

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION, "SEXUAL, MENTAL, OR PHYSICAL MISCONDUCT,"
OR IMPROPER CARE**

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UNIQUE AUTHORITY

Pursuant to the Texas Family Code, the Texas School for the Deaf (TSD) is in a unique position among state agencies and local school districts in that it is designated as one of the few institutions that are authorized to conduct investigations of suspected abuse, neglect or exploitation. With this authority, however, comes an enormous responsibility to insure the health and safety of our staff, students and guests. To that end, the Governing Board is, by adopting this policy, discharging this responsibility straightforwardly. All staff and students are expected to abide by this policy and immediately report suspected abuse, neglect, exploitation, "sexual, mental or physical misconduct," or improper care, to the Department of Social Work.

**ESTABLISHING AND
REVIEWING POLICY FOR
REPORTING CHILD ABUSE**

The School shall follow the requirements of Family Code Chapter 261 and shall be consistent with 40 Tex. Admin. Code Chapter 700 and applicable portions of 1 Tex. Admin. Code Chapter 351 regarding investigations of reports of student abuse, neglect and exploitation by the Texas Department of Protective and Regulatory Services and the School.

Texas Family Code, Chapter 261; 19 Tex. Admin. Code § 61.1051.

**DEFINITIONS OF "ABUSE,"
"NEGLECT," "EXPLOITATION"
"SEXUAL, MENTAL OR
PHYSICAL MISCONDUCT,"
"IMPROPER CARE" AND
"EVENT"**

Within this policy, the terms "abuse", "exploitation", and "neglect" have the meanings as set forth in Texas Family Code § 261.401 and in this policy

1. "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility as further described by rule or policy.

"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;
- (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 children under Section 21.02, Texas Penal Code, indecency with a child under Section 21.11, Texas Penal Code, sexual assault under Section 22.011, Texas Penal Code, or aggravated sexual assault under Section 22.021, Texas Penal Code;
- (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

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- (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Texas Penal Code, including conduct that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Texas Penal Code, prostitution under Section 43.02(a)(2), Texas Penal Code, or compelling prostitution under Section 43.05(a)(2), Texas 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, Texas Penal Code, or pornographic;
- (I) the current use by a person of a controlled substance as defined by Chapter 481, Texas 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, Texas Health and Safety Code;
- (K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Texas Penal Code; or
- (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), Texas 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.

Tex. Fam. Code Ann. § 261.001.

2. "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility, 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 as further described by rule or policy.

"Neglect" includes:

- (A) the leaving of a child in a situation where the child would be exposed to a substantial risk 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:
 - (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 a substantial risk of immediate 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 a substantial risk 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

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- 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 a substantial risk 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 committed against another child; or
- (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.

Tex. Fam. Code Ann. § 261.001.

3. "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 as further described by rule or policy.
4. The term "improper care," as used in this policy, means any action by a TSD employee which does not constitute "abuse", "neglect" or "exploitation" as those terms are defined in Texas Family Code § 261.001 and the rules of the Texas Department of Health and Human Services but which constitutes an inappropriate or unapproved verbal or physical method of interacting with or disciplining a student. "Improper Care" is defined as not in keeping with the acceptable standards of the functions of watching, guarding, or overseeing one or more students, failing to provide needed assistance or watchful protective or supervisory control over any student or students, or the inappropriate or unapproved verbal or physical method or methods of interacting with, or disciplining, one or more students; and which does not constitute abuse, neglect or exploitation as those terms are defined in Texas Family Code § 261.401(a) and this policy. The classification of any potential abuse, neglect or exploitation event as "improper care" shall only be made by a member of the staff of the Department of Department of Family and Student Advocacy Services, its Director or the Superintendent; and only after an investigation into the facts of the event.
5. The phrase "Misconduct," as used herein, means, but is not limited to, a wrongful, improper, unacceptable or unlawful conduct, a violation of the Student Code of Conduct, the Code of Ethics and Standard Practices for Texas Educators, Governing Board Policy, Employee Rules, Regulations or other Promulgated Rules or Policies governing employee conduct, motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's acts.
6. The term "Physical," when used in the phrase "Physical Misconduct" means of or relating to the body and involving force, touching, or some other similar activity applied to the person of another.

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7. The term "Mental," when used in the phrase "Mental Misconduct" means any form of psychological abuse, or emotional abuse that is characterized by a person subjecting or exposing another to behavior that is psychologically harmful and may include, but is not limited to, humiliation and degradation, Examples of mental abuse are verbal abuse; excessive demands on a person's performance; penalizing a person for positive, normal behavior (smiling, mobility, exploration, vocalization, manipulation of objects); penalizing a person for demonstrating signs of positive self-esteem; and penalizing a person for using interpersonal skills needed for adequate performance in the home, employment, school or peer environment.
8. The term "Sexual" as used in the phrase "Sexual, Mental or Physical Misconduct" is a subset of both Physical or Mental Misconduct, and involves the forcing of unwanted or improper sexual advances or activity by one person on another, either by the use of threats or coercion; or when the perpetrator or another person is in a position of power or control over the victim; or any sexual activity that is deemed improper or harmful. It is Sexual abuse is any contact or interaction (physical, visual, verbal or psychological)

Sexual abuse could include a number of acts, including but not limited to:

- Sexual touching of any part of the body, clothed or unclothed;
 - Penetrative sex, including penetration of the mouth;
 - Encouraging a person to engage in sexual activity, including masturbation;
 - Intentionally engaging in sexual activity in front of a child;
 - Showing another person pornography, or using children to create pornography;
 - Encouraging a person to engage in prostitution;
 - intimidation, bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favors; or
 - or making a child look at an adult's genitals.
9. "Event" means an action, fact or instance of occurring; something that takes place; an observable occurrence, activity, happening, incident, episode, or circumstance, whether significant or minor; or an outcome.

Herein words in the singular shall include the plural, and vice versa; and pronouns of any gender shall include the masculine, feminine and neuter genders.

Unless incompatible with the sentence or paragraph were used, the term abuse shall be interpreted to include abuse, neglect and exploitation; sexual, mental or physical misconduct;" and "improper care.

PROCEDURES

The Superintendent shall ensure that procedures are adopted to implement the requirements of this policy.

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The TSD Governing Board shall ensure that the School's procedure for investigating abuse, neglect and exploitation allegations and inquiries is reviewed periodically under the School's Internal Audit program. The Board may direct the Internal Auditor to audit the procedure at any time.

Texas Family Code § 261.403(b).

ORAL/WITTEN
REPORTS REQUIRED

ABUSE AND NEGLECT

Every TSD employee, agent, or contractor who suspects child abuse, neglect or exploitation must submit a written or oral report not later than 48 hours after the hour the person first suspects that the child has been or may be abused or neglected or is a victim of indecency with a child, as described in Texas Penal Code § 21.11. to at least one of the authorities listed below:

1. TSD school Social Workers;
2. Any local or state law enforcement agency;
3. The Texas Department of Family and Protective Services;

All incidents or events of suspected or potential abuse, neglect, exploitation, improper care, or any sexual, mental or physical misconduct, including, but not limited to, physical or sexual conduct, and whether or not such suspected or potential abuse, neglect, exploitation or improper care occurs between any member of TSD staff, any student, or any other individual(s) and any other member of TSD staff, any student or any other individual(s), that might be harmful to a student's or an employee's mental, emotional or physical welfare must be reported to the Department of Social Work, regardless of whether or not the reporter knows that the student or employee, in actual fact--only a TSD Social Worker can make a final determination as to whether or not any reported event has a basis in fact and how the event should be categorized--was abused, neglected, exploited, committed sexual, mental or physical misconduct, or was the recipient of such misconduct, or subjected to improper care; as "suspected abuse, neglect or exploitation of a person."

If the employee making such a report chooses to report the belief of child abuse or neglect to either of the entities in numbers 1 or 2, directly above, the employee shall also then ***immediately make a report to the Department of Social Work.***

If a TSD employee has cause to believe that a child has been or may be abused or neglected or is a victim of indecency with a child, as described in Penal Code Section 21.11, and the person has cause to believe that the student has been abused as defined by Family Code 261.001, that person shall make a report as prescribed above not later than 48 hours after the hour the person first suspects that the student has been or may be abused or neglected or is a victim of indecency with a child, as described in Penal Code section 21.11. A TSD employee may not delegate to or rely on another person to make the report.

Family Code 261.101(b).

Whenever a student or staff member reports "improper care," or "sexual, mental or physical misconduct" the report shall be reclassified as potential abuse,

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neglect, or exploitation and shall be investigated as suspected abuse, neglect or exploitation until it is determined that the facts do not warrant further investigation as potential abuse, neglect or exploitation.

EXPLOITATION AND IMPROPER CARE

Any TSD employee, volunteer, or other individual working under the auspices of TSD having cause to believe that a student has been or may be exploited or has been the subject of improper care shall immediately report such belief to the Department of Social Work.

CONTENTS OF REPORT

Any report of suspected abuse, neglect, exploitation, sexual, mental or physical misconduct or improper care shall contain the name and address of the student, the name and address of the person responsible for the care of the student, if available, and any other pertinent information; and such other information that shall be required by the Department of Social Work.

See Texas Family Code § 261.104.

IMMUNITY FROM LIABILITY FOR REPORTS OF CHILD ABUSE OR NEGLECT

A person who reports or assists in the investigation of a report of student abuse or neglect, other than a person reporting his own conduct or reporting in bad faith or with malice, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

Texas Family Code § 261.106; 19 Tex. Admin. Code § 61.1051.

FAILURE TO REPORT CHILD ABUSE OR NEGLECT

A person commits a class B misdemeanor if he or she has cause to believe that a student'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.

Texas Family Code § 261.109.

An employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense.

Texas Penal Code § 9.06.

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.

19 Tex. Admin. Code § 261.1051.

Any employee who does not report a belief of suspected student abuse, neglect, exploitation or improper care in accordance with the provisions of this policy may be subject to disciplinary action up to and including termination.

TSD REPORT TO STATE OR LOCAL LAW ENFORCEMENT AGENCY

TSD shall immediately notify the appropriate state or local law enforcement agency of any report TSD receives, other than a report from a law enforcement

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agency, which concerns the suspected abuse, neglect, or exploitation of a child or the death of a child from abuse or neglect.

Texas Family Code § 261.402(b).

**DISCIPLINARY ACTION
IMPOSED BY THE STATE
BOARD OF EDUCATOR
CERTIFICATION**

The State Board of Educator Certification (SBEC) may order disciplinary action against a person or certificate over which the board has jurisdiction upon a determination based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse. Disciplinary actions which SBEC may take include:

1. require the withdrawal of a person from an educator preparation program; or
2. place restrictions on the issuance, renewal, or holding of a certificate, either indefinitely or for a set term; or
3. issue an inscribed or non-inscribed reprimand; or
4. suspend a certificate for a set term; or
5. revoke or cancel, which includes accepting the surrender of, a certificate without opportunity for reapplication for a set term or permanently; or
6. impose any additional conditions or restrictions upon a certificate that the board deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials.

19 Tex. Admin. Code § 247.15.

**INTERVIEW WITH
STUDENTS**

Authorized officials from outside TSD conducting a child abuse investigation at TSD shall be permitted to conduct the required interview with the student at any reasonable time at the child's school. TSD may not require the presence of a parent or school administrator during an interview by an investigator.

Texas Family Code § 261.302(b).

A person may not interfere with an investigation, or a report, of student abuse, or neglect, conducted by the Department of Protective and Regulatory Services, TSD, or any agency authorized to investigate reports of abuse, or neglect.

**INVESTIGATIONS
CONDUCTING INVESTIGATIONS**

The Department of Social Work shall make a prompt, thorough investigation of any report that a child has been, or may be, abused, neglected, exploited, or the subject of improper childcare while at the School, or under the care of the School. In its sole and absolute discretion, the Department of Social Work may delegate portions of the investigation to other members of TSD staff, so long as the Department oversees and directs such investigations. The primary purpose of the investigation shall be the protection, health and safety of the student, first and foremost, and of the staff, guests and volunteers of TSD,

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second; and the providing to students of any essential or appropriate services found obligatory by such investigation.

See Texas Family Code § 261.401(a).

The Department is authorized to use all of TSD's resources in the conducting of any investigation to the end that its investigations are complete and thorough; and may, in its absolute and complete discretion, utilize and direct other members of TSD's staff to conduct or otherwise assist in any investigation, under the direction or supervision, as it may deem necessary and proper.

In order to insure that TSD conducts proper and complete investigations of abuse, neglect, or exploitation pursuant to the authority granted it by Texas Family Code §§ 261.003, 261.103 & 261.401(b), and improper care pursuant to the authority granted the Governing Board by Texas Education Code § 30.052 (d) the Superintendent shall promulgate Administrative Procedures for the Reporting of Suspected Student Abuse, Neglect, Exploitation and Improper Child Care Practice.

All reports under this policy shall be made to the Department of Family and Student Advocacy Services.

The Department of Social Work under the Director of Special Education and the Superintendent is authorized to conduct investigations and comply with the minimum standards for investigations contained in 1 TAC 351.503.

Tex. Admin. Code §§ 351.501, 351.503.

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.
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.

Texas Family Code § 261.402.

**INFORMATION COLLECTION
AND UNIFORM DATA
COLLECTION PROCEDURES**

The School shall comply with the provisions of 1 Tex. Admin. Code § 351.505 related to information collection and uniform data collection procedures related to all investigations of abuse, neglect and exploitation.

1 Tex. Admin. Code § 351.505.

**ANTIVICTIMIZATION
PROGRAM**

The School shall provide child abuse antivictimization programs in elementary and secondary school.

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Texas Education Code § 38.004.

**STAFF DEVELOPMENT
PROGRAMS ON CHILD ABUSE
AND NEGLECT**

TSD policies regarding student abuse, neglect, exploitation and improper care shall be required for all staff as part of the annual mandatory training at the beginning of each school year.

See 19 Tex. Admin. Code § 61.1051.

COMPLAINTS

If the School receives a complaint relating to an investigation of abuse or neglect conducted by a TSD official, the complaint shall be referred to the TSD Governing Board.

Texas Family Code § 261.403(a).

**CONFIDENTIALITY AND
PRIVILEGED
COMMUNICATION**

In accordance with Texas Family Code § 261.201, the following information related to the investigation of a report of abuse or neglect made pursuant to this policy is confidential and not subject to public release under Chapter 552, Texas Government Code:

1. a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
2. except as otherwise provided by law, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

**TSD RULES FOR ACCESS
TO CONFIDENTIAL
INFORMATION UNDER THE
FAMILY CODE**

The purpose of these rules is to clarify to whom and under what circumstances TSD may disclose information made confidential under § 261.201 of the Texas Family Code and to establish the procedures for the release of such confidential information.

The Family Code clearly removes information obtained from an investigation conducted within its scope from disclosure. That section declares the following:

- (a) The following information is confidential, is not subject to public release under Government Code §552.001 *et seq.*, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:
 - (1) a report of alleged or suspected abuse or neglect made under these rules and the identity of the person making the report; and
 - (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under these rules or in providing services as a result of an investigation.

Tex. Fam. Code § 261.201(a).

Section 261.201(b) of the Texas Family Code provides that a court may order the disclosure of confidential information if:

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- (1) a motion has been filed with the court requesting the release of the information;
- (2) a notice of hearing has been served on the investigating agency and all other interested parties; and
- (3) after hearing and an in-camera review of the requested information, the court determines that the disclosure of the requested information is:
 - (A) essential to the administration of justice; and
 - (B) not likely to endanger the life or safety of:
 - (i) a child who is the subject of the report of alleged or suspected abuse or neglect;
 - (ii) a person who makes a report of alleged or suspected abuse or neglect; or
 - (iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child.

Rules

In accordance with the above statutory provisions, the Texas School for the Deaf (TSD) has established rules and procedures for obtaining access to information made confidential by § 261.201(a). Confidential information may be released to any law enforcement agency, district or county attorney or a grand jury, upon a lawfully issued subpoena or court order for copies of records and a determination that the requestor is entitled to have access to those records pursuant to either these rules or a court order issued in accordance with these rules and/or the provisions in § 261.201 of the Texas Family Code.

Part 1

- (a) To the extent required by state or federal law, or to the extent deemed necessary by TSD, in its sole and absolute discretion, for the protection and care of children, TSD social workers may, upon receipt of a legally issued subpoena or court order obtained in accordance with Tex. Family Code 261.201(b), release case record information made confidential under § 261.201(a) of the Texas Family Code to the following listed persons or entities:
 - (1) TSD staff, including authorized volunteers, as necessary to perform their assigned duties, as determined by the TSD Superintendent;
 - (2) a properly constituted authority, and its multi-disciplinary team members, legally authorized to handle or assist in the investigation, prosecution, or resolution of cases of suspected child abuse or neglect or to provide services to the child or the child's family. Properly constituted authorities include, but are not limited to, child advocacy centers, child fatality review teams, citizen review teams, Advocacy, Inc., county child welfare boards, and any authority mandated under another state's law to investigate allegations of child abuse or neglect;
 - (3) local, state, or federal law enforcement officials for the purpose of investigating allegations of child abuse or neglect or for the purpose of investigating allegations of false or malicious reporting of alleged child abuse or neglect;

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- (4) a physician who has before him a child who the physician reasonably suspects may be the victim of child abuse or neglect and the physician requires this information to provide a diagnosis, prognosis, or treatment for the child;
 - (5) a local, state, or federal government official, to the extent permitted under federal law, when deemed necessary for the protection and care of a child;
 - (6) a grand jury;
 - (7) an attorney ad litem, guardian ad litem, or court appointed special advocate of an alleged victim of child abuse and neglect;
 - (8) a court of competent jurisdiction in a criminal or civil case arising out of an investigation of child abuse and neglect;
 - (9) an attorney of TSD, the attorney general of the state, or a county attorney or district attorney, when such attorney represents the state in a proceeding arising out of an investigation of child abuse or neglect or in a proceeding to collect child support for a child in the temporary or permanent managing conservatorship of TSD;
 - (10) the person authorized by the court or designated to give medical consent on the child's behalf; and
 - (11) any other person or entity responsible for the protection, diagnosis, care, treatment, supervision or education of a child who is the subject of a report or record of abuse or neglect, when, in the discretion of TSD, such information is necessary to properly meet that child's needs as determined by the TSD Superintendent.
- (b) TSD may release investigation records, or information contained therein, to a person, including a minor, who is the subject of those records if TSD deems the release to be in the best interest of the person.
 - (c) TSD shall withhold the release of any investigation records obtained from another source, if the release of those records to the requestor is specifically prohibited under state or federal law.
 - (d) Notwithstanding any other provision in these rules, TSD may withhold any information in the investigation records if, in the discretion of the TSD, the release of that information would endanger the life or safety of any individual. TSD shall keep a record of any information so withheld and shall document the specific factual basis for its belief that the release of the information would be likely to endanger the life or safety of an individual.

Part 2:

- (a) Notwithstanding any other provision in these rules, TSD shall not disclose any information which if released to the requestor would interfere with a criminal investigation or prosecution.
- (b) Records will not be released until the investigation of an allegation of abuse, neglect and exploitation is complete unless, in the discretion of the TSD, release prior to completion of the investigation is necessary to aid in the protection of juveniles.
- (c) Notwithstanding any other provision in these rules, if TSD has been sued by any party and TSD determines that the release of the requested records might interfere with the defense of that litigation, TSD may require

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that a requestor seek access to records under the appropriate rules of civil procedure rather than under these rules.

- (d) Unless otherwise permitted by law, prior to the release of investigation records, TSD shall redact the name, address and any other information in the record that tends to reveal the identity of the reporter.
- (e) In the event the reporter also provided a witness statement or other evidence, the reporter's identity as a witness and the information provided in the role of witness will be released. Any information that might identify the individual as the reporter shall be redacted from the record prior to its release.
- (f) TSD may, in its discretion, redact personally identifiable information about any person other than the reporter who is referenced in a report. Identifying information includes, but is not limited to, names, social security numbers, home and work addresses, telephone numbers and driver's license numbers.
- (g) TSD may, upon its own good judgment, pleasure and choice (to be rarely utilized and only then with prudence and caution), in its sole and absolute discretion, release such confidential information to any person or entity listed in these rules and procedures without the necessity of a court order or lawfully issued subpoena when it determines that the information is necessary to protect the life or safety of any individual.
- (h) The same restrictions on disclosure of confidential records released by TSD apply to re-disclosure by the individual or entity that obtains the documents from TSD.

Part 3

The words and terms used in these rules and procedures shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Investigation Records--That portion of the records described in § 261.201(a) of the Texas Family Code which were generated by TSD or required to be submitted to TSD during the course of an abuse, neglect or exploitation investigation.
- (2) Parent--Biological or adoptive parent, possessory conservator, temporary or permanent managing conservator, legal guardian, or other legal representative of the juvenile, provided that the requestor's parental or other legal relationship to the juvenile has not been terminated at the time the request for information is made.
- (3) Report--Formal notification to TSD of an alleged incident of abuse, neglect or exploitation of a juvenile in a juvenile justice program and/or under the jurisdiction of the juvenile court.
- (4) Reporter--An individual who makes a report to TSD alleging the abuse, neglect or exploitation of a juvenile. If more than one individual makes a report alleging abuse, neglect or exploitation of the same juvenile, all such individuals shall have the designation of reporter.

**EXCEPTION; RELEASE
OF INFORMATION**

The Superintendent may release to the parent of a student or to the child, provided the child is at least 18 years of age, who is the subject of reported abuse or neglect has been made information which otherwise would be confidential under Texas Family Code § 261.201 when:

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1. In the Superintendent's judgment, the release of the report is in the best interests 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 redacted:

- (1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:
 - (A) the child who is the subject of the report; or
 - (B) another child of the parent, managing conservator, or other legal representative requesting the information;
- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and
- (3) the identity of the person who made the report.

Tex. Fam. Code Ann. § 261.201.

**ANNUAL DISTRIBUTION OF
POLICY**

Each TSD employee shall be provided a copy of this policy and its exhibit at the time the employee is hired and annually thereafter at the beginning of each school year.

19 Tex. Admin. Code § 61.1051(b).

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

Any volunteer or individual working under the auspices of TSD shall receive written information about the requirements of this policy prior to providing services to TSD.

**Required
Poster**

The School shall place the Administrative Regulation on Child Abuse Reporting Procedures of the following specifications at every department in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The regulation 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 [Texas Abuse Hotline Website](#)ⁱ for more information on reporting abuse, neglect, and exploitation.

**STUDENT WELFARE:
CHILD ABUSE, NEGLECT, EXPLOITATION, "SEXUAL, MENTAL, OR PHYSICAL MISCONDUCT,"
OR IMPROPER CARE**

FFG

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

Adopted: 05-29-82

Amended:

10-21-94

03-03-95

10-16-87

06-01-91

12-10-93

10-05-01

10-10-10

12-14-85

08-21-87

04-25-97

02-13-98

10-09-98

10-03-03

08-10-12

08-15-19

ⁱ Texas Abuse Hotline Website: <http://www.txabusehotline.org>