

REPORTING ABUSE

Teachers and the Child and Family Services Act

By Joe Pece

The *Child and Family Services Act* (CFSA) governs the protection of children in our society. It not only defines “abuse” and outlines procedures for dealing with abuse, it identifies the responsibilities of those (individuals and institutions) who might encounter abuse. The goal of the CFSA is to “promote the best interests, protection and well-being of children.”

The following is a brief outline of what you should know:

What is a teacher's responsibility under the CFSA?

Teachers must report concerns directly to the Children's Aid Society (CAS) when there are reasonable grounds to suspect a child has suffered abuse or is at risk of suffering abuse (Section 72.1). The obligation to report is personal and can't be delegated to another person. Teachers must report their concerns immediately upon ascertaining there are reasonable grounds to suspect abuse. Physical injuries or a child coming forward with a complaint of abuse **MUST** be reported. However, with cases that are not as clear-cut, the assessment of “reasonable grounds” rests with the teacher.

What are some important questions to ask?

Do you think it is probable that there is abuse? Is there some discernible or tangible evidence based on factors observed during contact with the pupil? Intuition or supposition are not reasonable grounds. While it is not necessary to conduct your own investigation, you remain obligated to determine whether there are reasonable grounds to suspect abuse or that a child is at risk. The Children's Aid Society is the body that conducts the investigation and has the authority to determine whether abuse has occurred.

What if I suspect a colleague of abuse?

The *Child and Family Services Act* takes precedence over other legislation including the *Teaching Profession Act* and its regulations. Regulation 18(1)(b) states that teachers must furnish a member with a copy in writing of an adverse report. In all cases where teachers report their suspicions of abuse of a child by a member of the Ontario Teachers' Federation, they are advised to contact the provincial or local OECTA office for advice and direction in regard to compliance to 18(1)(b).

Are there exceptions to the 18(1)(b) obligation?

Yes. *The Student Protection Act, 2002* added a new subsection (2) to s.12 of the *Teaching Profession Act*. A member who makes an adverse report about another member regarding suspected sexual abuse of a student (by that other member) need NOT provide that person with a copy of the report or with any information about the report. This is now referred to as Regulation 18 1(c) of the *Teaching Profession Act*. If the suspected abuse is sexual in nature, the 18 (1)(b) obligations no longer exist.

What happens if a report of suspected abuse proves to be untrue?

No legal action can be taken against any person who reports concerns to the CAS as long as there are reasonable grounds to believe the child is in need of protection and the person making the report is not acting maliciously.

What happens if a teacher does not report a suspected abuse case?

Under the CFSA, failure to report suspected abuse is an offense, and the conviction for such offense could result in a fine of up to \$1,000. Additionally, under the Professional Misconduct Regulation passed by the Ontario College of Teachers, failure to report may lead to a finding of professional misconduct by the College. In June 2015, the College Council approved the latest professional advisory, “Duty to Report,” which further outlines the professional liability inherent in a teacher's failure to report.

What do I do if I am the subject of a CAS investigation?

Contact your local OECTA office or the provincial OECTA office immediately. **DO NOT** provide any information or make any statements without first consulting OECTA staff or legal counsel. The only statement you should make is the following: “I am willing to cooperate but I am unable to comment until I contact OECTA or my legal representative.”

Additional resources are located in the Members' Centre of the OECTA website (www.oecta.on.ca) under Counselling and Member Services.

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