Mandatory Reporting

Background

An investigator who knows of, or reasonably suspects, neglect or abuse of a child, elder, or dependent adult while engaged in University approved research may need to report the information. In Arizona, there are mandatory reporting laws related to reporting abuse, neglect, endangerment, and other forms of mistreatment, for minors as well as vulnerable adults. These laws outline various categories of individuals who are considered mandatory reporters.

In the context of clinical trials, please be aware that there may be additional Banner policies and procedures that may be applicable.

Note: Mandatory Reporting pursuant to state law is distinct from the mandatory reporting obligations of University employees set forth under University policy. University faculty and supervising employees are obliged to report incidents of discrimination or harassment to the Office of Institutional Equity. More information is available at https://equity.arizona.edu/reporting.

Mandatory Reporters

Generally, these individuals are those who are in some way responsible for, care for, or are responsible for the care of (e.g., treatment) minors and/or vulnerable adults. There are mandatory reporting requirements, including but not limited to:

- Any physician, nurse, psychologist, counselor, social worker, long-term care provider, or other health professional who develops the reasonable belief in the course of treating a patient;
- Any peace officer, child welfare investigator, child safety worker, or clergy member;
- Parents, stepparents, guardians, or conservators;
- School personnel and domestic violence/sexual assault victim advocates who develop reasonable belief in the course of their employment; or
- Any other person who has responsibility for the care or treatment of a minor or vulnerable adult.

Please see the statutory provisions cited below for more information.

Discretionary Reporters

Discretionary reporters are individuals that may not have a mandate to report but choose to do so anyway. Regardless of whether your research team falls into this category, researchers may have the ethical duty to report suspected abuse and neglect. Arizona state laws have provisions that protect people who report in good faith from civil and criminal liability.

Mandatory vs. Discretionary Reporters

Whether or not members of a research team are mandatory reporters (or discretionary reporters) under Arizona state law involves a fact-specific analysis. Additionally, there may be

instances where Banner Health policies and procedures related to mandatory reporting are relevant, especially with respect to clinical trials or other clinical research activities.

Investigator Responsibilities

As an investigator, you should:

- Understand what policies, procedures, rules, and regulations apply to your research;
- Assess whether there is a reasonable possibility that mandatory reporting circumstances or events will be encountered during the research;
- Identify any mandatory reporters on the research team;
- Create a process for a discretionary reporter, who intends to report; or
- Provide research participants with information about the possibility of mandatory reporting when appropriate.

Consent Process

If a reportable observation or revelation of suspected harm to a child, or other vulnerable person, might occur during the research, consider adding language to the consent form and/or assent form warning of the limits to research confidentiality. The language should advise research participants of the investigator's duty to report known or suspected incidents of abuse or neglect to appropriate authorities. This provides investigators with the flexibility to report, in the case of being a mandatory reporter, but also on a discretionary basis.

The confidentiality section of the informed consent and assent form should include a description and examples of the types of information which the research team may report to authorities.

Examples:

- **Consent form *(for investigators who are mandatory reporters)*:**
  Under Arizona law, we must report information about known or reasonably suspected incidents of abuse or neglect of a child [substitute elder or vulnerable adults as appropriate to study] including physical, sexual, emotional, and financial abuse or neglect. If any investigator has or is given such information, he or she may be required to report such information to the appropriate authorities.

- **Consent form *(for investigators who are discretionary reporters)*:**
  We may need to report information about known or reasonably suspected incidents of abuse or neglect of a child [substitute elder or vulnerable adults as appropriate to study] including physical, sexual, emotional, and financial abuse or neglect. If any investigator has or is given such information, he or she may report such information to the appropriate authorities.

- **Assent Form:**
  We will not tell anyone what you tell us without your permission unless there is something that could be dangerous to you or someone else. If you tell us that someone is

or has been hurting you, we may have to tell that to people who are responsible for protecting children so they can make sure you are safe.

IRB Responsibility

If the IRB believes that a reportable observation or revelation of suspected harm to a child or other vulnerable persons, such as a dependent adult or elder, might occur during the research, it may require that the informed consent statement include a warning of the limits to research confidentiality and advise research participants of the investigator's duty to report known or suspected incidents of abuse or neglect to appropriate authorities. In such a case, the IRB will:

- Ask researchers about whether subjects should be provided with information about possible mandatory reporting when it seems appropriate based on the nature of the subject population and the circumstances of the research.
- Review and assist with the language used to inform research participants about the possibility of mandatory reporting.
- Ensure that IRB requirements and consent information do not override state reporting requirements.

Title IX Reporting Obligations

While most University of Arizona employees are required to submit a report to the Title IX Coordinator when they receive a report or have a reasonable basis to suspect that potential sex discrimination has occurred, a narrow group of employees are considered "*confidential employees*" and are not required to submit a report. This includes University employees who are conducting IRB-approved human research studies designed to gather information about sex discrimination. The employee's confidential status is only with respect to information received while conducting the study.

Effective August 1, 2024, investigators who are Title IX confidential employees **must** inform research participants of the following in the informed consent form:

1. That they are confidential employees and are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
2. How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
3. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

This printable brochure contains the information that must be communicated by confidential employees under items 2 and 3 above. Investigators should maintain documentation to show that they fulfilled the responsibilities listed above.

Mandatory Reporting

Applicable Law

- A.R.S. §13-3620 Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors;
- A.R.S. §46-454 Duty to report abuse, neglect and exploitation of vulnerable adults.
- U.S. Department of Education: Title IX

Definitions

- *Child* means a person who is less than 18 years of age.
- *Vulnerable adult* means an individual, including an incapacitated person, who is 18 years of age or older, and who is unable to protect himself or herself from abuse, neglect or exploitation by others because of a physical or mental impairment.
- *Abuse* means intentional infliction of physical harm, injury caused by negligent acts or omissions, unreasonable confinement, sexual abuse/assault, or emotional abuse.
- *Neglect* means the deprivation of food, water, medication, medical services, shelter, supervision, cooling, heating or other services necessary to maintain minimum physical or mental health.
- *Exploitation* means the illegal or improper use of a vulnerable person or their resources for another's profit or advantage.

Resources

- Arizona Adult Protective Services (APS)
- Arizona Department of Child Safety
- Arizona Child Abuse Hotline
- National Institute on Aging - Elder Abuse
- University of Arizona Office of Institutional Equity