



# **Why Training Educators on Youth Suicide Awareness and Prevention Is Important**

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**Responsibilities of a “First Responder”**

**Under**

**Federal Child Abuse and Neglect Laws**

**And**

**West Virginia Child Abuse and Neglect Laws**



# ***How is Child Abuse and Neglect Defined in Federal Law? <sup>1</sup>***

Federal legislation lays the groundwork for State laws on child maltreatment by identifying a minimum set of acts or behaviors that define child abuse and neglect. The Federal Child Abuse Prevention and Treatment Act (CAPTA), (42 U.S.C.A 5106g), as amended and reauthorized by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at minimum:

*“Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm.”*

As relating to issues surrounding suicidal ideation, suicide attempts or suicides we need to explore specifically the area of “Neglect.”

**Neglect** is the failure of a parent, guardian, or other caregiver to provide for a child’s basic needs. Neglect may be: <sup>2</sup>

Physical (e.g., failure to provide necessary food or shelter, or lack of appropriate supervision)

Medical (e.g., failure to provide necessary medical or mental health treatment)<sup>2</sup>

Educational (e.g., failure to educate a child or attend to special education needs)

**Emotional** (e.g., inattention to a child’s emotional needs, failure to provide psychological care, or permitting the child to use alcohol or other drugs)

And under law, who is responsible to report Child Abuse or Neglect (First Responder): <sup>3</sup>

## **Professionals Required to Report**

Approximately 48 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands designate professions whose members are mandated by law to report child maltreatment.<sup>1</sup> Individuals designated as mandatory reporters typically have frequent contact with children. Such individuals may include:

- Social workers
- Teachers, principals, and other school personnel
- Physicians, nurses, and other health-care workers
- Counselors, therapists, and other mental health professionals
- Child care providers
- Medical examiners or coroners
- Law enforcement officers

What about my state -West Virginia?

## Child Abuse and Neglect

### Definitions of Child Abuse and Neglect

To better understand this issue and to view it across States, see the *Definitions of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 442 KB) publication.

#### Physical Abuse

**Citation: Ann. Code § 49-1-3**

*Abused child* means a child whose health or welfare is harmed or threatened by:

- A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home
- Sexual abuse or sexual exploitation
- The sale or attempted sale of a child by a parent, guardian, or custodian in violation of the law
- Domestic violence, as defined by § 48-27-202
- Physical injury as a result of excessive corporal punishment

*Child abuse and neglect* or *child abuse or neglect* means physical injury of a child by a parent, guardian, or custodian who is responsible for the child's welfare, under circumstances that harm or threaten the health and welfare of the child.

*Imminent danger to the physical well-being of the child* means an emergency situation in which the welfare or the life of the child is threatened. Such emergency situations may include:

- Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, or a babysitter or other caretaker
- A combination of physical and other signs indicating a pattern of abuse that may be medically diagnosed as battered child syndrome
- Sale or attempted sale of the child by the parent, guardian, or custodian

*Serious physical abuse* means bodily injury that creates a substantial risk of death or causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

#### Neglect

**Citation: Ann. Code § 49-1-3**

*Neglected child* means a child:

- Whose physical or mental health is harmed or threatened by a present refusal, failure, or inability of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care, or education

Who is presently without necessary food, clothing, shelter, medical care, education, or supervision because of the disappearance or absence of the child's parent or custodian

*Child abuse and neglect or child abuse or neglect* means negligent treatment or maltreatment of a child by a parent, guardian, or custodian who is responsible for the child's welfare, under circumstances that harm or threaten the health and welfare of the child.

*Imminent danger to the physical well-being of the child* means an emergency situation in which the welfare or the life of the child is threatened. Such emergency situations may include:

Nutritional deprivation  
Inadequate treatment of serious illness or disease

### **Sexual Abuse**

**Citation: Ann. Code § 49-1-3**

*Sexual abuse* means:

Engaging in, attempting to engage in, or knowingly procuring another person to engage in sexual intercourse, sexual intrusion, or sexual contact with an child less than age 16, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct

Engaging in, attempting to engage in, or knowingly procuring another person to engage in sexual intercourse, sexual intrusion, or sexual contact with an child age 16 or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct

Any conduct whereby a parent, guardian, or custodian displays his or her sex organs to a child or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian, or custodian, of the person making such display, or of the child, or for the purpose of affronting or alarming the child

*Sexual exploitation* means an act whereby a parent, guardian, or custodian:

Whether for financial gain or not, persuades, induces, entices, or coerces a child to engage in sexually explicit conduct

Persuades, induces, entices, or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, or custodian knows such display is likely to be observed by others who would be affronted or alarmed

### **Emotional Abuse**

**Citation: Ann. Code § 49-1-3**

*Child abuse and neglect or child abuse or neglect* includes mental or emotional injury of a child by a parent, guardian, or custodian who is responsible for the child's welfare, under circumstances that harm or threaten the health and welfare of the child.

*Imminent danger to the physical well-being of the child* includes substantial emotional injury inflicted by a parent, guardian, or custodian.

### **Abandonment**

**Citation: Ann. Code § 49-1-3**

*Imminent danger to the physical well-being of the child* includes abandonment by the parent, guardian, or custodian.

### **Standards for Reporting**

**Citation: Ann. Code § 49-1-3**

A report is required when the child's health and welfare are harmed or threatened with harm.

### **Persons Responsible for the Child**

**Citation: Ann. Code § 49-1-3**

Responsible persons include the child's parent, guardian, or custodian.

### **Exceptions**

**Citation: Ann. Code § 49-1-3**

A child is not considered neglected when:

The lack of necessary food, clothing, shelter, or medical care is due primarily to a lack of financial means on the part of the parent.

The child's education is conducted within the provisions of § 18-8-1 [that provides exemption from State compulsory education requirement for private school enrollment or home-schooling].

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## **Mandatory Reporters of Child Abuse and Neglect**

To better understand this issue and to view it across States, see the *Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 633 KB) publication.

### **Professionals Required to Report**

**Citation: Ann. Code § 49-6A-2**

The following professionals are required to report:

Medical, dental, or mental health professionals  
Christian Science practitioners or religious healers

School teachers or other school personnel  
Social service workers or child care or foster care workers  
Emergency medical services personnel  
Peace officer, law enforcement officials, or humane officers  
Members of the clergy  
Circuit court judges, family court judges, employees of the Division of Juvenile Services, or magistrates

### **Reporting by Other Persons**

**Citation: Ann. Code § 49-6A-2**

Any person who has reasonable cause to suspect that a child is abused or neglected may report.

### **Standards for Making a Report**

**Citation: Ann. Code § 49-6A-2**

A report is required when:

A reporter has reasonable cause to suspect that a child is abused or neglected.

A reporter observes a child being subjected to conditions that are likely to result in abuse or neglect.

A reporter believes that a child has suffered serious physical abuse, sexual abuse, or sexual assault.

### **Privileged Communications**

**Citation: Ann. Code § 49-6A-7**

The privileged quality of communications between husband and wife and between any professional person and his or her patient or client, except that between attorney and client, cannot be invoked in situations involving suspected or known child abuse or neglect.

### **Inclusion of Reporter's Name in Report**

Not addressed in statutes reviewed.

### **Disclosure of Reporter Identity**

Not addressed in statutes reviewed.

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## **Penalties for Failure to Report and False Reporting of Child Abuse and Neglect**

To better understand this issue and to view it across States, see the *Penalties for Failure to Report and False Reporting of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 166 KB) publication.

### **Failure to Report**

**Ann. Code § 49-6A-8**

Any mandated reporter who knowingly fails to report as required, or knowingly prevents another person acting reasonably from doing so, shall be guilty of a misdemeanor, and upon conviction shall be subject to one or both of the following:

Confinement in the county jail not more than 10 days  
A fine of not more than \$100

### **False Reporting**

This issue is not addressed in the statutes reviewed.

### **What does this have to do with providing training for educators in youth suicide awareness and prevention?**

Teachers, under definition of “First Responders” and from the 48 states that name professionals required to report Child Abuse and Neglect, are required to report Child Abuse and Neglect. States usually do an adequate job training educators on how to recognize / identify children who might be victims of physical abuse. However, when it comes to training on identifying and recognizing children who are neglected...especially under the “emotional neglect” definition states many times fall far short in providing this training even though it named with the same intensity that physical abuse is discussed. The “failure to act” when a young person is demonstrating “warning signs” (that four out of five do) that they may be struggling depression and with thoughts of suicide is a failure to “Report.” Ignorance to how-to recognize “warning signs” of suicidal ideation is no longer a valid defense with now over 18 states requiring such training and with suicide named as the 2<sup>nd</sup> leading cause of death for our youth ages 10-24.

**The Jason Foundation, Inc.** is the nation’s premiere provider of In-Service / Professional Development training for educators nationwide. From 2015 through 2016, The Jason Foundation’s National Network of Affiliate Offices providing training for almost 300,000 educators in the U.S.. We are unique in that not only do we provide more trainings for educators in youth suicide awareness and prevention that anyone else in the nation, we never charge for our services.