

CHILD ABUSE REPORTING PROCEDURES (Continued)**A. Purpose and Scope**

Certificated employees and classified employees trained in child abuse identification and reporting shall report known or suspected child abuse to a child protective agency by telephone immediately or as soon as practically possible and in writing within 36 hours. The reporting duties are individual and cannot be delegated to another individual except under circumstances set forth in Penal Code 11166.

B. General**1. Definitions**

a. "Child Abuse" includes the following:

- (i) A physical injury inflicted by other than accidental means on a child by another person.
- (ii) Sexual abuse of a child. Penal Code 11165.1
- (iii) Willful cruelty or unjustifiable punishment of a child, or willfully inflicting unjustifiable physical pain or mental suffering, or failure to safeguard a child from these injuries when the child is under a person's care or custody. Penal Code 11165.3
- (iv) Unlawful corporal punishment or injury resulting in a traumatic condition. Penal Code 11165.4
- (v) Neglect of a child or abuse in out-of-home care. Penal Code 11165.2

Child abuse or neglect does not include:

- 1. A mutual affray between minors (Penal Code 11165.6)
- 2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)
- 3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)

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4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, to protect himself/herself, or to obtain weapons or other dangerous objects within the control of the student (Education Code 49001)
 5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code 49001)
- b. "Mandated Reporters" are those people defined by law as "child care custodians," "health practioners," "child visitation monitors" and "employees of a child protective agency." Mandated reporters include virtually all school employees. The following school personnel are required to report.

Teachers, administrators, supervisors of child welfare and attendance, certificated student personnel employees, employees of a child care institutions, headstart teachers, school psychologists, licensed nurses, counselors, presenters of child abuse prevention programs, security personnel, bus drivers, food service personnel, office staff, and those instructional aides or other classified employees trained in child abuse reporting. (Penal Code 11165.7)

- c. "Child Protective Agencies" are those law enforcement and child protective services responsible for investigating child abuse reports, including the local police or sheriff department, county welfare or juvenile probation department and child protective services.
- d. "Reasonable Suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse. Reasonable suspicion does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. (Penal Code 11166)

Reportable Offenses

A mandated reporter shall make a report using the procedures provided below whenever, in his/her professional capacity or within the scope of his/her employment, he/she has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious

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emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11166.05, 11167)

Any district employee who reasonably believes that he/she has observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

Responsibility for Reporting

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

C. Forms and References

Child Abuse Report Form

D. Reporting Procedures**1. Initial Telephone Report**

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11165.9, 11166)

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To report known or suspected child abuse, any employee (as defined above) shall report by telephone to the local child protective agency and/or local police department.

Child Protective Agency
P. O. Box 201056
Stockton, CA 95201
(209) 468-1330

The telephone report must be made immediately, or as soon as practically possible, upon suspicion. This report will include:

- a. The name of the person making the report.
- b. The name of the child.
- c. The present location of the child.
- d. The nature and extent of any injury.
- e. Any other information requested by the child protective agency, including the information that led the mandated reporter to suspect child abuse.

When the verbal report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

2. Written Report

Within 36 hours of making the telephone report, the mandated reporter shall then prepare and either send, fax, or electronically submit to the appropriate agency a written follow-up report to the local child protective agency a written report which includes a completed Department of Justice form (DOJ SS 8572). (Penal Code 11166, 11168)

Mandated reporters may obtain copies of the above form either from the district or the local child protective agency.

Instructions are included on the form, and reporters may ask the site administrator for help in completing and mailing it; however, the mandated reporter is personally responsible for ensuring that the written report is correctly filed.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location, and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians

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d. The name, address, telephone number, and other relevant personal information about the person who might have abused or neglected the child

e. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code 11166.05. (Penal Code 11167)

3. Internal Reporting

The mandated reporter shall not be required to disclose his/her identity to his/her supervisor, the principal, or the Superintendent or designee. (Penal Code 11166)

Employees reporting child abuse to a child protective agency are encouraged, but not required, to notify the site administrator or designee as soon as possible after the initial verbal report by telephone. When so notified, the site administrator shall inform the Superintendent or designee.

Administrators so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law and district regulations. At the mandated reporter's request, the principal may assist in completing and filing these forms.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

If the mandated reporter does not disclose his/her identity to a district administrator, he/she shall at least provide or mail a copy of the written report to the district without his/her signature or name.

Training

Training of mandated reporters shall include identification and mandated reporting of child abuse and neglect. (Penal Code 11165.7)

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Training shall also include guidance in the appropriate discipline of students, physical contact with students, and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child abuse.

Victim Interviews by Social Services

Whenever a representative from the Department of Social Services or another government agency investigating suspected child abuse or neglect deems it necessary, a suspected victim may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be given the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the child. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform him/her of the following requirements: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable him/her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

Release of Child to Peace Officer

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

Parent/Guardian Complaints

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Upon request, the Superintendent or designee shall provide parents/guardians with a copy of this administrative regulation which contains procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 4650.

Notifications

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Before beginning employment, any person who will be a mandated reporter by virtue of his/her position shall sign a statement indicating that he/she has knowledge of the reporting obligations under Penal Code 11166 and will comply with those provisions. The signed statement shall be retained by the Superintendent or designee. (Penal Code 11166.5)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee also shall notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his/her professional capacity or outside the scope of his/her employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)

CHILD ABUSE REPORTING PROCEDURES (Continued)

2. If a mandated reporter fails to report an incident of known or reasonably suspected child abuse or neglect, he/she may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166)
3. No employee shall be subject to any sanction by the district for making a report. (Penal Code 11166)
4. Legal Responsibility and Liability
 1. Mandated reporters have absolute immunity. School employees required to report are not civilly or criminally liable for filing a required or authorized report of known or suspected child abuse.
 2. If a mandated reporter fails to report an instance of child abuse which he/she knows to exist or reasonably should know to exist, he/she is guilty of a misdemeanor punishable by confinement in jail for up to six months, a fine of up to \$1,000, or both. The mandated reporter may also be held civilly liable for damages resulting from any injury to the child after a failure to report.
 3. When two or more persons who are required to report have joint knowledge of a suspected instance of child abuse, and when they so agree, the telephone report may be made by either of them and a single report made and signed by that person. However, if any person knows or should know that the designated person failed to make the report, that person then has a duty to do so.
 3. The duty to report child abuse is an individual duty and no supervisor or administrator may impede or inhibit such reporting duties. Furthermore, no person making such a report shall be subject to any sanction.

Release of Child to Peace Officer or Child Protective Services Agent

When a child is released to a peace officer or child protective services agent and taken into custody as a victim of suspected child abuse, the Superintendent or designee and/or principal shall not notify the parent/guardian as required in other instances of removal of a child from school, but rather shall provide the peace officer or agent with the address and telephone number of the child's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

Peace officers and child protective services agents may be asked to sign an appropriate release or acceptance of responsibility form.

CHILD ABUSE REPORTING PROCEDURES (Continued)When School Employees are Accused of Child Abuse

Regardless of who child abusers may be, the major responsibilities of mandated reporters are to 1) identify incidents of suspected child abuse, and 2) comply with laws requiring the reporting of suspected abuse to the proper authorities. Determining whether or not the suspected abuse actually occurred is not the responsibility of the school employee. Such determination and follow-up investigation will be made by a child protective agency.

Pending the outcome of an investigation by a child protective agency and before formal charges are filed, the employee may be subject to reassignment or a paid leave of absence.

Upon filing formal charges or upon conviction, the district may take disciplinary action in accordance with law, district policies, regulations and/or collective bargaining agreements. The Superintendent or designee shall seek legal counsel in connection with either the suspension or dismissal of the employee.

E. Records Required

Child Abuse Report Form

F. Record Retention

Permanent

G. Responsible Administrative Unit

Educational Services

Human Resources

Student Services

Site Principals

H. Approved by the Administrator of the Division

Assistant Superintendent of Educational Resources