

2021 North Dakota Law Changes

Child Protection Services and Public and Private Schools

BACKGROUND

- During the 2021 North Dakota legislative session, the Child Abuse and Neglect law was amended to shift assessments of reports of suspected child abuse and neglect in public and private schools from Human Service Zones to the Institutional Child Protection Services (ICPS) Unit in the North Dakota Department of Human Services (NDDHS).
- This change took effect Aug. 1, 2021 and was part of 2021 Senate Bill No. 2083. (Reference N.D.C.C. Ch. 50-25.1)

NEW – DESIGNATED AGENT FOR REPORTING CHILD ABUSE AND NEGLECT

- Under the amended law, the chief administrator of an entity that employs more than 25 individuals who are required to report suspected child abuse and neglect (mandated reporters) may designate an agent to submit reports of suspected child abuse and neglect on behalf of staff members or volunteers within that entity.
- A report filed by a designated agent must include: the first and last name, title, and contact information for every staff member or volunteer of the entity who is believed to have direct knowledge of the facts surrounding the report.
- A single report from the designated agent is adequate to meet the reporting requirement on behalf of staff members and volunteers of the entity listed with the required information.
- When handling a report of suspected child abuse and neglect, a designated agent may not:
 - » Impose conditions, including prior approval or prior notification, upon a staff member or volunteer reporting suspected child abuse or neglect under this chapter.
 - » Exercise any control, restraint, or modification, or make any changes to the information provided by the staff member or volunteer.
- Any individual may continue to make reports directly to the **ND Child Abuse and Neglect Reporting Line, which is available 8 a.m. - 5 p.m. Central Time (7 a.m. - 4 p.m. Mountain Time) at 833-958-3500.** Reports may also be faxed to 701-328-0361.
- Institutional child abuse and neglect reports, including reports concerning employees of a public or private school, are forwarded from the reporting line to the Institutional Child Protection Services (ICPS) Unit within NDDHS. Reference N.D.C.C. 50-25.1-04.

DEFINITION:

A report of suspected Institutional child abuse and neglect is defined as situations in which an institution has responsibility for the child's care and supervision at the time suspected child abuse or neglect occurs.

INSTITUTIONAL CHILD PROTECTION LAW APPLIES TO:

- Public and private schools,
- Residential facility or setting either licensed, certified, or approved by the NDDHS, or
- Residential facility or setting that receives funding from the NDDHS
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NOT INCLUDED

- Correctional, medical, home and community-based residential rehabilitation, and educational boarding care settings are not included in these provisions.

NEW – SPECIALIZED UNIT CONDUCTS ASSESSMENTS OF REPORTS CONCERNING CHILD ABUSE AND NEGLECT IN SCHOOLS

- Institutional child protection services (ICPS) assessments **are conducted by a specialized Unit in NDDHS (NDDHS Institutional Child Protection Services Unit) instead of by individual local human service zones.**

NEW PROCESS

When NDDHS ICPS Unit works with school administrators, the following will occur if practical:

- Notice of the onset of an ICPS assessment to the public or private school (typically the principal, unless the principal is alleged to be involved, then notice is given to the superintendent or school board president).
- Coordination between the ICPS worker and school administrator for the planning and completion of the institutional assessment and any concurrent investigation internal to the school to avoid a duplication of fact-finding efforts and multiple interviews. (Since school administrators have responsibility to perform investigations into conduct occurring in their school, this responsibility encompasses conduct which may also be institutional child abuse or neglect.)

IMPORTANT: *If a report of suspected child abuse or neglect has potential to violate a criminal law (such as suspected child sexual abuse or physical abuse), law enforcement will be contacted and any criminal investigation will take the lead in any ICPS assessment or internal investigation.*

NEW – ICPS PROCESS: WHAT HAPPENS AFTER THE ASSESSMENT

- Upon completion of an ICPS, NDDHS, along with the State Child Protection Team, and representation from the school or facility determines, based upon a preponderance of the evidence, whether a child meets the definition of an abused or neglected child, with the school or facility held culpable.
 - » **DEFINITION:** The State Child Protection Team is a multidisciplinary team, consisting of one representative of NDDHS and where possible, a representative of the state department of health, a representative of the ND Attorney General, a representative of law enforcement, a representative of the ND Superintendent of Public Instruction, a parent with lived experience, one or more representatives of the lay community, and,

as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect.

- At the State Child Protection Team meeting, a determination is made whether child abuse or neglect is “indicated” or “not indicated”.
 - » “Indicated” means that upon completion of an ICPS assessment, the department determines based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child.
 - No individual facility employees are listed on the Child Abuse or Neglect Index,
 - However, when law enforcement conducts a criminal investigation into reported institutional child abuse and neglect, an individual may be held responsible, and if warranted, criminal charges may be brought against an individual.
 - Schools and facilities also have the ability to take necessary employment actions with their employees.
- When there is an indicated finding concerning a school, notice will be given to the ND Superintendent of Public Instruction, the school district administrator, and the president of the school board.

NEW – RELEASE OF INFORMATION & CONFIDENTIALITY LAWS

- Amendments made by the 2021 ND Legislature also allow for ICPS information to be released to a public or private school that is the subject of a report of institutional child abuse or neglect.
 - » The identity of the persons reporting or supplying the information is protected, except if the individuals reporting or supplying information are employees of the public or private school.
- If a public or private school is the subject of a report of institutional child abuse or neglect, any records and information obtained, created, generated, or gathered by the school in response to a report of institutional child abuse or neglect or during an investigation by the school are confidential until the State Child Protection Team makes a determination in accordance with section 50-25.1-04.1 whether institutional child abuse or neglect is indicated. Reference N.D.C.C. 50-25.1-11(1) and (4).

Report Suspected Child Abuse & Neglect in North Dakota

CALL 833.958.3500

Monday - Friday
8 a.m. - 5 p.m. CT

