

RANCHO SANTA FE SCHOOL DISTRICT

Board Policies Covering All Employees

Board Policy No. 4020: CHILD ABUSE AND NEGLECT REPORTING

- A. The Purpose of this Policy is to provide direction and guidance to District employees regarding their obligations to immediately report suspected child abuse or neglect pursuant to the Child Abuse and Neglect Reporting Act, California Penal Code section 11164 *et seq.*, in order to increase the likelihood that child abuse victims are identified and provided appropriate services and protections.
- B. Definitions
1. "Mandated reporters" are those District employees including, but not limited to, those employees identified below who are in positions in which they may observe child abuse and neglect (Penal Code section 1165.7):
 - a. A teacher or counselor.
 - b. An instructional aide.
 - c. A teacher's aide or teacher's assistant employed by any public or private school.
 - d. A classified employee of any public school.
 - e. An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
 - f. An administrator of a public or private day camp.
 - g. An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
 - h. An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
 - i. Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.

- j. A licensee, an administrator, or an employee of a licensed community care or child day care facility.
 - k. A head start teacher.
 - l. An employee of a school district police or security department.
 - m. Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
 - n. Administrators in positions in which they may observe child abuse and neglect are also considered mandated reporters by the District.
 - o. A qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional, as defined in Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.
2. "Child" includes any person under the age of eighteen years
 3. "Child abuse or neglect" - includes physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Penal Code section 11165, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors or an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
 4. Sexual abuse includes sexual assault or sexual exploitation.
 5. Sexual assault includes rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, sexual penetration, or child molestation
 6. Sexual exploitation includes conduct involving matter depicting a minor engaged in obscene acts; any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for the purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene conduct, or any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene

sexual conduct, except for law enforcement and prosecution agencies and others described in Section 311.3 (c) and (e) of the Penal Code.

7. A "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.
8. Neglect includes the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.
9. Willful cruelty or unjustifiable punishment occurs when any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that the child's person or health is endangered.
10. Unlawful corporal punishment or injury occurs when any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition or pain.
11. Child abuse or neglect does not include any amount of force that is reasonable and necessary for an employee to quell a disturbance threatening physical injury to person or damage to property, for the purpose of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the child, or the exercise of that amount of physical control reasonably necessary to maintain order, protect property, the health and safety of students, to maintain proper and appropriate conditions conducive to learning, or the use of reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
12. "Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. The pregnancy of a child, by itself, does not constitute a basis for a reasonable suspicion of sexual abuse.

C. Duty to report suspected child abuse or neglect

A mandated reporter has a legal duty to immediately, or as soon as is practicably possible, report suspected child abuse or neglect pursuant to the procedures set forth in this Policy whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the required reports may be made and signed by a member of the team selected by mutual agreement 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.

Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, administrator, counselor, coworker or other person shall not be a substitute for making a mandated report to a specified agency.

D. Penalty for failure to report suspected child abuse or neglect

Any mandated reporter who fails to report known or reasonably suspected child abuse or neglect is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars, or by both fine and punishment. Willful failure to report or impeding or inhibiting the reporting of suspected child abuse which results in death or great bodily injury may result in not more than one year in a county jail or a fine of five thousand dollars or both. The failure to report an incident known or reasonably suspected by the mandated reporter to be sexual assault may be filed at any time within five (5) years from the date of occurrence of the offense.

E. Liability of mandated and authorized reporters of suspected child abuse or neglect

No mandated reporter shall be civilly or criminally liable for any report required by law. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any such report unless it can be proven that the report was false and the person knew that the report was false, or the report was made with reckless disregard of the truth or falsity of the report. Any other person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No mandated reporter, nor any person taking photographs of a suspected victim of child abuse or neglect at the direction of the mandated reporter, shall incur any criminal or civil liability for taking photographs of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs with the mandated report, provided that the photographs are not used for any other purpose. Any person who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim shall not incur civil or criminal liability as a result of providing such access.

F. Reporting Procedures

Mandated reporters shall immediately report by telephone any instance of known or suspected child abuse or neglect to the any police department or sheriffs department, county probation department, or San Diego County Child Welfare Services (CWS). The CWS child abuse hotline number is (858) 560-2191 or (800) 344-6000. A mandated

reporter should make a note of the time and date of the call and the name of the person to whom the report was made. If the abuse is in progress, call 911. The address to send the written report to is Director, San Diego County CWS Agency, 1700 Pacific Highway, M.S. P501, San Diego, California 92101. It may also be faxed to (858) 467-0412, or electronically submitted through the County of San Diego Health and Human Services Agencies' website at <https://cosdapps.sandiegocounty.gov/CFWB/LandingPage>. The mandated reporter shall also prepare and send a written report on form SS 8572 to the agency within thirty-six (36) hours of receiving the information concerning the incident. The mandated reporter may include with the report any non-privileged documentary evidence the mandated reporter possesses relating to the incident. Forms may be procured from the District Office. Reports of suspected child abuse and all aspects of the reports are confidential.

Reports of suspected child abuse or neglect shall include, if known, the name, business address, and telephone number of the mandated reporter, and the capacity that makes the person a mandated reporter; the child's name and address, present location, and, where applicable, school, grade and class; the names, addresses, and telephone numbers of the child's parents or guardian; the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information; and the name address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. A mandated reporter must make the report even if some of the above information is unknown.

Any mandated reporter who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child, or that a child's emotional well-being is endangered in any other way, may report the known or suspected instance of child abuse to a designated agency.

A mandated reporter's duties are individual. Reporting a suspicion of possible child abuse or neglect to a supervisor, counselor, manager or other employee is not a substitute for making a mandated report to a designated agency. Any supervisor or manager who impedes or inhibit the reporting duties or subjects any person making a report to sanctions for making the report is guilty of an infraction punishable by a fine not to exceed five thousand (\$5,000) dollars.

Any other person who has knowledge of, or observes a child whom he or 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 a designated agency, and is not required to give his or her name. This includes a mandated reporter acting in their private capacity and not in their professional capacity or within the scope of their employment.

G. Confidentiality

The identity of all persons who report suspected child abuse or neglect shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the district attorney in a criminal prosecution or in an action initiated under Section 317(c) of the Welfare and Institutions Code, or to the county counsel or district

attorney in a proceeding under Section 7800 et seq. of the Family Code, or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order. The identity of reporters will not be disclosed to the District except with the employee's consent or by court order.

H. Interviews of suspected child abuse or neglect victims

Authorized representatives of a social services agency or law enforcement shall be allowed, upon request, to interview victims of suspected child abuse or neglect on District property during work hours upon presentation of proper identification and the reason for the interview. The representative shall inform the child prior to the interview of the child's right to be interviewed in private, or to select an adult employee at the site to be present at the interview. The purpose of the employee's presence is to support the child and make the child as comfortable as possible. The representative of the site shall inform any selected employee of the purpose of the employee's presence, and that the employee may decline the request to be present. If the employee agrees to be present, the interview shall be held at a time during work hours when it does not involve an expense to the District. The selected employee should also be notified that failure to keep the subject of and the content of the interview confidential may subject the employee to criminal prosecution. All interviews must be conducted in a private, enclosed area.

I. Taking of suspected victims of child abuse or neglect into custody

An authorized representative of law enforcement or a social services agency may determine to take a victim of suspected child abuse or neglect into custody upon a showing of proper identification. A site representative must provide to the representative the address and telephone number of the child's parent or guardian. The representative is required to take immediate steps to notify the parent or guardian that the minor is in custody and the place where the child is being held, unless the representative has a reasonable belief that disclosure of where the minor is being held would endanger the child or cause the custody of the child to be disturbed, in which case, the representative may delay such report for a period not to exceed twenty-four (24) hours. District personnel should not notify the parents or guardian unless directed to do so by the representative.

J. Internal child abuse or neglect reporting procedures

Internal procedures not inconsistent with this Policy may be established to facilitate reporting and notice to supervisors and managers of reports made provided that no such internal procedures shall require any mandated reporter to disclose his or her identity to the District.

K. Certification of knowledge of duties by mandated reporters

The Superintendent shall cause any mandated reporter, prior to the commencement of employment, and as a prerequisite to employment, to sign a statement on a form provided by the District to the effect that he or she is a mandated reporter, has knowledge of his or her reporting obligations under Penal Code section 11166 and will comply with those provisions, and knowledge of his or her confidentiality rights under Section 11167(d). The employee shall be provided with a copy of Sections 11166, 11167, and 11165.7 of the Penal Code. Such signed statement shall be placed in the employee's personnel file.

L. Training

- (1) The District shall provide annual training on the mandatory reporting requirements to its employees and persons working on its behalf who are mandated reporters as defined in Section 11165.7 of the Penal Code, pursuant to this section and subdivision (d) of Section 11165.7 of the Penal Code. Mandated reporter training shall also be provided to school personnel hired during the course of the school year.
- (2) Training required under subsection (1) shall include training in child abuse identification and child abuse reporting. It shall also provide information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.
- (3) The District shall have all employees receive training pursuant to subsection (1) within the first six weeks of each school year or within the first six weeks of that person's employment. All employees who receive this training will submit a certificate of completion to the Superintendent.

Legal Reference:

Education Code section 49001

Family Code section 7800 *et seq.*

Penal Code: Sections 261, 261.5(d), 264.1, 285, 286(a) or (b), 288 (l)(c), 288a, 289, 311.3 (c) and (e), 311.1, 311.3, 311.4(a), 647.6, UI64 *et seq.* and 11172 and 1174.3

Welfare and Institutions Code: Sections 300, 317(c)

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