



# Suspected Child Abuse Administrative Procedure 8.10

8.0 Safe Schools

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**Board Governance Policy Cross Reference:** 1, 2, 3, 4, 12, 13, 16, 17

**Legal Reference:** *Child and Family Services Act; Criminal Code of Canada*, Resource Document: Reporting of Child Protection and Child Abuse: A handbook for service providers (August 2013)

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We all have a legal and moral obligation to promote the safety and well-being of children: this includes responding efficiently and effectively to child abuse. The following procedure details the actions the must be taken by staff who suspect a child is in need of protection.

## Child Abuse Policy

In Manitoba, the CFS Act states that:

“It is everyone’s legal obligation to protect children by reporting suspected child abuse. You do not have to know for sure if a child is in need of protection. If, in your honest judgment, you believe a child may not be safe, you are legally obligated to report it.” (*Reporting of Child Protection and Child Abuse: A handbook for service providers*, p. 5).

## Definitions

“**Child**” means a person under the age of eighteen (18).

“**Abuse**” is defined in subsection 1(1) of the CFS Act as

“an act or omission by any person where the act or omission by any person results in:

- a) physical injury to the child;
- b) emotional disability of a permanent nature in the child or is likely to result in such a disability; or
- c) sexual exploitation of the child with or without the child’s consent

“**Child in Need Of Protection**” is defined in CFS Act 17(2). It lists examples where a child ought to be considered in need of protection. These include where a child:

- a) is without adequate care, supervision or control;
- b) is in the care, custody, control or charge of a person
  - i) who is unable or unwilling to provide adequate care, supervision or control of the child, or
  - ii) whose conduct endangers or might endanger the life, health, or emotional well-being of the child, or
  - iii) who neglects or refuses to provide or obtain medical or other remedial care of treatment necessary for the health or well-being of the child or who

refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;

- c) is abused or is in danger of being abused; including where the child is likely to suffer harm or injury due to child pornography
- d) is beyond the control of a person who has the care, custody, control or charge of the child;
- e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;
- f) is subject to aggression or sexual harassment that endangers the life, health, or emotional well-being of the child;
- g) being under the age of twelve (12) years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or
- h) is the subject, or is about to become the subject of an unlawful adoption under *The Adoption Act* or of a sale under section 84.

### Reporting a Child in Need of Protection

#### CFS Act 18(1)

... where a person has information that leads the **person reasonably to believe that a child is or might be in need of protection** as provided in Section 17 (above), the person shall forthwith report the information to an agency (CFS) or to a parent/guardian of the child.

#### Note:

- A report must be made as soon as possible to Child and Family Services or, if deemed appropriate, to the parent(s) or guardian(s). If a child is in immediate danger, contact the police.
- These legal requirements supercede all internal organizational policies and procedures. The duty to report applies to the person to whom the disclosure was made, even if the information is obtained during a professional or confidential relationship.
- The obligation applies even to allegations of past abuse (even when the child is no longer in danger).

### Reporting to CFS Only

Subsection 18(1) details circumstances where a person **must report to CFS only:**

Where a person

- a) *does not know the identity of the parent or guardian of the child;*
- b) *has information that leads the person reasonably to believe that the parent or guardian*
  - *is responsible for causing the child to be in need of protection, or*
  - *is unable or unwilling to provide adequate protection to the child in the circumstances; or*

- c) *has information that leads the person reasonably to believe that the child is or might be suffering abuse by a parent or guardian of the child or by a person having care, custody, control or charge of the child;*

### Reporting to a Parent or Guardian

CFS Act 18(1) recognizes parents and guardians are part of the reporting regime. Sometimes, notifying a parent will ensure the protection of that specific child. However, reporting to the agency is **always appropriate** to ensure there are no other alleged victims.

#### *Continuing obligations:*

If staff cannot determine whether the report can/should be made to a parent/guardian directly, a call should be placed to the Child and Family Services to consult.

Further, if one believes that the parent or guardian is unwilling or unable to provide adequate protection to the child, one must NOT report to the parent or guardian. Rather a report must be made directly to CFS.

### Legal Duty to Report

It is the responsibility of any person who suspects a child is in need of protection, or to whom there has been a disclosure, to report the abuse.

One does not need permission from a supervisor to make a report. The signature of the Principal on **8.10 A: Suspected Child Abuse Report** is to acknowledge s/he was informed.

### Consequences of Failure to Report

**The most significant consequence of failure to report is that the child, and potentially other children, are left vulnerable and unsafe.**

**Failure to report child abuse is viewed as a serious offense under the legislation, and in specific circumstances, is subject to a punishable offence under the law. Further, professional consequences may be placed on the individual(s) who failed to report, by the Division, and if applicable, by the Teacher's Certification branch.**

### Documentation of Abuse or Disclosure

Children (in the law, anyone under eighteen (18) year of age) who are victims of abuse or neglect are very vulnerable and will choose to disclose to someone they trust. When a disclosure happens, or when you suspect abuse or neglect:

- Remain calm and listen. Your primary role is to support the child, gather basic information and report it to a CFS agency immediately.
- Be non-judgmental and sensitive to the child's needs. Let the child know they did the right thing in telling you. Remind them that they are safe. Do not comment, express shock, anger or fear.
- Go slowly. Ask open ended, gentle, non-leading questions, such as "Can you tell me more about what happened?"

- Do not probe for details. Once you have enough information to believe that abuse or neglect is occurring, stop gathering facts and be supportive. (To continue to gather information may contaminate the police or CFS investigation that will follow the report).
- Be supportive and tell the child what will happen next.
- Take notes. Immediately after the disclosure, write down as much as you can about that the child told you, in their own words. Accuracy is important. Do not include your thoughts, feelings or any speculations or conclusions in the documentation.

## How to Make a Report

Reports of suspected child protection issues may be made to a parent, guardian or Child and Family Services Agency.

The CFS Agency must be contacted when there is concern that the child is in need of protection and it is judged that the parent/guardian cannot or will not protect the child.

Be prepared to give the following information:

- the full name, age, gender, and address of the child and parent(s) /guardian(s)
- your name, professional address, phone number and professional duties in relation to the child
- any immediate concerns about the child's safety
- the names and ages of siblings
- the nature of the suspected concern about protection, the documented indicators that have led to this suspicion, including dates/ times; mention previous calls to agency regarding child, if any
- your opinion on the urgency of the situation in terms of the child's safety and the expected time that the parent/guardian will arrive to pick up the child or the child is dismissed

While additional information related to the need for protection may be useful to have, *it is important NOT to question the child to obtain further information.*

If a person is not certain that concerns about a child are serious enough to warrant a report, it is strongly recommended to consult with a CFS Agency. It can advise you about the need to report and to whom to report.

## Confidentiality

If you make a report to CFS, complete **8.10 A: Suspected Child Abuse Report** noting the date, time and person to whom you spoke. The form needs to be submitted to the Principal who will send a copy to the Superintendent.

A record made under the *CFS Act* is confidential under the *CFS Act* and no person shall disclose or communicate information from the record in any form to any person except:

- a) where giving evidence in court; or
- b) by order of a court; or

- c) to the Director of CFS, or to a person employed, retained or consulted by the Director or any agency appointed in the course of administering or enforcing any provision of the CFS Act.

This means that Division staff cannot tell others in the community about a report that a child might be in need of protection. It also means that a CFS Agency cannot tell others in the community the identity of the reporter of child abuse.

Once you have made a report to CFS, you should not inform or discuss the incident with the alleged offender. If you are asked if you made a report, you may state "I cannot confirm or deny if report was made".

### Who Reports a Child in Need of Protection

The person to whom the disclosure was made needs to make the report to CFS. Principals should be informed when one suspects a child is in need of protection. If a staff member and Principal are concerned about whether a report ought to be made, then the CFS Agency should be consulted regarding these concerns.

### Report of Conclusion

After concluding its investigation, an Agency is required to report its conclusion to specific people or organizations as per section 18.4 (2) of the *CFS Act* as follows:

- a) to the parent or guardian of the child;
- b) where there is no parent/guardian of the child, the person having full time custody or charge of the child;
- c) to the person, if any, who is identified by the investigation as the person who was alleged to have caused the child to be in need of protection
- d) in the case of a person under clause (c) whose employment
  - involves the care, custody, control or charge of children, or
  - permits unsupervised access to children, to the employer or the manager or supervisor at the place of employment;
- e) where the child attends school, to the Principal of the school or the Superintendent of the school division in which the school is located
- f) to the child where, in the opinion of the agency, the child is capable of understanding the information and disclosure to the child is in the best interests of the child, and
- g) to the person who reported the information that give rise to the investigation, except where disclosure is not in the best interests of the child.

An agency will not report its conclusion where a criminal investigation is pending.

### Apprehension of Children from School Setting

- a) CFS staff should always come to the school in person to place the child under apprehension and take the child to a place of safety.

- b) In some circumstances (e.g. remote areas where travel is restricted), CFS staff may not realistically be able to attend in person to apprehend the child. In these cases, CFS may delegate this responsibility to the local police or request that a staff member of the Division take the child to a place of safety.
- c) Division staff should always verify the identity of the staff person representing CFS before releasing the child to that person's care and custody.
- some CFS staff may present an identification card with their photograph attached to this card;
  - where such identification is not available, Division staff should telephone the supervisor of the CFS representative and verify the person's physical appearance and personal identity. CFS staff should cooperate with the Division staff, as these procedures are in the best interests of the child and take only minutes.
- d) **IN ALL CASES, it is the responsibility of CFS apprehending the child to notify the parents, guardian or other person caring for the child at the time of apprehension, prior to the time that the parents, guardian or other person normally arrives at the school to pick up the child.**

If, for some reason, the CFS representative is unable to reach the parent/guardian before their expected arrival at the school, the CFS representative should meet the parent/guardian at the school.

It is totally unacceptable to leave the Division staff with the responsibility of dealing with the person whose child was apprehended, and any such occurrences should be reported by the Division staff to the Director of the Child and Family Services Agency so that corrective action can be taken to avoid future occurrences.

- e) Evergreen School Division prefers that children are not apprehended directly from the school setting. However, if an investigating worker feels that an apprehension at the school is required so that the child can be immediately placed in a protected environment, then apprehensions may occur at the school. Workers are expected to follow their procedural guidelines for such apprehensions.

### Talking to Children about Child Abuse

CFS Agencies, the police and medical child abuse units are the agencies trained to interview children about alleged or possible abuse and assault. At times, however, a Division staff may need to ask a child about a suspicious injury to gain the child's impression of its origin. Or, more likely, a child may approach an educator to talk about abuse. Such communication may occur through a direct disclosure of abuse or indirectly through play and social interaction with other children.

In most circumstances, Division staff should discuss the alleged abuse with the child only to clarify what the child is communicating and then to reassure the child that the concerns are taken seriously and believed. The alleged abuse should then be reported to a mandated agency so that a full interview can take place. Any further discussion of alleged abuse by the Division staff with a child would depend on the child's development level and interest in talking about it.

If a child wishes to talk about an allegation, it is best to listen, conveying a sense of support and belief. Adults should not display anger or disgust at the abuse or the child's parent, guardian or the alleged offender since children may misunderstand, assuming the feelings are directed at themselves, or feel a need to defend the adult alleged to be the abuser. Particularly strong reactions can emerge if a child's disclosure reminds the adult about past abuse, fears of child abuse or other feelings.

Overall when talking with a child about alleged or possible abuse, **it is important not to ask leading questions**. These are questions that contain information not presented by the child. Many children will agree with a leading question simply to please an adult. Try to avoid this by asking questions that only repeat the child's words and by remembering that the Division staff role here is to support and report, not to interview and investigate. To ask leading, specific or detailed questions may contaminate the interviews and investigation that will follow with CFS and police investigators.

### When School Division Staff is Accused of Child Abuse

Division staff suspected of child abuse may be subjected to:

- an investigation by CFS and/or the police;
- criminal charges
- an investigation conducted by the employer
- a review by the Certificate Review Committee of the Dept. of Education (teachers)

Teachers under investigation because of suspected or alleged child abuse should contact the Manitoba Teacher's Society. Support staff should contact their local union representative.

In all situations, at the conclusion of an investigation, if a person caused a child to be in need of protection and has care, custody, or control of children in their employment, then the CFS Agency must report the findings to the employer.

If a person working with children, staff or volunteer, is being investigated under a suspicion of child abuse, then vulnerable children must be protected by either suspending the person with or without pay, depending on Division policy or putting a plan in place that protects children until the investigation is complete.

In situations where a person is charged with an offence under the *Criminal Code* or the *CFS Act* and that person's employment involves the care of children, the police are required to advise the person's employer that the accused has been charged.

### Further Procedures for Schools

Division staff and boards should ensure that *suspicions* that a child is in need of protection have been properly reported and that staff have acted appropriately and with confidentiality.

Schools should follow these procedures:

- 1) Teachers should keep daily records of children they are concerned about. This would include significant observations (e.g. behaviour or comments made by child, inappropriate clothing, food, etc.) that may relate to a sign or symptom of a child in**

**need or protection or support/assistance. Teacher assistants should report their observations to the child's classroom teacher.**

(See **8.10B: Observation Log**)

- 1) **Ensure that records or reports of a suspected need for child protection are kept confidential.** Division staff should clearly understand the confidential nature of this information. Names of suspected victims or offenders should not be discussed at staff or board meetings.
- 2) **Reporting procedures should be reviewed annually with all Division staff.** Information should include Divisional policy and procedures and indicate who in the Division needs to be informed about the report i.e. Principal and Superintendent. (See **8.10 A: Suspected Child Abuse Report**)
- 3) **Staff to keep observations of a child as part of an investigation or ongoing follow-up of the family involved if requested in writing by CFS.** Such records would be considered separate from the regular daily records of the school. Disposal and ownership of written information should be included in the written request from CFS. Unless clearly directed by CFS, information kept by the school may be made available to a parent on request.
- 4) It is recommended that Division staff maintain ongoing communication with parents concerning their child's behaviour and development. This may provide a context for discussing particular issues or injuries with a parent. These communications need to be documented.
- 5) The Principal should ensure that interviews by investigating workers taking place in the school are planned as much as possible and that there is a quiet place in the school for such interviews. At times, CFS may request to interview, in confidence, a child attending school without Division staff having reported the child in need of protection (e.g. allegation or disclosure occurred elsewhere).
- 6) All prospective employees are expected to complete Child Abuse Registry and Criminal Records checks prior to employment.
- 7) All school volunteers are expected to complete Child Abuse Registry and Criminal Records checks prior to volunteering.