



A Member's Duty to Report under the *Child and Family Services Act*

Section 72(1) of the *Child and Family Services Act (CFSA)* requires "a person who performs professional or official duties with respect to children" to report any reasonable grounds to suspect that a child under their care is at risk of harm, abuse, neglect, etc. There are a number of situations and types of harm that are mentioned in the Act. These are detailed below. A failure to report can lead to conviction of a provincial offence, and a fine, as well as an investigation at the Ontario College of Teachers.

What kinds of situations trigger a member's Duty to Report?

Section 72(1) of the *CFSA* describes the following situations:

1. The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's:
 - i. failure to adequately care for, provide for, supervise or protect the child; or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's:
 - i. failure to adequately care for, provide for, supervise or protect the child; or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph #3 above.
5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.
6. The child has suffered emotional harm, demonstrated by serious:
 - i. anxiety;
 - ii. depression;
 - iii. withdrawal;
 - iv. self-destructive or aggressive behaviour; or
 - v. delayed development;and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
7. The child has suffered emotional harm of the kind described in #6 above and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.
8. There is a risk that the child is likely to suffer emotional harm of the kind described in #6 above resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in #6 above and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.

10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
12. The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.
13. The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

A member does not need to be sure that any of the situations above is taking place. The member needs only "*reasonable grounds to suspect*" that one of the events has occurred.

Members are professionals who deal with children on a daily basis and are alert to many cues from them. Students may also disclose information to members which they don't disclose to other people. If you are unsure whether you should call CAS, call your local ETFO president or Professional Relations staff (PRS).

What kind of reporting is required?

A member must:

- **Report directly** to a children's aid society any reasonable grounds of suspicion of harm or risk of harm to a child. This reporting can be done verbally or in writing, but must be done personally/directly by the member to the CAS. A member cannot rely on his or her report to a principal, police, or school board to satisfy this duty;
- Continue to report any new grounds to suspect. The **duty is ongoing** – each new fact or suspicion creates a new duty to report. A member cannot rely on his or her previous report about a child to cover all problems that a member suspects about that child's health, safety, or risk of harm.

What happens if a member fails to make a report to a Children's Aid Society?

It is a **provincial offence for a member to fail to report**. If convicted, this can lead to a fine of up to \$1000. In order to be found guilty, the failure to report must concern information or suspicions that a member learned of through his or her professional duties, and does not apply to volunteering or work outside of his or her role as a member, according to the courts of Ontario. It does not normally involve information learned outside of teaching, off duty.

It is also a **breach of a member's professional obligations** to fail to report to the CAS. Failing to report can lead to a complaint under the *Ontario College of Teachers Act*. Regulation 437/97 - Professional Misconduct states that it is **professional misconduct** to fail a duty under the *CFSA*. This includes failing the duty to report. Consequences for a teacher could include a variety of penalties under the *College of Teachers' Act*, depending on the circumstances of the failure to report.

Bill 157 – Keeping Our Kids Safe at School Act

Bill 157 also obligates members who become aware that a pupil of a school of the board may have engaged in an activity described in subsection 306(1) or 310(1) of the *Education Act* (suspension and expulsion offences) shall, as soon as reasonably possible, report to the principal about the matter. For more information, see PRS Matters Volume 51 and *VOICE* Volume 12 – No. 2.

**For further information contact
your local
ETFO president or Professional
Relations staff in Protective
Services at 416-962-3836 or
1-888-838-3836.**



480 University Avenue, Suite 1000, Toronto, Ontario M5G 1V2
Telephone: (416) 962-3836 Toll Free: 1-888-838-3836
Fax: (416) 642-2424 Website: www.etfo.ca

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