



BOARD OF EDUCATION POLICY

ABUSE, NEGLECT, EXPLOITATION AND TRAFFICKING

Introduction

Under Oklahoma law, technology center employees have varying legal obligations to report abuse and neglect. The purpose of this policy is to provide directives and guidelines to assist technology center employees in fulfilling their legal responsibility.

Definitions

1. "Abuse and neglect " shall include, but is not limited to the following:
 - a. "Abuse" is defined as:
 - i. harm or threatened harm to a child's health, safety, or welfare by a person responsible for the child's health and safety or welfare, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation. (OKLA. STAT. tit. 10A. § 1-1-105);
 - ii. willful or malicious harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by a person responsible for a child's health, safety, or welfare, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by any person. (OKLA. STAT. tit. 21. § 843.5); or
 - iii. the intentional infliction of physical pain, injury, or mental anguish or the deprivation of food, clothing, shelter, or medical care to an incapacitated person, partially incapacitated person, or a minor by a guardian or other person responsible for providing these services. (OKLA. STAT. tit. 30. § 1-111).
 - b. "Neglect" is defined as any of the following:
 - i. the failure or omission to provide any of the following:
 1. adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
 2. medical, dental, or behavioral health care,
 3. supervision or appropriate caretakers, or
 4. special care made necessary by the physical or mental condition of the child,

- ii. the failure or omission to protect a child from exposure to any of the following:
 - 1. the use, possession, sale, or manufacture of illegal drugs,
 - 2. illegal activities, or
 - 3. sexual acts or materials that are not age-appropriate;
 - iii. abandonment. (OKLA. STAT. tit. 10A§ 1-1-105); or
 - iv. the failure to provide protection, adequate shelter or clothing; or the harming or threatening with harm through action or inaction by either another individual or through the person's own action or inaction because of a lack of awareness, incompetence, or incapacity, which has resulted or may result in physical or mental injury. (OKLA. STAT. tit. 30. § 1-111)
- c. "Sexual abuse" is defined as behavior that includes but is not limited to rape, incest and lewd or indecent acts or proposals, made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child. (OKLA. STAT. tit. 10A§ 1-1-105)
- d. "Sexual exploitation" is defined as behavior that includes but is not limited to allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child. (OKLA. STAT. tit. 10A. § 1-1-105)
- e. "Contributing to the delinquency of a minor" is defined as behavior that knowingly or willfully causes, aids, abets or encourages a minor to be, to remain, or to become a delinquent child or a runaway child. (OKLA. STAT. tit. 21§ 856)
- f. "Incest" is defined as marrying, committing adultery or fornicating with a person within the degrees of consanguinity within which marriages are by the laws of the state declared incestuous and void. (OKLA. STAT. tit. 21. § 885)
- g. "Forcible Sodomy" is defined as sodomy committed:
 - i. By a person over eighteen (18) years of age upon a person under sixteen (16) years of age;
 - ii. Upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime;

- iii. With any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime;
 - iv. By a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state, or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of this state;
 - v. Upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system;
 - vi. Upon a person who is at the time unconscious of the nature of the act, and this fact should be known to the accused; or
 - vii. Upon a person where the person is intoxicated by a narcotic or anesthetic agent administered by or with the privity of the accused as a means of forcing the person to submit; (OKLA. STAT. tit. 21. § 888)
- h. "Maliciously, forcibly or fraudulently taking or enticing a child away" is defined as maliciously, forcibly or fraudulently taking or enticing away any child under the age of sixteen (16) years, with intent to detain or conceal such child from its parent, guardian or other person having the lawful charge of such child or to transport such child from the jurisdiction of this state or the United States without the consent of the person having lawful charge of such child. (OKLA. STAT. tit. 21. § 891)
- i. "Soliciting or aiding a minor child to perform or showing, exhibiting, loaning or distributing obscene material or child pornography" is defined as:
- i. Willfully and knowingly solicits or aids a minor child to perform any of the following actions:
 - 1. Lewdly exposing his or her person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;
 - 2. Procuring, counseling, or assisting any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;
 - 3. Writing, composing, stereotyping, printing, photographing, designing, copying, drawing, engraving, painting, molding, cutting, or otherwise preparing, publishing, selling,

distributing, keeping for sale, knowingly downloading on a computer, or exhibiting any obscene material or child sexual abuse material; or

4. Making, preparing, cutting, selling, giving, loaning, distributing, keeping for sale, or exhibiting any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child sexual abuse material; or
- ii. Shows, exhibits, loans, or distributes to a minor child any obscene material or child sexual abuse material for the purpose of inducing said minor to participate in:
 1. Lewdly exposing his or her person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;
 2. Procuring, counseling, or assisting any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;
 3. Writing, composing, stereotyping, printing, photographing, designing, copying, drawing, engraving, painting, molding, cutting, or otherwise preparing, publishing, selling, distributing, keeping for sale, knowingly downloading on a computer, or exhibiting any obscene material or child sexual abuse material ; or
 4. Making, preparing, cutting, selling, giving, loaning, distributing, keeping for sale, or exhibiting any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child sexual abuse material. (OKLA. STAT. tit. 21. § 1021)

- j. "Procuring or causing the participation of any minor child in any child sexual abuse material or knowingly possessing, procuring or manufacturing child sexual abuse material" is defined as procuring or causing the participation of any minor under the age of eighteen (18) years in any child sexual abuse material or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any child sexual abuse material. (OKLA. STAT. tit. 21. § 1021.2)
- k. "Permitting or consenting the participation of a minor child in any child sexual abuse material" is defined as a parent, guardian or individual having custody of a minor under the age of eighteen (18) years who knowingly permits or consents to the participation of a minor in any child sexual abuse material. (OKLA. STAT. tit. 21. § 1021.3)
- l. "Facilitating, encouraging, offering or soliciting sexual conduct with a minor" is defined as facilitating, encouraging, offering or soliciting sexual conduct

with a minor, or other individual the person believes to be a minor, by use of any technology, or engaging in any communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology. (OKLA. STAT. tit. 21. § 1040.13a)

- m. "Offering or offering to secure a minor child for the purposes of prostitution or any other lewd or indecent act" is defined as:
 - i. Offering, or offering to secure, a child under eighteen (18) years of age for the purpose of child sex trafficking, or for any other lewd or indecent act, or procure or offer to procure a child for, or a place for a child as an inmate in, a house of prostitution or other place where prostitution is practiced;
 - ii. Receiving or offering or agreeing to receive any child under eighteen (18) years of age into any house, place, building, other structure, vehicle, trailer, or other conveyance for the purpose of child sex trafficking, lewdness, or assignation, or to permit any person to remain there for such purpose; or
 - iii. Directing, taking, or transporting, or offering or agreeing to take or transport, or aid or assist in transporting, any child under eighteen (18) years of age to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is child sex trafficking, lewdness, or assignation. (OKLA. STAT. tit. 21. § 1087)
- n. "Causing, inducing, persuading or encouraging a minor child to engage or continue to engage in prostitution" is defined as:
 - i. By promise, threats, violence, or by any device or scheme, including but not limited to the use of any prohibited controlled dangerous substance causing, inducing, persuading, or encouraging a child under eighteen (18) years of age to engage or continue to engage in child sex trafficking or to become or remain an inmate of a house of prostitution or other place where prostitution is practiced;
 - ii. Keeping, holding, detaining, restraining, or compelling against his or her will, any child under eighteen (18) years of age to engage in the practice of child sex trafficking or in a house of child sex trafficking or other place where prostitution is practiced or allowed; or
 - iii. Directly or indirectly keeping, holding, detaining, restraining, or compelling or attempting to keep, hold, detain, restrain, or compel a child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or any place where prostitution is practiced or allowed for the purpose of compelling such child to directly or indirectly pay, liquidate, or cancel any debt, dues, or obligations incurred, or said to have been incurred by such child. (OKLA. STAT. tit. 21. § 1088)

- o. "Rape" is defined as sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:
- i. Where the victim is under eighteen (18) years of age;
 - ii. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
 - iii. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
 - iv. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
 - v. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
 - vi. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
 - vii. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision that exercises authority over the victim;
 - viii. Where the victim is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of a school system, including employed and contracted school resource officers and security guards; or
 - ix. Where the victim is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant. (OKLA. STAT. tit. 21. § 1111)

- p. "Rape by instrumentation" is defined as an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person. Provided further that one of the following circumstances exists:
- i. where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of the same school system, or
 - ii. where the victim is under the legal custody or supervision of a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section of law with a federal, state, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime; or
 - iii. where the victim is nineteen (19) years of age or younger and in the legal custody of a state agency, federal agency or tribal court and engages in conduct prohibited by this section of law with a foster parent or foster parent applicant;
 - iv. where the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts as defined above with a perpetrator who is an employee of the institution of higher education of which the student is enrolled (OKLA. STAT. tit. 21. § 1111.1).
- q. "Making any oral, written or electronically or computer-generated lewd or indecent proposals to a minor child under the age of sixteen (16)" is defined as making any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person. (OKLA. STAT. tit. 21. § 1123)
- r. "Exploitation" is defined as an unjust or improper use of the resources of an incapacitated person, a partially incapacitated person, or a minor for the profit or advantage, pecuniary or otherwise, of a person other than an incapacitated person, a partially incapacitated person, or a minor through

the use of undue influence, coercion, harassment, duress, deception, false representation or false pretenses. (OKLA. STAT. tit. 30. § 1-111)

- s. "Child Trafficking" as defined below.
 - t. "Sexual battery is considered child abuse and neglect when committed upon a person who is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or in the legal custody or supervision of any public or private elementary or secondary school, or technology center school, by a person who is eighteen (18) years of age or older and is an employee of a private school or public school system.
2. "Child Trafficking" includes, but is not limited to behavior that consists of the acceptance, solicitation, offer, payment or transfer of any compensation, in money, property or other thing of value, at any time, by any person in connection with the acquisition or transfer of the legal or physical custody or adoption of a minor child, except as ordered by the court or except as otherwise provided by Section 7505-3.2 of Title 10 of the Oklahoma Statutes. (OKLA. STAT. tit. 21. § 866)
 3. A "person responsible for a child's health, safety or welfare" includes a parent, a legal guardian, a custodian, a foster parent, a person 18 years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator or employee of a child care facility as defined by OKLA. STAT. tit. 10 § 402.
 4. "Parent" refers to parents, guardians or others who have legal responsibilities for specific children.
 5. "Local law enforcement" means a law enforcement agency independent of the school technology center or a full-time school police department fully commissioned by the State of Oklahoma. Local law enforcement shall not include a school resource officer unless the officer is directly supervised by a law enforcement agency independent of the technology center and immediately submits a written report to the independent law enforcement agency describing the circumstances and any action taken.

Reporting Suspected Abuse, Neglect Exploitation or Trafficking

Any technology center employee having reason believe that any student is **a victim of abuse, neglect or exploitation** shall immediately report this matter to:

- (1) Oklahoma Department of Human Services ("DHS") through the hotline designated for this purpose (1-800-522-3511), AND
- (2) local law enforcement.

Additionally, any technology center employee must report **suspected child trafficking** to:

- (1) Oklahoma bureau of Narcotics and Dangerous Drugs Control ("OBNDCC") at 1-800-617-2888,
- (2) DHS through the hotline designated for this purpose (1-800-522-3511), AND
- (3) local law enforcement.

In addition to the reporting requirements above, the superintendent or any school administrator who receives an allegation or disclosure that a school employee is involved in the abuse or neglect of a student, or who otherwise has reason to believe that such abuse has occurred by a school employee, shall report the matter within **twenty-four (24) hours** to law enforcement. Further, this special reporting obligation is not affected by the resignation, retirement, termination, transfer, or other separation from employment of the employee who is the subject of the report or investigation.

The following requirements are mandated by Oklahoma Statutes tit. 70, § 1210.163 and govern the reporting and investigation of allegations that a school employee abused or neglected a student.

- (1) All disclosures or allegations of an employee involved in the abuse or neglect of a student shall be reported to law enforcement prior to any formal investigation by the school or school board, or questioning of the employee subject of the accusation.
- (2) No school investigator, administrator or official shall conduct formal interviews of the employee subject of the accusation or engage in disciplinary proceedings of the employee until law enforcement has been notified and has had the opportunity to interview the involved parties unless law enforcement determines that an immediate school response is necessary to protect student safety. For purposes of this policy, paid administrative leave shall not be considered disciplinary action.

In addition to the requirements in Oklahoma Statutes tit. 70, § 1210.163, when allegations involve conduct that may constitute sex-based harassment or other sex-related misconduct under Title IX of the Education Amendments of 1972, the technology center must comply with all applicable Title IX requirements regarding reporting, investigation, and response. In the event of any perceived conflict or uncertainty between the requirements of state law and Title IX, technology center personnel shall promptly consult with the superintendent or legal counsel for guidance.

After a report is made to DHS or OBNDCC via the hotline or to law enforcement, the reporting party (the employee making the report) shall prepare a written report which contains the confirmation number of the report (if applicable), the date and time of the telephone contact, the name of the person to whom the technology center employee made the oral report, the names and addresses of the student, the parents, and any other responsible persons, the student's age, the nature and extent of injuries, any previous incidents, and any other helpful information. A copy of this report will be furnished to the

department director, or, if the reporter believes the department director is not an appropriate individual, to the superintendent or designee.

Local law enforcement shall keep confidential and redact any information identifying the reporting technology center employee unless otherwise ordered by the court. A technology center employee with knowledge of a report made to DHS and/or local law enforcement shall not disclose information identifying the reporting technology center employee unless otherwise ordered by the court or as part of an investigation by local law enforcement or DHS.

Investigatory Access to Students and Parental Notification

At the request of appropriately identified investigators of DHS, OBNDDC or the district attorney's office or local law enforcement, the superintendent or other school official shall permit the investigators access to the student about whom the agency received a report. The interview will be arranged in a manner that minimizes embarrassment to the student. School officials will not contact the parent, guardian or other person responsible for the student's health or welfare prior to or following the interview, unless permission for parent contact is provided by DHS, OBNDDC or the district attorney's office (10A OKLA. STAT. § 1-6-103(B)(3)(b)) or law enforcement authorities. No technology center employee will be present during the interview. However, an employee may be present prior to the interview if the employee believes that his or her temporary presence will make the student more comfortable or if the representatives request the presence of a technology center employee during the interview.

Reports to Principal or Other School Officials

Suspected instances of abuse, neglect, exploitation or trafficking, whether the result of circumstances at home, school or at other locations, affects the student while he or she is at school or participating in school activities. Consequently, employees are required to report any suspicion of abuse, neglect, exploitation or trafficking by any individual, whether the identity is known or unknown, to the administration. This reporting obligation exists in all instances, including circumstances suggestive of this conduct at school or connected with school activities.

Immunity for Good Faith Reports

Oklahoma law provides that any technology center employee who in good faith and exercising due care makes a report to DHS or another appropriate law enforcement office, allows access to a student by persons authorized to investigate a report concerning the student or participates in any judicial proceeding resulting from a report, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed.

Neither the board of education nor any technology center employee will discharge or in any manner discriminate or retaliate against the person who in good faith provides such reports or information, testifies, or is about to testify in any proceeding involving abuse,

neglect, exploitation, or trafficking, provided that the person did not perpetrate or inflict the abuse, neglect, exploitation or trafficking.

Information Concerning Abuse, Neglect or Exploitation

In any instance in which the technology center receives a report from DHS regarding any confirmed report of sexual abuse or severe physical abuse concerning the student, the superintendent will forward to a subsequent school in which the student enrolls all confirmed reports of sexual abuse and severe physical abuse received from DHS, and the superintendent will notify DHS of the student's new school and address, if known.

All information or documents generated or received by the technology center in regard to the matter are confidential and shall not be disclosed except to investigators of DHS, the district's attorneys, the district attorney's office, a subsequent district in which the student 4 10A OKLA. STAT. § 1-6-103(B)(3)(b) enrolls, a person designated to assist in the treatment of or with services provided to the student or other state or federal officials in connection with the performance of their official duties. The information or documents shall be maintained and transmitted by the technology center in the same manner as special education records.

Attestation

In addition, every technology center employee must annually sign an attestation form acknowledging his or her responsibility to report suspected child abuse or neglect.

Training on Child Abuse and Neglect

A program, which includes the following information, shall be completed the first year of employment by the technology center, and then a minimum of once every five years:

1. Training on recognition of child abuse and neglect;
2. Recognition of child sexual abuse;
3. Proper reporting of suspected abuse; and
4. Available resources.

Reference: OKLA. STAT. tit. 10A, § 1-2-101 *et seq.*
OKLA. STAT. tit. 30, § 4-903,
OKLA. STAT. tit. 70, § 1210.163
OKLA STAT. tit. 70, § 6-194