

GUIDELINE #4: CHILD ABUSE REPORTING

CURRENT LAW and/or PRACTICE

Pursuant to Section 39.201(2)(a), F.S., each report of known or suspected child abuse, abandonment, or neglect pursuant to this section shall be made immediately to the Department's (Florida Department of Children and Families) Central Abuse Hotline on the single statewide toll-free telephone number at 1(800) 96 ABUSE.

This statute applies to suspected or confirmed reports against a child regardless of occupation. Teachers, school officials or personnel are included in this statute. Chapter 794, F.S., defines sexual battery and Chapter 800, F.S., defines lewdness and indecent exposure.

Any reports involving perpetrators who reside outside of the State of Florida will be accepted by the Central Abuse Hotline so long as the victim is residing in the county in Florida where the report is being made.

A person who is required by Section 39.201, F.S., to report known or suspected child abuse or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, F.S.

GENERAL DEFINITION OF ABUSE

Child abuse is defined to include harm or threatened harm to a child's physical or mental health or welfare by the acts or omissions of a parent, adult household member, or other person responsible for the child's welfare, or, for purposes of reporting requirements, by any person. Harm to a child's health or welfare can occur when the parent or other person responsible for the child's welfare inflicts, or allows to be inflicted, upon the child physical, sexual or mental injury that causes or is likely to cause the child's physical, mental or emotional health to be significantly impaired.

As noted in the statutory definition of child abuse, in determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child:

- The age of the child;
- Any prior history of injuries to the child;
- The location of the injury on the body of the child;

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- The multiplicity of the injury; and
- The type of trauma inflicted.

EXAMPLES OF ABUSE

- I. Physical Abuse - willful acts that produce the following specific injuries:**
- A. Sprains, dislocations, or cartilage damage.
 - B. Bone or skull fractures
 - C. Brain or spinal cord damage
 - D. Intracranial hemorrhage or injury to other internal organs
 - E. Asphyxiation, suffocation, or drowning
 - F. Injury resulting from the abuse of a deadly weapon
 - G. Burns or scalding
 - H. Cuts, lacerations, punctures, or bites
 - I. Permanent or temporary disfigurement
 - J. Permanent or temporary loss or impairment of a body part or function
 - K. Purposely giving a child poison, alcohol, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this paragraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Section 893.03, F.S.
 - L. Inappropriate or excessively harsh disciplinary action taken likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the injuries set forth in subsection I (A-J) above.

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As used above, the term “willful” refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury:

II. Neglect

The term “neglects the child” means that the parent or other person responsible for the child’s welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so, or leaving a child without adult supervision or arrangement appropriate for the child’s own needs or another’s basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis. However, a parent or other person responsible for the child’s welfare who, by reason of the legitimate practice of religious beliefs, does not provide specific medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

- A. Eliminate the requirement that such a case can be reported to the Department of Children and Families;
- B. Prevent the Department of Children and Families from investigating such a case; or
- C. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

III. Sexual Abuse

- A. Commits, or allows to be committed, sexual battery, which is defined as follows:

Oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

OR

- B. Commits lewd or lascivious acts, against the child as defined as follows:
 - 1. Handles, fondles, or assaults any child under the age of 16 years in a lewd, lascivious, or indecent manner;

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2. Commits actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, actual lewd exhibition of the genitals, or any act or conduct which simulated that sexual battery is being or will be committed upon any child under the age of 16 years or forces or entices the child to commit any such act;
3. Commits an act defined as sexual battery, as set forth above, upon any child under the age of 16 years.
4. Knowingly commits any lewd or lascivious act in the presence of any child under the age of 16 years.

OR

- C. Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
 1. Solicit or engage in prostitution; or
 2. Engage in a sexual performance.

IV. Abandonment

The term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evidence a settled purpose to assume all parental duties, the child may be determined to have been abandoned.

V. Additional Categories of Abuse

- A. Exploits a child, or allows a child to be exploited. (Hiring and employing; infliction of pain or suffering)
- B. Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

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1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage.

OR

2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage. The term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Section 893.03, F.S. The parent of a newborn infant may not be subject to criminal investigation solely on the basis of the positive drug toxicology of a newborn infant.
- C. Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control children.
 - D. Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
 - E. Negligently fails to protect a child in his/her care from inflicted physical, mental, or sexual injury caused by the acts of another.
 - F. Has allowed a child's sibling to die as a result of abuse or neglect.

REPORTING PROCEDURES

I. Reporting Non-School Related Child Abuse

- A. Pursuant to Florida law, suspected abuse perpetrated by anyone must be immediately reported to the Florida Department of Children and Families Central Abuse Hotline, Tallahassee, Florida (1-800-96-ABUSE-Toll Free.) The report should include the child's name and other identifiable information, e.g., date of birth, ethnicity, sex, reporting date and a very brief narrative of the alleged abuse. Any School Board employee aware of suspected or confirmed child abuse committed by a Non-School Board employee, shall immediately complete the following procedures (for flow charts of procedures after notifying the DCF Central Abuse Hotline, see pages 29 and 30):
 1. Report the abuse to the Department of Children and Families Central Abuse Hotline as set forth above.

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2. Report the abuse to a school-site administrator.
 3. Report the abuse to the Miami-Dade Schools Police Department.
 4. **NO SCHOOL-SITE EMPLOYEE SHALL CONTACT THE CHILD'S PARENT OR GUARDIAN.** The representative from Department of Children and Families or law enforcement agency will contact the parent/guardian.
- B. Should a citizen report a suspected case of child abuse to a School Board employee, it becomes the responsibility of the employee to complete the procedures set forth in subsection I (A)(1) above.
- C. When a child discloses information to one school staff member regarding abuse, a determination should be made as to where the incident occurred, for appropriate law enforcement notification, **then no further questioning of the child by School Board employees shall take place.** The person who reports the alleged abuse shall remain at the school and an appropriate School Board employee shall remain with the child until either the Department of Children and Families or law enforcement arrives on campus. At that point questioning of the child may resume, but only at the direction of either the Department of Children and Families or law enforcement agency.
- D. In the event a report of suspected child abuse is made **after regular school hours**, the School Board employee must complete the procedures set forth in subsection I (A)(1) above. In the event a school administrator is unavailable because the report occurred after hours, the School Board employee must be sure to inform the school administrator the following morning. If the Miami-Dade Schools Police Department is unavailable and the incident occurred on School Board property, a request should be made to have an on-call Miami-Dade Schools Police Department investigator respond. If the incident occurred off campus the School Board employee shall call police emergency at 911. **Please note that the Department of Children and Families Central Abuse Hotline must always be called first.**
- E. **No separate record shall be created and maintained by the school or school staff members during the investigation. All information pertaining to child abuse cases is confidential.** Additionally, the individual who reports the alleged abuse shall not be identified as the reporter except to those authorized representatives from the Department of Children and Families or the appropriate state attorney or law enforcement agency.

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- F. Reporting of incidents to the Department of Children and Families will prompt an investigation by the Department of Children and Families and/or law enforcement agency. **No additional investigation should be initiated by any school-site personnel.** Depending on the nature of the allegations, a representative from one or both of those agencies has the authority to conduct an interview with a student on school premises during the school day and may come to school to do so. Upon arriving on campus the representative from the Department of Children and Families and/or law enforcement agency shall advise the principal or his or her designee of that agency's presence and purpose. Upon the presentation of proper identification such individuals must be given access to the student. In accordance with Section 39.301 (16), F.S., a school staff member known to the child may be present during the interview only under the following conditions:
1. A representative from the Department of Children and Families or law enforcement believes that the school staff member(s) could enhance the success of the interview, and
 2. A school-site administrator has informed the alleged abused child that the child may have a staff member present and the child chooses to do so.
- G. When a determination has been made to conduct an interview on school grounds, it should be conducted in an area that ensures confidentiality and avoids embarrassment to the student. If the representative from the Department of Children and Families or law enforcement agency determines that the student is to be removed from school, this shall be done as inconspicuously and expeditiously as possible. **The agency who removes the student from school shall be responsible for contacting that student's parent(s) or guardian(s).**

II. Reporting Child Abuse Committed by a School Board Employee

- A. Any School Board employee aware of suspected or confirmed child abuse committed by a School Board employee, shall immediately complete the following procedures (for flow charts of procedure after notifying the DCF Central Abuse Hotline, see pages 31 and 32):
1. Report the abuse to the Department of Children and Families Central Abuse Hotline as set forth in subsection I (A)(1) above.
 2. Report the abuse to the principal or designee.

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3. Report the abuse to the Miami-Dade Schools Police Department.
 4. **NO SCHOOL-SITE EMPLOYEE SHALL CONTACT THE CHILD'S PARENT OR GUARDIAN.** The representative from the Department of Children and Families or law enforcement will contact the parent/guardian.
- B. Miami-Dade Schools Police Department will then contact the Office of Professional Standards (OPS) to inform OPS of the incident.
- C. Should a citizen report a suspected case of child abuse to a School Board employee, it becomes the responsibility of the employee to complete the procedures set forth in subsection I (A) (1) above.
- D. When a child discloses information to one school staff member regarding abuse, a determination should be made as to where the incident occurred, for appropriate law enforcement notification, **then no further questioning of the child by School Board employees shall take place.** The person who reports the alleged abuse shall remain at the school and an appropriate School Board employee shall remain with the child until either the Department of Children and Families or law enforcement arrives on campus. At that point questioning of the child may resume, but only at the direction of either the Department of Children and Families or law enforcement agency.
- E. In the event a report of suspected child abuse is made after **regular school hours**, the School Board employee must complete the procedures set forth in subsection I (A) (1) above. In the event a school administrator is unavailable because the report occurred after hours, the School Board employee must be sure to inform the school administrator the following morning. If officers of the Miami-Dade Schools Police Department are unavailable and the incident occurred on School Board property, a request should be made to have an on-call Miami-Dade Schools Police Department investigator respond. If the incident occurred off campus the School Board employee shall call police emergency at 911. Miami-Dade Schools Police Department must be contacted, so that OPS can be notified. **Please note that the Central Abuse Hotline must always be called first.**
- F. **All information pertaining to child abuse cases is confidential and no separate record shall be created and maintained by the school or school staff members during the investigation.** Additionally, the individual who reports the alleged abuse shall not be identified as the reporter except to those authorized representatives from

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the Department of Children and Families or the appropriate state attorney or law enforcement agency.

G. Reporting of incidents to the Department of Children and Families will prompt an investigation by the Department of Children and Families and/or law enforcement agency. No additional investigation should be initiated by any school-site personnel. Depending on the nature of the allegations, a representative from one or both of those agencies has the authority to conduct an interview with a student on school premises during the school day and may come to school to do so. Upon arriving on campus the representative from the Department of Children and Families and/or law enforcement agency shall advise the principal or his/her designee of that agency's presence and purpose. Upon the presentation of proper identification such individuals must be given access to the student. School Board employees may be present during the interview only under the following conditions:

1. Representatives from the Department of Children and Families or law enforcement agency believe that the school staff member(s) could enhance the success of the interview, and
2. A school-site administrator has informed the alleged abused child that the child may have a staff member present and the child chooses to do so.

H. When a determination has been made to conduct an interview on school grounds, it should be conducted in an area that ensures confidentiality and avoids embarrassment to the student. If the representative from the Department of Children and Families or law enforcement agency determines that the student is to be removed from school, this shall be done as inconspicuously and expeditiously as possible. **The agency which removes the student from school shall be responsible for contacting that student's parent or guardian.**

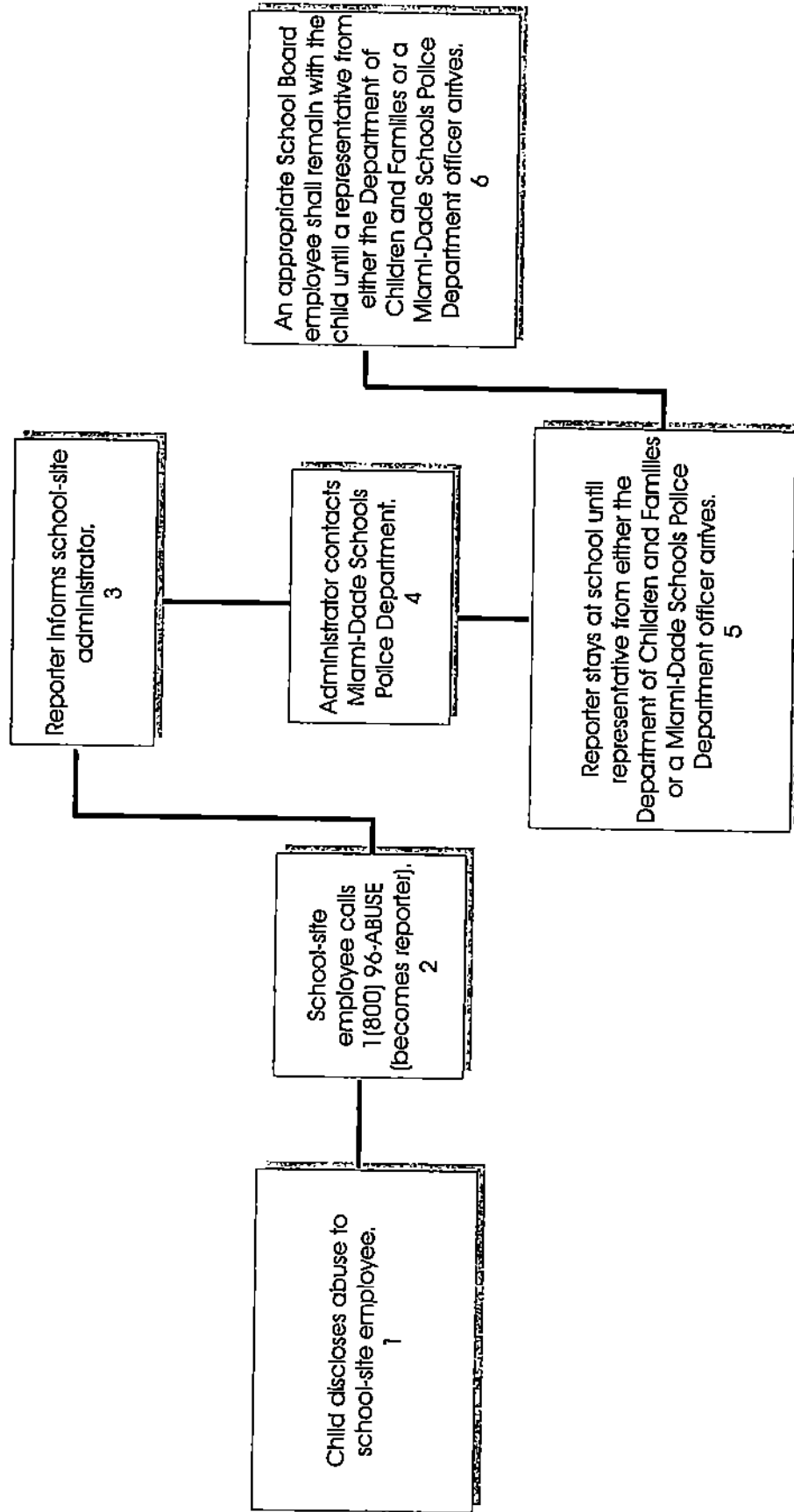
III. PENALTIES FOR FAILURE TO REPORT OR WILLFULLY MAKING A FALSE REPORT OF SUSPECTED CHILD ABUSE AND/OR DISCLOSING IDENTIFYING INFORMATION

A. A person who is required by Section 39.201 F.S. to report known or suspected child abuse or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, F.S.

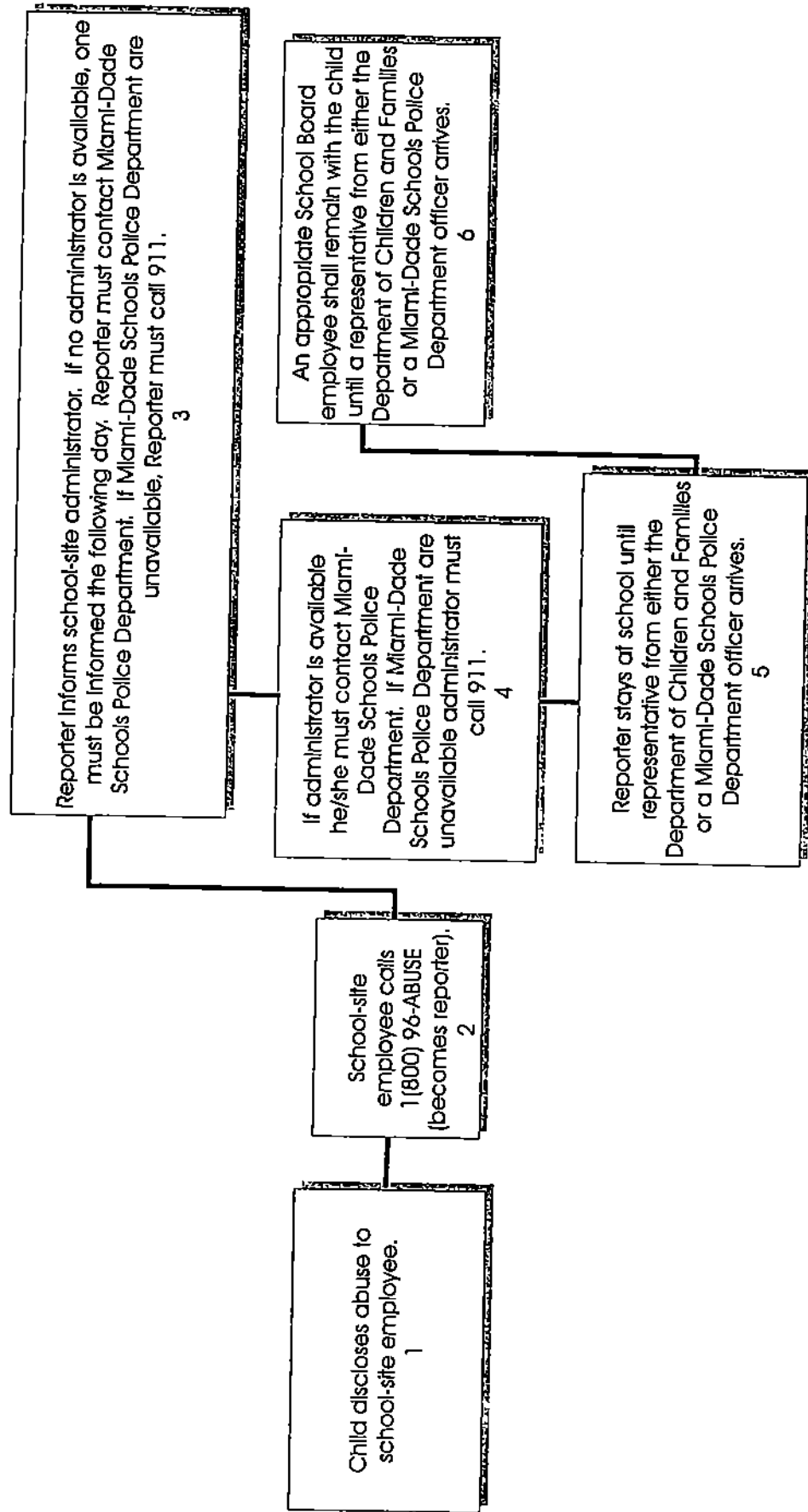
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- B. A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse registry and tracking system or in the records of any child abuse or neglect case, except as provided in Sections 39.201 and 794.024, F.S. is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S.
- C. A person who knowingly and willfully makes a false report of child abuse or neglect, or who advises another to make a false report, is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S. Anyone making a report who is acting in good faith is immune from any liability under this subsection.
- D. Section 794.024, F.S., Unlawful to disclose identifying information.-- (1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in Chapter 794, Chapter 800, Section 827.03, Section 827.04, or Section 827.071, F.S. may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense, or to organizations authorized to receive such information pursuant to Section 119.07(3)(h), F.S.
 - 1. A violation of subsection II (A)(1) (see page 25) constitutes a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S.
- E. Section 794.03, F.S., Unlawful to publish or broadcast information identifying sexual offense victim.--No person shall print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication the name, address, or other identifying fact or information of the victim of any sexual offense within Chapter 794. Such identifying information is confidential and exempt from the provisions of Section 119.07(1), F.S. An offense under this section shall constitute a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

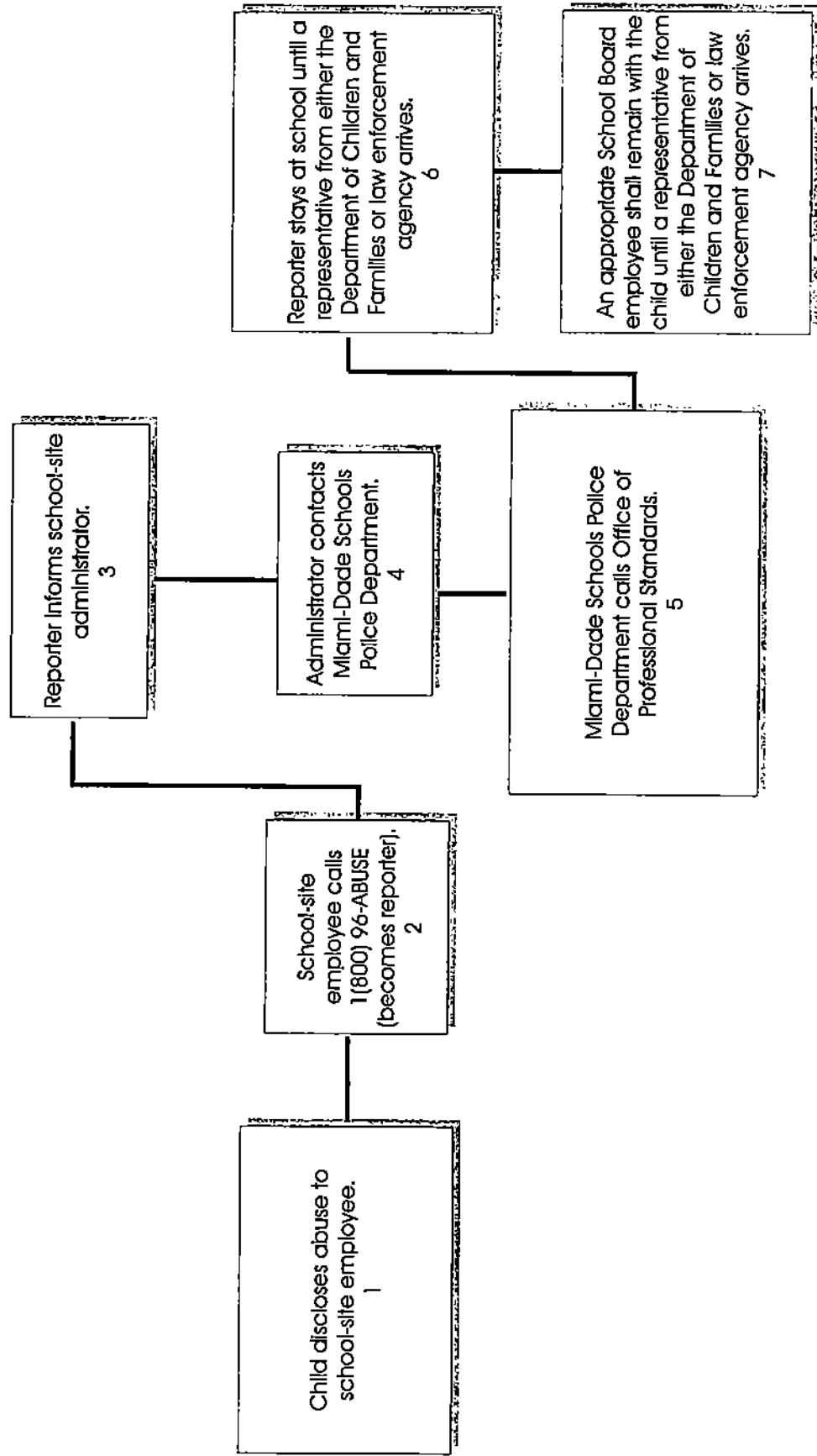
Reporting Non-School-Related Child Abuse During School Hours



Reporting Non-School-Related Child Abuse After School Hours



Reporting School-Related Child Abuse Committed by a School Board Employee During School Hours



Reporting School-Related Child Abuse Committed by a School Board Employee After School Hours

