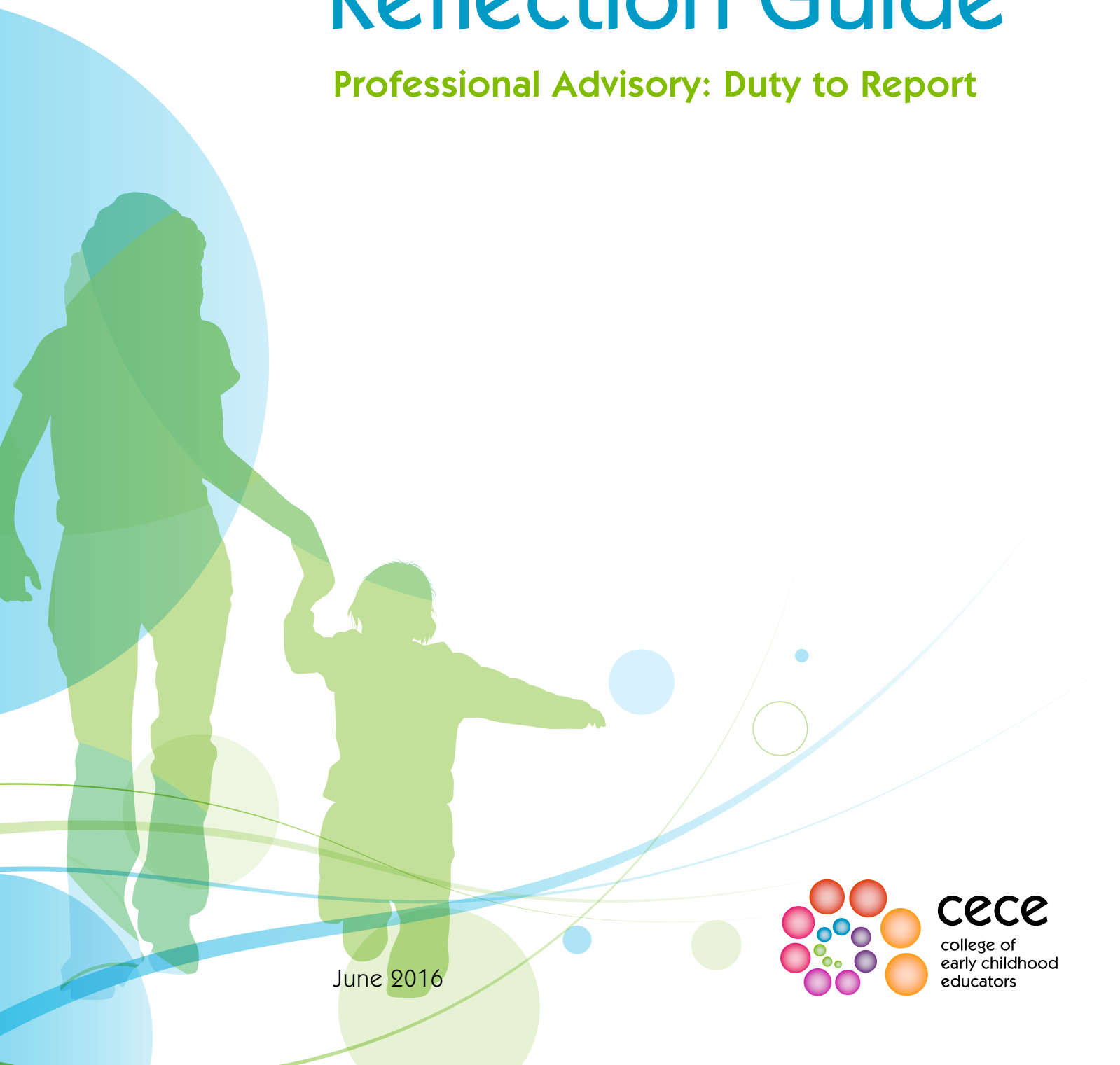


Resource and Reflection Guide

Professional Advisory: Duty to Report



June 2016



Table of Contents

03 Introduction

04 Responsibility to Children

*The Professional Advisory : Duty to Report
and the Code of Ethics and Standards of Practice*

05 Facilitating Discussion

06 Scenario: Caught Off Guard

08 Scenario: Change in Behaviour

10 Scenario: Being Left Out

12 Additional Questions

15 Additional Resources

This publication is not intended to provide a complete understanding of the legal requirements regarding the duty to report under section 72 of the *Child and Family Services Act, 1990* (CFSA). It does not constitute legal advice. It is intended to assist members of the College of Early Childhood Educators and the public to gain a better understanding of the legal and professional responsibilities that relate to the duty to report under section 72 of the CFSA.

Introduction

The College of Early Childhood Educators published the **Professional Advisory: Duty to Report** in June 2015. The advisory explains the requirement to report child abuse under section 72 of the **Child and Family Services Act, 1990** (CFSA). The advisory (available at college-ecce.ca/resources) should be read before using this guide. This Resource and Reflection Guide helps registered early childhood educators (RECEs), employers and the public understand the importance of the duty to report by:

- Raising awareness and understanding about the importance of the duty to report to the Children's Aid Society (CAS) and its affiliates under section 72 of the CFSA.
- Identifying the key facts and messages in the professional advisory.
- Linking the professional advisory to the **Code of Ethics and Standards of Practice**.
- Facilitating reflection about the challenges raised by various situations that could invoke a duty to report and how those situations may be handled by RECEs.
- Facilitating discussion between RECEs by sharing experiences and knowledge.

Responsibility to Children

The College's Code of Ethics states that RECEs have a responsibility to children. In a situation where an RECE has a duty to report under the CFSA, this responsibility to children is paramount.

The College recognizes that RECEs put a great amount of time and care into cultivating meaningful relationships with colleagues and families. As such, it can be intimidating and uncomfortable to report a colleague or a child's family member to CAS.

In carrying out their duty to report under the CFSA, RECEs must place the needs of the child above any other concerns.

Reflection Questions

- What are your feelings or concerns about reporting to CAS?
- How can you or your employer address those feelings or concerns?

The Professional Advisory: Duty to Report and the Code of Ethics and Standards of Practice

It is important to recognize how an RECE's duty to report is related to the ethical and professional responsibilities outlined in the *Code of Ethics and Standards of Practice*.

The College's Code of Ethics includes four areas of responsibility. The first responsibility is to children:

“Early childhood educators make the well-being and learning of all children who are under their professional supervision their foremost responsibility. They value the rights of the child, respecting the uniqueness, dignity and potential of each child, and strive to create learning environments in which children experience a sense of belonging.”

The College's Standards of Practice include six standards. Standard IV: Professional Knowledge and Competence states that:

“Early childhood educators know, understand and abide by the legislation, policies and procedures that are relevant to their professional practice and to the care and learning of children under their professional supervision.”

Throughout this guide, frequent references are made to the *Code of Ethics and Standards of Practice*. Wherever possible, RECEs are encouraged to turn to this resource to reflect on how best to apply the standards in a given situation.

Facilitating Discussion

This guide, the *Professional Advisory: Duty to Report* and the *Code of Ethics and Standards of Practice* may be used as professional learning resources by individual RECEs or by groups of RECEs during workshops or meetings in a practice setting. Employers and members of the public may also find this resource useful.

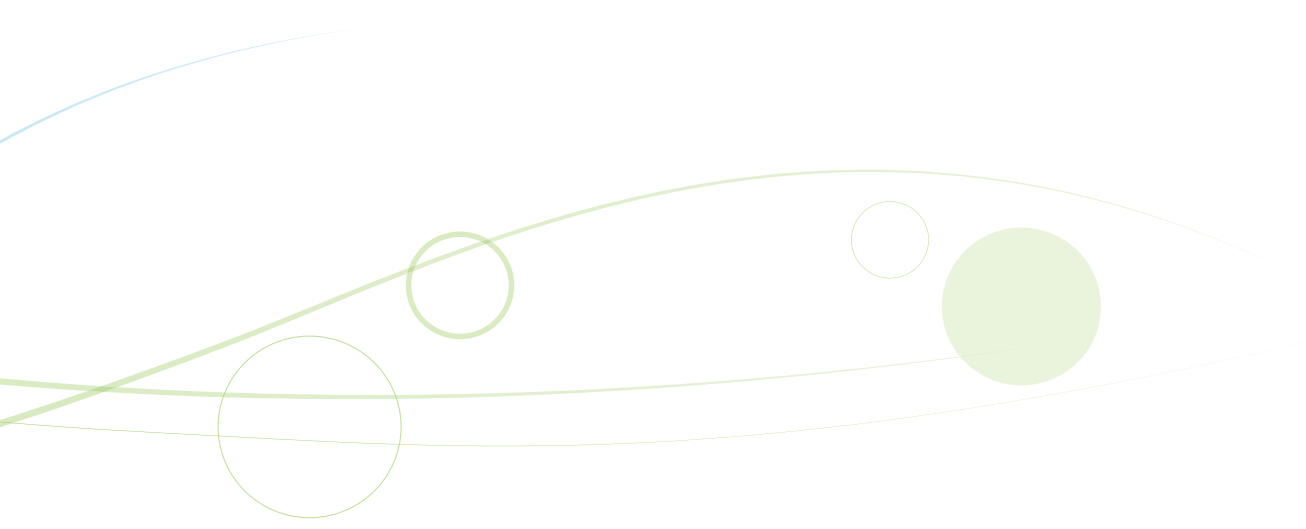
Facilitators are encouraged to adapt the suggested activities to meet the needs of the participant group.

Each scenario presents a situation that may be encountered by an RECE that could invoke their duty to report. The scenarios are then followed by short answer questions, reflection questions and further information regarding the scenario to allow for additional reflection.

At the end of the guide is a set of general questions as well as a list of additional resources that help explain this topic further.

The following steps are suggested:

1. Read the full scenario.
2. Read the key questions and try your best to answer them before looking at the answers provided.
3. Read the reflection questions, allowing the individual/group to answer after each question.
4. Re-read the full scenario followed by the additional information provided. Answer all of the reflection questions again, as well as any new questions provided. Note how your responses may have changed from when the questions were first answered.



Caught Off Guard

It was Ashley's first day at her new job. It was her first full-time position after graduation. Ashley was excited to make a good impression and put to use everything she had learned.

When she arrived at the centre, Ashley was told she would spend the morning in the toddler program, but around lunch time she would be needed to cover in the pre-school room. Ashley spent the rest of the morning befriending her colleagues, especially her room partner, Sabine, and building relationships with the children.

At 11:50 a.m., Ashley went to the pre-school room to relieve a colleague for lunch. As she entered the classroom, she saw a child, Zahra, run towards the door yelling. Marie, the RECE in the classroom, quickly ran after her, grabbed her by the arm and pulled her away from the door. Marie then carried Zahra, who was kicking and screaming, to a seat. Marie sat her down and fastened a buckle around Zahra's waist so that she could not get up during lunch time. Zahra eventually calmed down and ate her lunch with the rest of the children.

Ashley was caught off guard. She had never seen an RECE act in this manner during her student placements and she had been taught that RECEs should not restrain children. Ashley, having never met Marie before, quietly helped serve lunch before returning to the toddler room. Ashley did not say anything about what she saw. Marie did not comment on her actions and carried on as though this were a regular occurrence.

Once she had returned to the toddler room, Ashley spoke with Sabine about the situation. Sabine assured her that Marie is an RECE who has worked in the profession for 30 years. She also said that Zahra showed challenging behaviour on a regular basis, so she was sure Marie was likely justified in her actions.

Despite Sabine's reassurances, Ashley did not feel comfortable with Marie's actions. She had been the only other educator in the room at the time of the incident and did not know who else she could speak to. Being new to the centre, Ashley did not want to upset her colleagues or be seen as a troublemaker. So, she did not discuss the matter further with anyone else.

Key Questions

1. What is Ashley's obligation in terms of reporting to the Children's Aid Society (CAS) under section 72 of the *Child and Family Services Act* (CFSA)?

Under section 72 of the CFSA, Ashley has a duty to contact CAS if she has concerns that a child is or may be at risk of harm or injury. Although she has spoken with Sabine and may receive additional information, this does not relieve her of her duty to report. Ashley does not need to be positive that Zahra is at risk. She must only have a reasonable suspicion.

2. What ethical and professional responsibilities for RECEs are highlighted in this situation? Referring to the *Code of Ethics and Standards of Practice*, what standards can be used to guide Ashley in her decision-making? Use the list below as a guide.

Standard II: Developmentally Appropriate Care and Education

A.1 – ECEs demonstrate a thorough knowledge of child development theories. They use this knowledge to plan, implement and assess developmentally appropriate learning strategies.

Standard III: Safe, Healthy and Supportive Learning Environments

A.1 – ECEs maintain safe and healthy learning environments.

Standard IV: Professional Knowledge and Competence

B.3 – ECEs observe and monitor the learning environment and anticipate when support or intervention is required.

Reflection Questions

1. Have you encountered a similar situation? If yes:
 - a) Whose position were you in?
 - b) How did you handle this situation?
 - c) Is there anything you would have done differently?

2. Would it have been appropriate for Ashley to speak with Marie about her concerns? Why or why not?
3. What are the potential risks and consequences for the other children in the pre-school room?
4. What advice would you give to Ashley, Marie and Sabine in this situation?

Additional Information

How would the following information change your responses to the reflection questions?

After witnessing Marie's behaviour, Ashley decided to speak with the centre's supervisor, Mark. He told Ashley that Zahra has been diagnosed with a disability associated with behavioural challenges. As a result, Zahra's parents have asked that this strategy be used during times of transition or when necessary.

1. What additional standards could guide Ashley? For example:

Standard IV: C.4 – ECEs, working collaboratively... access the resources and expertise available in their communities....

2. What legislation, for example the *Child Care and Early Years Act, 2014*, or policies could assist centre staff in determining how to handle this request?
3. What information would you want to know about the request by the parents for this strategy?

Change in Behaviour

Tristan is an RECE in a school-age program. He has many years of experience working in before-and-after school child care.

Tristan has recently become concerned about one of the children in the program. He has documented that Joah, an eight-year-old boy, has not been himself lately. He does not seem to want to play with his usual group of friends, even when they ask him to join them.

Joah has been coming to the after-school child care program for over two years and this is out of character for him. He has always been a happy child, often laughing and cracking jokes with his friends. Lately, Joah has been very quiet, almost withdrawn, preferring to sit alone at the homework table drawing pictures or writing in his notebook.

Joah is usually an active child who plays on several sports teams at his school. However, he has recently started skipping his soccer and basketball practices and instead comes straight to the after-school program.

One Friday afternoon, Tristan approached Joah after seeing him slouched over the table in the corner drawing in his notebook. Tristan wanted to talk to Joah about what might be going on. As Tristan went up to him, Joah said he felt sick to his stomach and asked for permission to go to the washroom. Tristan noted that Joah complained of a stomach ache for the third time this week. He wanted to speak with Joah's mother, Emma, when she came to pick him up.

Tristan saw his colleague Smita looking at Joah's open notebook. Smita approached Tristan to tell him she was concerned about the drawings in Joah's book. Many of the drawings had dark and violent imagery. Before Tristan could respond, Emma arrived to pick Joah up.

Normally personable and chatty, Emma was distant today and did not make eye contact with the educators. She gestured to Joah to get his things. She quickly walked out the door, waving at Tristan but ignoring his attempt to start a conversation. Joah quickly followed his mother without saying goodbye.

Tristan's sense of unease only grew as he turned back to Smita. They both saw a bruise on Emma's face. They remembered that this was not the first time Emma came to the program with injuries. Only two weeks earlier, she came in wearing an arm brace, saying she had fallen at home.

Tristan wonders what steps he should take next.

Key Questions

1. What information is in section 72 of the *Child and Family Services Act (CFSA)* regarding emotional abuse, specifically exposure to family violence?

The CFSA does not specifically refer to family violence. However, RECEs may have a duty to report exposure to family violence, given the negative repercussions it may have on a child, including but not limited to emotional harm and neglect.

A person has a duty to report if a child has or is likely to suffer emotional harm (e.g. anxiety, depression, withdrawal, self-destructive or aggressive behaviour or delayed development).

2. What ethical and professional responsibilities for RECEs are highlighted in this situation? Referring to the *Code of Ethics and Standards of Practice*, what standards could be used to guide Tristan in his decision-making? Use the list below as a guide.

Standard I: Caring and Nurturing Relationships that Support Learning

E – ECEs establish professional and caring relationships with children and families. They engage both children and their families by being sensitive and respectful of diversity, equity and inclusion. ECEs are receptive listeners and offer encouragement and support by responding appropriately to the ideas, concerns and needs of children and families.

Standard IV: Professional Knowledge and Competence

B.4 – ECEs observe, assess, evaluate, document and report on children’s progress along all domains of child development. As they work with children, families and other adults, ECEs set goals, make decisions, resolve challenges, decide on developmentally responsive activities and experiences, provide behaviour guidance and work collaboratively in the best interest of the children under their professional supervision.

Reflection Questions

1. Have you encountered a similar situation? If yes:
 - a) How did you handle this situation?
 - b) What would you have done differently?
2. What could Tristan and Smita do to learn more about Joah’s change in behaviour? How could Tristan and Smita discuss their concerns with Emma and Joah?
3. How could Tristan, Smita or the supervisor reach out to Emma and find out how to support the family?

Additional Information

How would the following information change your responses to the reflection questions?

After Joah and Emma left, Smita told Tristan that she heard that Emma is filing for divorce and that she and Joah will be moving in with his grandmother at some point. But Smita did not know when.

1. What additional standards could guide Tristan and Smita? For example:

Standard I: B – ECEs make reasonable efforts to familiarize themselves with available information regarding the relevant family circumstances of children.
2. What resources or organizations could the centre work with to provide Joah’s family with support?

Being Left Out

Liz is an RECE who works in an extended day program. Since January, Liz has started to become concerned about Ethan. He started full-day kindergarten in September.

Liz has noticed that Ethan occasionally wears ragged or stained clothing. Sometimes Liz smells an odour on Ethan that she thinks might be from poor hygiene. Some of the children have started to tease him about his appearance. Liz has also noticed that he has been less engaged in program activities in the last several weeks.

Liz would like to speak with Ethan's mom Nancy about her concerns, but time is usually limited at the end of the day. She is often busy with other tasks when Nancy arrives and Nancy appears in a rush to leave with Ethan. Nonetheless, Ethan is usually happy to see his mom and gives her a hug.

In the first week of March, Liz spoke with Diego, the RECE in Ethan's kindergarten classroom, in order to find out more information. Diego said that Ethan's lunch was usually a small packet of jam and two slices of bread. Diego said that the classroom teacher asked Nancy to provide more nutritious lunches for Ethan, but she said that he is simply a picky eater. When school staff offer him food he quickly eats it.

Liz remembered that when Ethan started in the extended day program, Nancy listed her employer as being a well-known law firm. She is the only parent or guardian listed in the registration package. Liz also noticed that Nancy is always professionally dressed when she arrives at the centre.

Upon reflection, and with the addition of Diego's information, Liz becomes increasingly concerned about Ethan. However, because his appearance and poor hygiene is inconsistent, she is unsure whether she should raise her concerns.



Key Questions

1. What information is in section 72 of the *Child and Family Services Act* (CFSA) regarding neglect?

Under section 72 of the CFSA, a person has a duty to report if a child has or is likely to suffer physical harm resulting from a failure to adequately care for a child or a pattern of neglect. In addition, a person has a duty to report if a child has or will likely suffer emotional harm (e.g. anxiety, depression, withdrawal, self-destructive or aggressive behaviour or delayed development) resulting from a failure to act or a pattern of neglect.

2. What ethical and professional responsibilities for RECEs are highlighted in this situation? Referring to the *Code of Ethics and Standards of Practice*, what standards could be used to guide Liz in her decision-making? Use the list below as a guide.

Standard I: Caring and Nurturing Relationships that Support Learning

B – ECEs make reasonable efforts to familiarize themselves with available information regarding the relevant family circumstances of children under the member’s professional supervision.

Standard III: Safe, Healthy and Supportive Learning Environments

B.3 – ECEs promote a healthy lifestyle including but not limited to nutrition and physical activity.

Reflection Questions

1. Have you encountered a situation similar to the one described in the scenario? If yes:
 - a) How did you handle this situation?
 - b) Upon reflection, is there anything you would have done differently?

2. What confidentiality issues, if any, are raised in this scenario?
3. What steps would Liz need to take if she felt it was necessary to meet with Nancy?
4. What steps could Liz take within the extended day program to encourage Ethan’s participation? How might these strategies be applied by Diego and the classroom teacher throughout the day?
5. What steps could Liz take to prevent the children from teasing Ethan without singling him out from his peers?

Additional Information

How would the following information change your responses to the reflection questions?

Later that month, Alisha, the supervisor of the extended day program, notifies Liz about a change to Ethan’s parent contact information. Nancy let the school office know that she lost her job. Nancy also asked if it would be possible to set up a payment plan agreement with the program until she is able to find new employment.

1. What additional standards could guide Liz?
For example:
Standard I: E – ECEs establish professional and caring relationships with children and families.
2. What support, if any, might the school be able to offer Nancy?
3. What policies could the school put in place to support families through financial or personal difficulty?
4. What community, municipal or provincial resources could support the school and Ethan’s family?

Additional Questions

1. I am concerned that a child under my care is being abused at home. The child care centre's policy requires that I tell my supervisor before I call CAS. The supervisor is friends with this child's parents and the parents are actively involved with the centre. Am I required to notify my supervisor before I call CAS? Can my supervisor prevent me from calling CAS?

No, you are not required to notify your supervisor before you call CAS, although it is a professional courtesy to do so. You may speak with a trusted individual before calling CAS, but it is not mandatory.

An RECE's obligations under legislation (e.g. the *Child and Family Services Act (CFSA)*) and the *College's Code of Ethics and Standards of Practice* prevail over workplace policies and procedures. In particular, Standard IV states:

IV:A.2 Early childhood educators know, understand and abide by the legislation, policies and procedures that are relevant to their professional practice and to the care and learning of children under their professional supervision.

IV:A.3 If there is a conflict between the College's Code of Ethics and the Standards of Practice and a member's work environment and/or the policies and procedures of his or her employer, early childhood educators have an obligation to comply with the College's Code of Ethics and the Standards of Practice.

Your supervisor cannot stop you from calling CAS. Section 72(6.1) of the CFSA states that a director, officer or employee of a corporation who "authorizes, permits or concurs in" an employee contravening his or her reporting obligations under the CFSA is guilty of an offence.

Additionally, amendments have been proposed to the *Employment Standards Act, 2000* which are designed to facilitate compliance with the duty to report under the CFSA.¹ The provision states that no employer or person acting on behalf of an employer shall intimidate, dismiss or otherwise penalize an employee or threaten to do so because the employee took any of the following actions in relation to the duty to report under section 72 of the CFSA:

1. The employee sought advice about making a report.
 2. The employee made a report.
 3. The employee cooperated in a process relating to making a report.
 4. The employee acted in compliance with that section.
 5. The employee sought enforcement of that section.
2. I am an RECE and supervisor of a centre. CAS workers and the police have come to investigate allegations of abuse. They wish to interview a child. Am I required to notify the child's parents or guardians before the child is interviewed?

Employers and staff are required to cooperate with CAS workers and the police in their investigation of alleged child abuse. If the alleged abuse occurred within the child care centre setting, RECE staff should follow the workplace's policies and procedures with respect to notifying parents (provided that those policies and procedures are consistent with the relevant legislation and the *College's Code of Ethics and Standards of Practice*, as discussed above). However, when the abuse is believed to have occurred at home, CAS may interview the child without the parents' consent or knowledge.² If you are unsure whether to contact the parents, please consult with a CAS intake worker.

3. I am an RECE who is concerned about one of the employees I supervise. She told me that she suffers from a mental health condition for which she is receiving treatment. She is a wonderful employee. Recently however, I have noticed a change in behaviour that concerns me. What obligations do I have under the *Code of Ethics and Standards of Practice*? Should I report this to CAS even though no child has been harmed yet?

Standard III states that RECEs are expected to maintain a safe, healthy and supportive learning environment for children. RECEs have a responsibility to recognize when they are unable to meet this standard and to take the necessary steps to address the situation. In addition, Standard IV: C states that RECEs should maintain professionalism with colleagues and other professionals, which includes working collaboratively with colleagues and building a climate of trust, honesty and respect. If an RECE in the workplace is in need of support, colleagues should consider how best to help provide that support. If you have reasonable grounds to suspect that a child is or may be in need of protection (e.g. that one of the harms, risks or other circumstances listed in section 72 of the CFSA exists), you have a duty to immediately report it to CAS. For further information regarding the duty to report, read the College's *Professional Advisory: Duty to Report* and resources cited in the document.³

4. My colleague disclosed to me that while she was supervising children on the playground, she saw another employee treat a child in an aggressive manner. I did not witness this behaviour first-hand. Do I still have an obligation to contact CAS?

Yes. If you have reasonable grounds to suspect that a child is or may be in need of protection (e.g. that one of the harms, risks or other circumstances listed in section 72 of the CFSA exists) you have a duty to immediately report it to CAS. You are not required to have witnessed abuse yourself in order to make a report, only to have the “reasonable grounds to suspect” referenced above. In addition, your colleague also has an obligation to contact CAS. Your own duty to report is not satisfied if you tell someone else of your suspicions or if someone else states that they may call or that they have called CAS.

¹ Not proclaimed as of June 17, 2016, carried on second reading; on November 26, 2015 and ordered referred to the Standing Committee on Justice Policy.

² http://www.children.gov.on.ca/htdocs/English/documents/topics/childrenciaid/Protection_Standards.pdf

³ As an employer, if you believe that the RECE is suffering from a physical or mental condition or disorder such that they may be unfit to continue to carry out their professional responsibilities, you may file an employer report under section 49.2(1)(c) of the ECE Act. Likewise, individual members of the public with similar concerns may file a public complaint. For more information, please visit college-ece.ca.

5. Standard VI indicates that it may be a breach of the *Code of Ethics and Standards of Practice* to disclose confidential information regarding children and their families without parental consent. As an RECE, do I need to be concerned that I may be penalized if I contact CAS and am required to disclose confidential information?

The College's *Code of Ethics and Standards of Practice* indicates that RECEs may disclose confidential information about children and families when required or allowed to by law or when the necessary consent has been obtained for the disclosure of the information. Section 72 of the CFSA creates a reporting obligation (under which a person is required by law to make a report in the circumstances defined by section 72) and section 72(7) of the CFSA states that no civil action may be taken against a person who makes a report including confidential information, unless the person acts maliciously or without reasonable grounds for the suspicion (see the *Professional Advisory: Duty to Report* for further information).

6. I recently contacted CAS regarding concerns I had about the welfare of a child under my supervision. CAS investigated the concerns and determined that they could not be verified at this time. Recently, I saw additional signs of a similar nature to the signs that initially raised my concerns. Do I have a duty to report this additional information to CAS, given that they have already investigated the situation?

Yes. RECEs have an ongoing duty to report to CAS even if they have already made an initial report about a particular concern. Section 72(2) of the CFSA states that a person who has additional reasonable grounds to suspect that one of the listed harms, risks or other circumstances exists shall make a further report even if that person has already made previous reports with respect to the same child.

Additional Resources

The *Professional Advisory: Duty to Report* can be found at www.college-ece.ca/resources.

The *Code of Ethics and Standards of Practice* can be found at www.college-ece.ca/resources.

More information on the duty to report and the CFSA can be found at www.children.gov.on.ca/htdocs/English/topics/childrensaidthereportingabuse/index.aspx.

You can also find the *Reporting Child Abuse and Neglect: It's Your Duty* brochure on the Ministry of Education's website or through Publications Ontario free of charge. The brochure can be seen here: www.children.gov.on.ca/htdocs/English/documents/topics/childrensaidthereportingchildabuseandneglect.pdf

If you suspect that a child is being abused or is in need of protection, you must report this directly to a local CAS. For contact and other information for all of Ontario's CASs, visit the Ontario Association of Children's Aid Societies' website at: www.oacas.org. You can also locate a CAS in the local telephone listings or, where available, by dialing 411.

The Information and Privacy Commissioner of Ontario and the Provincial Advocate for Children and Youth have created a guide, *Yes, You Can. Dispelling the Myths About Sharing Information with Children's Aid Societies*. The guide helps professionals understand that privacy is not a barrier to disclosing information to CAS. This resource can be read at www.ipc.on.ca/english/Resources/Best-Practices-and-Professional-Guidelines/Best-Practices-and-Professional-Guidelines-Summary/?id=1646.

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