

FREQUENTLY ASKED QUESTIONS

EXECUTIVE ORDER #54

Relating to Supplemental Mandatory Reporting Requirements of Child Abuse and Neglect

On December 19, 2011, Governor Walker signed Executive Order #54 making all University of Wisconsin System (UWS) employees mandatory reporters of child abuse and neglect. Executive Order #54 requires all University of Wisconsin System employees to immediately report child abuse or neglect if the employee, in the course of employment, 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.

Q: Who is required to report child abuse or neglect?

A: Executive Order #54 states that all employees of the University of Wisconsin System including professors, administrators, coaches, and others must report child abuse and neglect. Therefore, all full-time and part-time employees, including faculty, academic staff, classified staff, and student employees must report child abuse and neglect. The existing mandatory reporter law requires health practitioners, social workers, law enforcement officers, child care providers, and counselors, among others, to report child abuse and neglect.

Q: What must be reported?

A: UWS employees must report if an employee, *in the course of employment*, 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. This includes abuse or neglect that occurs off campus and/or at a child's home, if a UWS employee observes or learns about it in the course of his or her employment.

Q: How is "child" defined?

A: For purposes of child abuse and neglect, a "child" is a person who is less than 18 years of age.

Q: How is "abuse" defined?

A: Wisconsin law defines "abuse" of a child to include 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 §§ 940.225, 948.02, 948.025, or 948.085.
- (3) Sexual exploitation of a child.

- (4) Permitting, allowing or encouraging a child to violate the statute prohibiting prostitution.
- (5) Causing a child to view or listen to sexual activity.
- (6) Exposing genitals or pubic area to a child or exposing a child's genitals or pubic area.
- (7) Manufacturing methamphetamine with a child present, or 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.

Q: How is "neglect" defined?

A: Wisconsin law defines "neglect" as "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."

Q: What is the time frame for a person to report child abuse or neglect?

A: Executive Order #54 states that child abuse or neglect must be reported immediately in person or by telephone. However, a Wisconsin court determined that a preliminary investigation to verify the allegations before reporting may be appropriate. Such preliminary investigation must be prompt.

Q: To whom must the report of child abuse or neglect be made?

A: A person with knowledge of child abuse or neglect must report to the county department of social services or the county department of human services, or to the county sheriff or city, village, town, public university or college police department. In a county having a population of 500,000 or more, a person may also report to the county department of social services, the county department of human services, or a licensed child welfare agency under contract with the county department of social services or the county department of human services. Reports of alleged child abuse or neglect should be made to the county where the child or the child's family resides. To contact the appropriate county department of social/human services, you may go to the following website: <http://dcf.wisconsin.gov/Children/CPS/cpswimap.htm?ref=hp>

Q: Why was Executive Order #54 created?

A: Currently, the Wisconsin mandatory reporter law requires certain persons such as health practitioners, social workers, law enforcement officers, child care providers, counselors, school teachers and administrators, and, more recently, all school employees, to report child abuse and neglect. University of Wisconsin System employees are generally not mandatory reporters of child abuse and neglect under state law. Executive Order #54,

however, makes all University of Wisconsin System employees mandatory reporters of child abuse and neglect.

Q: What penalties are there for failing to report?

A: Executive Order #54 does not contain any penalties for failing to report child abuse or neglect. However, failure to report that results in a child being subjected to additional harm could be the basis for a civil negligence action and it is a criminal misdemeanor to fail to report a crime or render assistance where a crime is being committed and the victim is exposed to bodily harm. Additionally, if an individual is a mandatory reporter under existing state law, failure to report may result in up to \$1,000 in fines and/or imprisonment of not more than 6 months.

Q: What protections are provided to UWS employees who make a report in good faith?

A: An employee making a report in compliance with Executive Order #54 may not be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment. In addition, anyone *may* report child abuse or neglect and state law provides that any person or institution participating in good faith in the making of a report shall have immunity from civil or criminal liability.

Q: What if I am already a mandatory reporter under state law?

A: UWS employees who are health practitioners, social workers, law enforcement officers, child care providers, and counselors must report if the employee has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect to the child will occur. A UWS employee who is a mandatory reporter under Wis. Stat. § 48.981(2)(a) must comply with the requirements of the state mandatory reporter law and is not subject to the requirements of Executive Order #54.

Q: Will training opportunities be available for UWS employees?

A: Yes. Information regarding training opportunities will be forthcoming.

If you have questions that are not addressed in this memorandum, please contact Tom Stafford or Erin Kastberg in the Office of General Counsel or your campus legal counsel.