Professional Advisory

Duty to Report

The Council of the Ontario College of Teachers approved this professional advisory on June 4, 2015.

This advisory applies to all members of the Ontario College of Teachers, including, but not limited to, teachers, consultants, vice-principals, principals, supervisory officers, directors of education and those working in non-school-board positions.

Ontario College of Teachers
Ordre des enseignantes et des enseignants de l'Ontario

Duty to Report

Professional advisories inform professional judgment and practice. The Council of the Ontario College of Teachers approved this advisory on June 4, 2015 to remind members that they have a duty to report abuse and/or neglect of children and youth. This may be read in conjunction with previous advisories such as *Professional Misconduct Related to Sexual Abuse and Sexual Misconduct,* and *Safety in Learning Environments: A Shared Responsibility.*

Introduction

Each of us has a responsibility to protect children and youth from harm. As a professional educator working directly with students and supporting others who are, you have a legal and ethical duty to report to a children's aid society when you have reasonable grounds to suspect that a child is or may be in need of protection.

Ontario's *Child and Family Services Act* (CFSA) requires those who perform professional or official duties with respect to children to report suspected child abuse where there are reasonable grounds. A child is anyone under 16 (or appears to be) or who is 16 or 17 and subject to a child protection order.

You don't have to be certain that a child may need protection. Suspicion on reasonable grounds – information that an average person, using normal and honest judgment would need to decide – is reason enough to report. You have to report to a children's aid society so that they can assess and determine what the child needs.

Do you notice when children and youth have unexplained injuries, they're not eating, they have poor hygiene or are falling asleep in class? These may be signs of family problems, abuse or neglect.

Do you know what prompts your duty to report? Do you know to whom you report? Do you know the consequences of not reporting?

This advisory will help to address those questions.

It applies to all Ontario Certified Teachers (OCT) at all times and includes teachers, consultants, vice-principals, principals, supervisory officers, directors of education and those working in non-school-board positions. Each has a different role. All share the responsibility for the protection of children and youth.

What is abuse?

"*Abuse occurs when a child is hurt intentionally or when a parent or caregiver does not provide the protection a child needs. Physical and sexual abuse are often the most recognizable, but neglect and emotional abuse can be just as damaging.*"

The Ontario Association of
Children's Aid Societies

The CFSA requires that you report suspicions of physical, sexual and emotional abuse, neglect and risk of harm to a children's aid society.

Ethical Underpinnings

The College's *Ethical Standards for the Teaching Profession* and the *Standards of Practice for the Teaching Profession* provide moral and practical groundwork for this advice. Developed by College members and members of the public to guide and inform Ontario Certified Teachers, the standards – reflected in this advice and found on the College's website – inform your professional judgment.

The responsibility of Ontario Certified Teachers for student safety extends to their treatment of students during daily interactions. As a professional, it is your responsibility to always model behaviour that aligns with the *Standards of Practice for the Teaching Profession* and the *Ethical Standards for the Teaching Profession*. The ethical standards of care, respect, trust and integrity hold that members express their commitment to students' well-being and learning through positive influence, professional judgment and empathy in practice.

All professionals have a legal duty to report and an ethical and moral duty to take responsibility for carrying out the duties of their profession.

Educational Context

- A provincial coroner's investigation into the death of Jeffrey Baldwin from abuse, maltreatment, and neglect resulted in jury recommendations for a number of professionals, including doctors, police, firefighters and teachers. The coroner's report[1] directs regulators, including the Ontario College of Teachers, to promote the duty to report and ensure that the legal obligations of teaching professionals are given adequate attention.
- In its accreditation role, the College requires that a program of professional education provide its students with knowledge of the teacher's duty to report and the ability to recognize when a child may be in need of protection.

Legal and Disciplinary Implications

- Under the CFSA, every person who performs professional or official duties with respect to children, including teachers, early childhood educators and principals, is liable on conviction to a fine of up to $1,000 if they fail to report a suspicion based on information obtained in the course of their professional or official duties. (s. 72(4), CFSA)
- Under the Professional Misconduct Regulation, College members can be found guilty of professional misconduct if they fail to comply with duties under the *Child and Family Services Act*. (s. 1, para. 27)
- Employers who are aware or made aware of a member's failure to make a report under the CFSA are required to report the failure to act to the College. (s 43, OCTA)
- Where a member reports his or her suspicions of abuse of a child by another member, the reporting member, if subject to the *Teaching Profession Act*, is required to provide the other member with a copy of the adverse report. A copy need not be provided where the adverse report concerns suspected sexual abuse of a student by the other member. (s. 18.(1)(b) under the regulation)

Advice to Members

Your duty to report is immediate. If you have reasonable grounds to suspect that a child is in need of protection, report your suspicion, and the information on which it is based, forthwith to your local children's aid society.

Your duty to report is direct. You cannot rely on anyone else to report on your behalf, nor can you delegate your legal duty. A supervisor cannot instruct you to do otherwise.

Your duty to report is ongoing. Even if you have reported previously, you must make a further report to a children's aid society if you suspect the child still requires protection.

Your duty to report overrides concerns about confidentiality. You are still legally obliged to report if a student tells you something "in confidence."

Once you have reasonable grounds to suspect abuse or neglect, your duty is to report not investigate. A children's aid society will investigate.

Be aware of your employer's policies and protocols and the advice of your professional associations.

Document your actions.

When in doubt about whether to make a report, call your local children's aid society.

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1 Inquest Touching the Death of Jeffrey Baldwin – Jury Verdict and Recommendations, February 2014

Know Your Professional Responsibilities

Know your obligations

- Everyone has a duty to protect children and a duty to report suspected child abuse or neglect, according to the CFSA.
- Become familiar with the legislation and your employer's policies and protocols.
- The duty to report supersedes all other obligations.
- You do not have to prove suspected abuse or neglect. Your report enables the children's aid society to investigate the information.
- You cannot be held liable for making a report as long as you have reasonable grounds for your suspicion and are not acting maliciously. (CFSA, s. 72 (7))

A Framework for Action

Recognize

- the signs of abuse and neglect
- children may not know their rights and what constitutes abuse and neglect
- your duty to report is initiated when you have reasonable grounds to suspect that a child is or may be in need of protection. Abuse or neglect may include:
  - a child is hurt intentionally
  - a parent or caregiver does not adequately care for or protect the child or protect the child from others
  - a child has suffered emotional harm demonstrated by serious anxiety, depression, withdrawal, self-destructive or aggressive behavior or delayed development.
- not all symptoms of poverty constitute neglect. Poverty is a reality for many marginalized children and their families.
- child protection investigations may occur at school
- parents may approach you for information about a report. You must refer them to your school administrator or the local children's aid society. Your interaction may compromise an investigation or impact the child.
- the duty to report is ongoing, which means that if you have made a report about a child and suspect further abuse or neglect, you must report to the CAS again.
- the act of making a report under the CFSA is, by nature, stressful. Members may seek support and guidance from their school administrators, through their Employee Assistance Programs or from their professional associations.

Report

A child in need of protection is one who is or who appears to be suffering from abuse and/or neglect, who may demonstrate this through actions, spoken word, artistic drawings or other means.

Possible signs observed by the member and/or shared by the child may include:

- Physical Abuse
  - the use or threat of deliberate physical force that results in pain or injury or creates a genuine risk of harm to the child, which can occur as an isolated incident or over a period of time
  - punching, slapping, shaking, burning, biting, throwing, hair pulling, beating, kicking, cutting and throwing objects. Signs or indicators may include such things as bruising, burns, bites and cuts
  - consistent and intentional neglect and failure to supervise or protect a child adequately
- Sexual Abuse
  - sexual touching/activity, exposure, sexual suggestiveness, harassment, underage pregnancy, or observation of sexual behaviour
  - grooming for sexual abuse, sexual exploitation, incest, interference or molestation, including child pornography
- Emotional Abuse
  - repeated treatment that negatively affects the child's sense of self-worth or self-esteem and impairs the child's growth, development and psychological functioning
  - yelling, ignoring, rejecting, demeaning, isolating or exposing the child to domestic violence

- Domestic Violence
  - violent or abusive behavior occurring within the child's home, usually involving the abuse of a partner or spouse
  - all acts that eliminate a nurturing environment for the child

- Neglect
  - failure of a parent or caregiver to provide the child with basic needs such as adequate food, sleep, safety, supervision, clothing or medical treatment
  - failure to provide, support or consent to treatment where a child has a medical, mental, emotional or developmental condition requiring treatment

- Abandonment/Separation
  - failure to provide adequate care and custody of the child when the child's parent or caregiver has died or is absent
  - failure of a residential care facility to resume custody, care and supervision of the child when the parent or caregiver refuses to.

- Caregiver Incapacity
  - substance abuse or mental health concerns that have an impact on a child's safety or well-being.

A referral should be made when members are aware that abuse or neglect is suspected in a household where children under the age of 16 may reside.

Even if you've reported previously, be aware that you may need to report again.

Notwithstanding the examples provided, College members are expected to demonstrate professional judgment, which is informed at all times by the *Ethical Standards for the Teaching Profession* and the *Standards of Practice for the Teaching Profession*.

When reporting:
- know the number of your local child protection agency ahead of time. In some communities, you can dial 411 and ask for a children's aid society or family and children's services
- check the Ontario Association of Children's Aid Societies' website at www.oacas.org for your local children's aid society
- make and keep accurate and factual notes that lead you to suspect child abuse or neglect (your employer may have templates or guidelines to follow). Store these notes in a secure place as they may be required at a later date.
- where possible, have family information available such as names, addresses, dates of birth, and other children in the household when making the call to a children's aid society
- remember that abuse and neglect shared in confidence is still subject to your duty to report.

Reflect
- have I read and understood this advice and am I aware of my employer's policies and protocols, and advice from my professional association?
- have I inquired about additional training, resources and support to help me?
- have I shared my learning with others?
- do I fully understand my obligation to report when I suspect that a child is or may be in need of protection?

Be Able to Say with Confidence…
- I have reported my suspicions and the information on which they are based appropriately and promptly to protect and safeguard the child.
- I have let the children in my care know that they have rights.
- I have done all I can as an ethical teaching practitioner to inform myself, seek training and support and take prompt and immediate action when required in suspected matters of child neglect and abuse.

Ontario
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Teachers

Setting the Standard
for Great Teaching

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