

University of Wisconsin-Madison
Policy on Mandatory Reporting of Child Abuse and Neglect

I. Background

The University of Wisconsin-Madison (“UW”) prioritizes safety and strives to provide a safe learning environment for everyone. Children come into contact with the UW through various programs, camps, and events. On December 19, 2011, the Governor signed [Executive Order #54](#) which requires that all University of Wisconsin System employees report incidents of child abuse and neglect. In addition, this policy extends that obligation to certain volunteers and contractors performing services for the UW.

II. Definitions

- A. “Abuse” of a child includes any of the following.
1. Physical injury inflicted on a child by other than accidental means. “Physical injury” includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising, or great bodily harm.
 2. Sexual intercourse or sexual contact with a child under the age of 16, or with a 16 or 17 year-old child without his or her consent.
 3. Sexual exploitation of a child. Sexual exploitation of a child occurs when a person employs, uses, persuades, induces, entices, or coerces any child to engage in sexually explicit conduct for the purpose of recording or displaying the conduct, or records or displays a child engaged in sexually explicit conduct. Sexual exploitation of a child also occurs when a person produces, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes, or possesses with intent to sell or distribute, any recording of a child engaging in sexually explicit conduct.
 4. Permitting, allowing, or encouraging a child to violate the statute prohibiting prostitution.
 5. Causing a child to view or listen to sexual activity for purposes of sexual arousal or sexual gratification.
 6. Exposing genitals or pubic area to a child for purposes of sexual arousal or sexual gratification, or exposing a child’s genitals or pubic area for purposes of sexual arousal or sexual gratification.
 7. Manufacturing methamphetamine with a child present, in a child’s home (including the premises of a child’s home or in a motor vehicle located on the premises of a child’s home), or under any other circumstances in

which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.

8. Emotional damage for which the child's parent, guardian, or legal custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms. "Emotional damage" is defined as harm to a child's psychological or intellectual functioning and is evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety, depression, withdrawal, outward aggressive behavior, or a substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development.
- B. "Child" is a person who is less than 18 years of age.
- C. "Employee" is any UW employee, regardless of appointment type or method of compensation. This includes:
1. Faculty, Academic Staff, and Classified Staff;
 2. Limited Term Employees;
 3. Teaching Assistants, Program Assistants, Project Assistants, and student-hourly workers;
 4. Post-doctoral trainees;
 5. Research Associates; and
 6. Individuals without an appointment who are paid through PIR.
- D. "Neglect" is failure, refusal, or inability on the part of a caregiver for reasons other than poverty to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child.
- E. "Volunteer" is an individual, not employed by the UW, who is performing services on behalf of the UW and under its direction and control. Volunteers who are 18 years of age or older and are expected to have regular contact with children in the course of their volunteer activities shall be treated as employees for purposes of this policy.

III. Reporting Requirements

This policy imposes both external and internal reporting obligations. An external report, as described in Section III.A., is always required, regardless of the location of the abuse or neglect or threatened abuse or neglect (i.e., an external report is required if the abuse occurs on campus or in the child's home). Both an external report and an internal report, as described in Section III.B., are required if the abuse or neglect or threatened abuse or neglect involves an allegation against a UW employee or agent, occurred on the UW campus, or in a UW-sponsored program or activity.

- A. External Reporting. Executive Order #54 requires that UW employees make a report of child abuse or neglect immediately if, in the course of employment, the employee observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur.
1. Collecting additional information that is readily available (such as talking to coworkers who also interact with that child) or verifying that the information learned meets the criteria for reporting may be appropriate, but any such action must be conducted promptly. Individuals should not delay making a report in order to gather evidence; the agency to whom one makes the report will determine whether such an investigation is warranted.
 2. *HIPAA and State Medical Records Laws*. If a UW employee (who is not a mandatory reporter under Wis. Stat. § 48.981(2)) learns of possible child abuse or neglect from a medical record or in the context of a patient's receipt of health care services, then the requirements of the Health Insurance Portability and Accountability Act (HIPAA) and Wisconsin medical records laws must be followed. If you have questions, please contact the **Office of Legal Affairs** 608-263-7400.
 3. *FERPA*. If a UW employee learns of possible child abuse or neglect from the education record of a matriculated student, then the Family Educational Rights and Privacy Act (FERPA) applies. If a child is presently in danger, then FERPA permits reporting and the UW employee should make a report consistent with this policy. If a child is not presently in danger, please contact the **Office of Legal Affairs** 608-263-7400 to discuss whether reporting is appropriate.
 4. A report must be made personally or by telephone to UWPD, local law enforcement, or the local child protection agency. Reporting to UWPD is encouraged because its personnel have received training about EO 54. For abuse occurring in Madison, UW employees may make reports to the following agencies:

Emergency Phone Number - 911

Non-Emergency Phone Numbers

UW Police Department

608-264-COPS or 608-264-2677

Dane County Child Protective Services

608-261-KIDS or 608-261-5437

City of Madison Police Department

608-266-4275

- B. Internal Reporting. In addition to the external report in Section III. A., if the incident or threat of child abuse or neglect involves an allegation against a UW employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on the UW campus or during a UW-sponsored activity, the reporter must also notify one of the following entities.

The Office for Equity and Diversity (primary)

608-263-2378

UW Police Department (outside of normal business hours)

608-264-COPS or 608-264-2677

- C. Mandatory Reporters under Chapter 48. A UW employee who is a mandatory reporter by profession under Wis. Stat. § 48.981(2) (e.g. health practitioner, social worker, law enforcement officer, child care provider) must continue to comply with the state mandatory reporter law requirements.
- D. Confidentiality of Information. UW employees may share information regarding suspected child abuse or neglect only with appropriate individuals, such as the agencies to whom reports are to be made, appropriate University officials, and co-workers when one is promptly seeking additional information for a report. Employees should treat the information as sensitive and confidential.

IV. Policy Implications and Consequences

- A. No UW employee making a report of child abuse or neglect in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment because that employee made a report in good faith.
- B. Any UW employee who fails to report suspected child abuse or neglect in violation of this policy may be subject to disciplinary action up to and including termination of employment.

V. Institutional Responsibilities as a Result of Executive Order #54

- A. Criminal Background Checks. Criminal background checks will be performed pursuant to UW's criminal background check policies and procedures and may be conducted on existing employees or volunteers depending upon the type and degree of contact the individual may have with children in the course of their duties at the UW or within a UW-sponsored activity.
- B. Education and Training.
1. UW employees and volunteers will receive training or education on the subject of child abuse and neglect. This training or education may differ depending upon (1) the type and degree of contact the individual may have with children on campus or (2) other training or education regarding mandatory reporting an individual might receive due to his or her profession. Guidance regarding the appropriate level of training can be found at: <http://www.oed.wisc.edu/childabuse/>
 2. UW employees and volunteers will be informed through pamphlets, posters, institutional websites, and/or other appropriate means about:
 - a. Executive Order #54;
 - b. Institutional policies and procedures; and
 - c. Contact information for the local county child protection agency and local law enforcement.

Training and education efforts should utilize the most current version of materials available at the following website:

<http://oed.wisc.edu/childabuse/>. General guidance regarding the appropriate level of training is also available at that website. Units that wish to develop an alternative training and education strategy should consult **The Office for Equity and Diversity** at (608)-263-2378.

C. Independent Contractors.

1. When the UW contracts with a specific individual who is expected to have regular contact with children as a result of the contracted-for activities or services, the contract shall include the following. (Template language is provided in Appendix A.)
 - a. A requirement that the individual pass a criminal background check performed by the Criminal Background Check Coordinator of the unit for which the individual will be engaging in activities or rendering services. This background check will evaluate whether

the individual has any pending charges or convictions that are substantially related to the contracted-for activities or services, including but not limited to those that would render the worker unsuitable for regular contact with children. Disqualifying convictions or charges include but are not limited to sexual offenses, violent offenses, and drug offenses.

- b. A requirement that the individual follow the “Reporting Requirements” in Section III of this policy to the same extent as UW employees.
2. When the UW contracts with a business (or other entity) and workers from that business are expected to have regular contact with children as a result of the contracted-for activities or services, the contract shall include the following. (Template language is provided in Appendix A.)
- a. A requirement that the business supply workers who have passed a criminal background check that includes a national criminal background check database demonstrating the worker has no convictions or pending criminal charges that are substantially related to the contracted-for activities or services, including but not limited to those that would render the worker unsuitable for regular contact with children. Disqualifying convictions or charges include but are not limited to sexual offenses, violent offenses, and drug offenses.
 - b. A requirement that the workers follow the “Reporting Requirements” in Section III of this policy to the same extent as UW employees.
- D. Any documentation related to a UW employee, volunteer or independent contractor report of child abuse or neglect (including internal reports required under Section III. B. above) will be stored and maintained in a secure location.

Appendix A
Template Language for Contracts

The following language may be used to comply with Section V.C.1.a. of the policy.

This contract is contingent upon, prior to the commencement of services, the independent contractor passing a criminal background check performed by the Criminal Background Check Coordinator of the unit for which the individual will be engaging in activities or rendering services. This background check will evaluate whether the individual has any pending charges or convictions that are substantially related to the contracted-for activities or services, including but not limited to, those that would render the worker unsuitable for regular contact with children. Disqualifying convictions or charges include, but are not limited to, sexual offenses, violent offenses, and drug offenses.

The following language may be used to comply with Section V.C.2.a. of the policy.

This contract is contingent upon, **(insert entity providing services)** supplying workers who have passed a criminal background check that includes a national criminal background check database demonstrating the worker has no convictions or pending criminal charges that are substantially related to the contracted-for activities or services, including but not limited to, those that would render the worker unsuitable for regular contact with children. Disqualifying convictions or charges include, but are not limited to, sexual offenses, violent offenses, and drug offenses.

The following language may be used to comply with Sections V.C.1.b., 2.b. of the policy.

If, in the course of providing services to the UW, contractor (or its employee) observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the contractor (or its employee) has reasonable cause to believe that child abuse or neglect has occurred or will occur, contractor must make a report of that abuse or neglect to law enforcement or to a county social service agency as provided in UW's Policy on Mandatory Reporting of Child Abuse and Neglect ("the Policy"). If the suspected child abuse or neglect involves an allegation against a UW employee or agent (e.g. student, volunteer, contractor, etc.), or the incident or threat of child abuse or neglect occurred on the UW campus or during a UW-sponsored activity (see Section III. B. of the Policy), the contractor shall also report to the UW Police Department or UW's Office for Equity and Diversity.