

Plan 1: Section 2: Child Abuse Reporting and Procedures

1.2.1 Child Abuse Reporting

The Governing Board recognizes CMP has a responsibility to protect students by facilitating the prompt reporting of known and suspected incidents of child abuse and neglect. The Executive Director or designee shall establish procedures for the identification and reporting of such incidents in accordance with law.

Section 11166.5 of the California Penal Code states, in part:

Any person who enters into employment on or after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner,... prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

Section 11166 of the California Penal Code states, in part:

...any child care custodian, medical practitioner, nonmedical practitioner..., who has knowledge of or observes a child in his or her professional capacity of within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

Section 11166.5 of the California Penal Code defines a "child care custodian" as:

... teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; ... licensed day care workers; administrators of community care facilities licensed to care for children, headstart teachers; ... and social workers.

The California Penal Code, Section 11172(a) provides that mandated reporters are IMMUNE FROM LIABILITY, as provided, in part, as follows:

No child care custodian who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article.

The California Penal Code Section 11172(b) provides penalties for FAILURE TO REPORT as follows:

Any person who fails to report an instance of child abuse which he or she knows exists or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand (\$1,000.00) or by both.

Effective January 1, 2015, Assembly Bill 1432 requires all school districts, county offices of education, charter schools, state special schools and Department of Education diagnostic centers to provide annual training to their employees in child abuse detection and mandatory reporting obligations under the Child Abuse and Neglect Reporting Act ("CANRA").

In the education setting, "mandated reporters" include all certificated and classified employees, administrators, athletic coaches and school resources officers. The School is also required to develop a process to provide proof that employees received training. Under AB 1432, school districts and county offices of education are required to provide child abuse reporting training to all employees within the first six week of each school year. Any new employees hired during the school year must complete the training and provide proof of completion within the first six weeks of their employment. Each employee must submit proof that he or she has completed the training during the designated time frame.

The training must cover child abuse and neglect detection, mandated reporting requirements and procedures, and notice that the failure to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable by up to six months in jail, a fine of \$1,000, or both. The California State Department of Social Services, with input from the California Department of Education (CDE), has developed an online training module that satisfies these requirements. CMP has chosen to use the online training program for its employees.

1.2.2 Child Abuse Reporting Procedures

Any employee who knows or reasonably suspects a child has been the victim of child abuse shall report the instance to a child protective agency. School employees are required to report an instance of child abuse when the employee has a "reasonable suspicion" that child abuse has occurred. Reasonable suspicion arises when the facts surrounding the incident or suspicion could cause another person in the same situation to suspect child abuse and does not require specific proof of such abuse.

Child abuse should be reported immediately by phone to a child protective agency. The phone call is to be followed by a written report within thirty-six (36) hours. There is no duty for the reporter to contact the child's parents. If a child is released to a peace officer or a child protective agency agent, the reporter shall not notify the parent as required in other instances of removal.

Child abuse is broadly defined as "a physical injury that is inflicted by other than accidental means on a child by another person." Child abuse can take the following several forms:

- Sexual abuse: Sexual abuse means, in general, sexual assault or sexual exploitation. Sexual abuse does not include children who voluntarily engage in sexual activity with children of a similar age. Pregnancy of a minor does not, in and of itself, constitute suspicion of child abuse.
- Neglect: Neglect occurs when a child's custodian has failed to provide adequate "food, clothing, shelter, medical care, or supervision" that may or may not have resulted in any physical injury.

- Unlawful corporal punishment: Unlawful corporal punishment occurs when any person willfully harms or injures a child to such a degree that results in a traumatic condition.
- Willful cruelty or unjustifiable punishment: Child abuse also includes the situation where any "person willfully causes or permits any child to suffer "unjustifiable pain or mental suffering" or when any person endangers a child's health.

Child protective agencies responding to incident reports are prohibited from disclosing a reporter's identity to a reporter's employer.

Any person failing to report child abuse as required by law is guilty of a misdemeanor.

"Child Visitation Monitor" means any person as defined in Section 11165.15.

The signed statements shall be retained by the employer, or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

This subdivision is not applicable to persons employed by child protective agencies, public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is Issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 11166, the state agent issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement shall also indicate that failure to comply with t[requirements of Section 11166 is a misdemeanor, punishable by up to six months in Jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(d) On and after January 1, 1993, any child visitation monitor, as defined In Section 11185.15, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during

the visit, to the effect that he or she has received this training. This statement may be included in the statement require by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement require by subdivision (a), in the court file of the case for which the visitation monitoring is being provided. (Amend. Stats 992, Ch. 459)

P.C. 11167 Telephone Reports

(a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating, the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected or When those persons waive confidentiality, or by court order.

11166.5 Knowledge of Provisions Regarding Reporting

(a) On and after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in Section 11165.15, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered to presence of third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health

practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; administrators and employees of public or private youth centers, youth recreation programs, and youth organizations; administrators and employees of public or private organizations whose duties require direct contact and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel. and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family or child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat children.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this Article to that person's employer, except with the employee's consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names. (Amend. Stats. 1992, Ch. 316)