuse, neglect, or exploitation of a student when in the care of TSD shall notify the School so that it can initiate the required investigation. A state or local law enforcement agency may choose to conduct the investigation instead of TSD when there is reason to suspect criminal conduct has occurred. Family Code §261.402(b).
INTERVIEW OF STUDENTS	The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the School. Family Code §261.302(b). [See Policy GRA].
INTERFERENCE WITH INVESTIGATION	A person may not interfere with the investigation of a report of child abuse or neglect conducted by DFPS. Family Code §261.303(a).
CONFIDENTIALITY	A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made 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. Human Resources Code § 42.004.
CRIMINAL OFFENSES	
FAILURE TO REPORT ABUSE, NEGLECT, OR EXPLOITATION	A person commits a class A misdemeanor if the person is required to make a report under Family Code § 261.101(a) and knowingly fails to make a report as provided by law. A professional commits a state jail felony if he or she intended to conceal the abuse or neglect. Family Code §261.109; Human Resources Code §48.051,.052, .054.
TSD RESPONSE TO FAILURE TO REPORT – EMPLOYEE	Any TSD employee who does not report a belief of student abuse, neglect, or exploitation in accordance with the provisions of this policy and TSD Administrative Procedure "Reporting and Investigating Suspected Student

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

SUBJECT TO DISCIPLINARY ACTION	Abuse, Neglect, and Exploitation” [abuse@tsd.state.tx.us] may be subject to disciplinary action up to and including termination.
REMOVAL FROM SERVICE OF VOLUNTEER OR OTHER INDIVIDUAL	Any TSD volunteer or individual working under the auspices of TSD who does not report a suspicion of student abuse, neglect, or exploitation in accordance with the provisions of this policy may be immediately prohibited from providing further services to TSD.
FALSE REPORT	A person commits an offense if, with the intent to deceive, the person knowingly makes a false report of abuse or neglect. 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 §161.107(a).
COERCION	A public servant, including a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a class C misdemeanor offense. Penal Code §39.06.
CONFIDENTIALITY OF REPORT	<p>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), and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. Family Code §261.201(a)(1).</p> <p>Unless waived in writing by the person making the report, the identity of a reporting individual 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 §262.201. Family Code §261.101(d); Human Resources Code §42.004.</p>
SBEC DISCIPLINARY ACTION	Failure to report child abuse or neglect violated the Educator’s Code of Ethics and may result in sanctions against an educator’s certificate, as addressed in 19 Tex. Admin. Code Chapter 249.15(a) (including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code §261.001, or has failed to notify the SBEC, the commissioner of education, or the school superintendent under the circumstances and in the manner required by Education Code §21.006, .0062, §22.093 and 19 Tex. Admin. Code §249.14(d)-(f). 19 Tex. Admin. Code §249.15(b)4), §61.1051(a)(2)(A).
REQUIRED POSTED	<p>The School shall place a poster of the following specifications in the elementary and secondary instructional buildings in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The post must:</p> <ol style="list-style-type: none">1. Be in a format and language that is clear, simple, and understandable to students;2. Be in English and Spanish;3. Be 11 x 17 inches or larger;4. Be in large print;5. Be placed at eye-level to the student for easy viewing; and

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION**

FFG

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 Texas Abuse Hotline website [www.txabusehotline.org] for more information on reporting abuse, neglect, or exploitation.
- Education Code §38.0042; 19 Tex. Admin. Code §61.1051(e), (f).

Adopted: 05-29-82

Amended: 12-14-85; 10-16-87; 08-21-87; 06-01-91; 12-10-93; 10-21-94, 03-03-95; 04-25-97; 02-13-98; 10-09-98; 10-05-01; 10-03-03; 10-10-10; 08-10-12; 08-15-19; 12-10-21