

STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

April 25, 1977

ATTORNEY GENERAL OPINION NO. 77-138

Mr. Michael F. McCurdy  
Crawford County Attorney  
Judicial Center, Fourth and Pine  
Pittsburg, Kansas 66762

RE: Reporting of certain physical or mental abuse of children.

Synopsis: K.S.A. 1976 Supp. 38-717 requires that a teacher who has reason to believe that a child has suffered injury from abuse or neglect must report this to the designated authorities.

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Dear Mr. McCurdy:

You inquire whether school policies require teachers to report suspected cases of child abuse to school administrators who then decide whether to report the incidents to the proper authorities, are in violation of K.S.A. 1976 Supp. 38-717.

The statute provides that persons licensed to practice the healing arts, school teachers and administrators, law enforcement officers, and certain others "having reason to believe that such child has had injury or injuries inflicted upon him or her as a result of physical or mental abuse or neglect, shall report... the matter promptly to the district court...or to the department of social and rehabilitation services." The statute clearly places the burden of reporting on the person who has knowledge of the facts indicating that abuse or neglect has occurred. Failure to make such report constitutes a class B misdemeanor under K.S.A. 1976 Supp. 38-720. Thus, reporting an incident to the school administration would not relieve a teacher from the duty to report to the district court or department of social and rehabilitation services. This was clearly established in Attorney General Opinion No. 77-68, which indicated that reports to other interested agencies or parties are

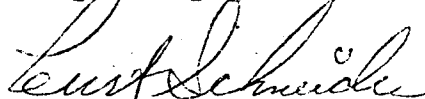
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not a substitute for the statutorily required report; nor do they result in immunity from civil or criminal liability on the part of the reporting party, as do the required reports, under K.S.A. 1976 Supp. 38-718.

There is nothing in the statute to prohibit school administrators from requiring that teachers also report to the administration any incidents which they have reported to the district court or department of social and rehabilitation services. But to require the teachers to report to the administration rather than as the statute provides would tend to obstruct the operation of the statute. Furthermore, deliberate failure by a school administrator to report an incident which was reported to him by a teacher rather than to the court or S.R.S., because of school policy requirements, would itself constitute a violation of the reporting statute which includes school administrators among those who must make reports when they have reason to believe that a child has been abused or neglected.

In conclusion, I am of the opinion that the statute requires reporting by the individual teacher who becomes aware of child abuse. Reports to the school administrator are not substitutes for the statutorily required reports. Policies prohibiting teachers from making the statutorily required reports would constitute an attempt to obstruct operation of the law and might constitute criminal conspiracy. Furthermore, retaliation against teachers who have complied with the reporting statute is prohibited by a new amendment to K.S.A. 1976 Supp. 38-717. Senate Bill 62, passed by the legislature and signed by Governor Bennett on April 11, 1977, to take effect on July 1, 1977, contains a section prohibiting any employer from terminating or otherwise sanctioning an employee who has reported suspected child abuse to the district court or department of social and rehabilitation services.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS/ERH/cgm