



HUMAN RESOURCE SERVICES

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DATE: July 1, 2022

HR-04

TO: All Employees

FROM: Cancy McArn, Chief Human
Resources Officer Human Resource
Services Department

SUBJECT: **Reporting Child Abuse: 2022-23**

This memorandum is sent to all employees as mandated reporters. Please review below the law requirements of being a mandated reporter and how to file a report.

Child Abuse Reporting Law Requirements:

The State of California Child Abuse and Neglect Reporting Act (Penal Code section 11166, et seq.) requires all mandated child abuse reporters to report known or suspected child abuse or neglect to the proper authorities. The following is an excerpt from Penal Code section 11166:

...a mandated reporter shall make a report... whenever the mandated reporter, in the mandated report's professional capacity or within the scope of the mandated report's 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. The mandated reporter shall make an initial report by telephone... immediately or as soon as is practicably possible, and shall prepare and send... a written follow-up report within 36 hours of receiving the information concerning the incident.

..."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... For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

Persons Mandated to Report Child Abuse: Penal Code section 11166:

For the purposes of the reporting law, all educators, school employees, and college intern/trainees are mandated reporters. An amendment to the law in 2000 redefined mandated reporters to include all classified employees of any public school in addition

to teachers, aides, administrators, and others. Training for mandated reporters is provided by the District; however, the absence of training shall not excuse a mandated reporter from the duties imposed under reporting laws.

Volunteers whose duties require contact and supervision of children should also obtain training. (Penal Code section 11165.7)

Definitions and Types of Child Abuse:

As provided in Penal Code section 11165.6, the term "child abuse or neglect" includes:

- Physical injury or death inflicted by other than accidental means upon by another person
- Neglect
- Sexual Abuse
- Willful harming or injuring of a child or the endangering of the person or health of a child
- Unlawful corporal punishment or injury

Neglect means negligent treatment or 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, and includes both acts and omissions on the part of the responsible person. (Penal Code section 11165.2)

Severe neglect means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive, and includes those situations of neglect where any person having the care or custody of a 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, including the intentional failure to provide adequate food, clothing, shelter or medical care. (Penal Code section 11165.2)

General neglect means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. (Penal Code Section 11165.2)

Sexual Abuse means sexual assault or sexual exploitation.

Sexual Assault includes: rape, statutory rape, gang rape (or rape in concert), incest, sodomy, lewd or lascivious acts upon a child, oral copulation, sexual penetration, child molestation and intentional masturbation in the presence of a child. (Penal Code section 11165.1)

Sexual exploitation includes preparing, selling or distributing matter depicting a minor engaged in obscene acts; knowingly promoting, aiding or assisting, employing, using, persuading, inducing or coercing 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 pose or

model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting or other pictorial depiction involving obscene sexual conduct; and knowingly depicting a child in, or knowingly developing, duplicating, printing or exchanging any film, photograph, video tape, negative or slide in which a child is engaged in an act of obscene sexual conduct. (Penal Code section 11165.1)

Willful Cruelty or Unjustifiable Punishment means a situation where 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. (Penal Code section 11165.3)

Unlawful Corporal Punishment means a situation where any person willfully inflicts upon any child any cruel or inhumane corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense or to obtain possession of weapons or other dangerous objects within the control of the pupil (Education Code Section 49001), or that is necessary to maintain order, protect property, protect the health and safety of students, and maintain conditions conducive to learning (Education Code Section 44807). (Penal Code section 11165.4)

In addition, any mandated reporter who has knowledge of; or reasonably suspects that a child is suffering serious emotional damage or is at risk of suffering serious emotional damage, evidenced by states or being, **may** make a report. (Penal Code section 11166.05)

REPORTING PROCEDURES:

As mandated reporters, all school employees **must** report the known or suspected incidence of child abuse or neglect to the appropriate agency **immediately** or when practically possible **by telephone**. (Penal Code section 11166)

The following information must be provided at the time of the telephone call:

- 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/guardians;
- 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. The mandated reporter must make this report even if some of this information is not known or is uncertain to him or her. (Penal code section 11167.)

The telephone call **must** be followed within **36 hours** by a written report to the same agency to which the telephone report was made. (Penal Code section 11166)

For your reference, the following are some of the agencies to contact:

1. Children’s Protective Services (24 hr. number).....(916) 875-5437
3701 Branch Center Road
P.O. Box 269057
Sacramento, CA 95826-9057

This is the agency to call for in-family suspected abuse (including live-in non-related persons) for which law enforcement is not immediately needed.

2. Sacramento City Police Department.....(916) 808-0800
5770 Freeport Blvd. Ste 100
Sacramento, CA 95822

This is the agency to call for suspected abuse by non-family persons (neighbor, childcare provider, etc.), or if an immediate response is required for incidents occurring **within** city limits.

3. Sacramento County Sheriff’s Department.....(916) 874-5115
Sheriff’s Dispatch
711 G Street, Room 304
Sacramento, CA 95814

This is the agency to call for suspected abuse by non-family persons (neighbor, childcare provider, etc.), and which occurred **outside** city limits or if an immediate response is required.

REPORT FORM:

The required form is the Suspected Child Abuse Report (Penal Code section 11168.) These reporting forms can be obtained online at https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf. The online form is accessed by obtaining a code when you phone your report. The reporting party should fill in the form completely, using the address and telephone number of their work site.

- a) Submit one copy to the child protective agency to which the telephone report was made.
- b) Submit one copy to the Health Services Department within one working day (Mail Box #764) to be maintained in a confidential file by the Coordinator of Health Services. **NO OTHER COPIES ARE TO BE KEPT ON SITE OR FOR PERSONAL RECORDS.**
- c) Notify the site principal and the director/supervisor of your department of the report.
- d) The person reporting the suspected child abuse or neglect has the option of deleting his/her name from the copy that is sent to the Health Services Department. However, the Health Services copy verifies that the reporter has complied with the law for mandated reporters.

The report should be typed, if possible. Make a photocopy and submit the photocopy to Health Services Department (Mail Box 764).

For reports sent to Children’s Protective Services, the reporting party should receive a written response from the investigating social worker. This written response should be forwarded to Health Services Department (Mail Box 764) to be attached to the Health Services copy of the original report.

CONFIDENTIALITY MANDATES:

Interview at School: When a representative of Children's Protective Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect. The child is given the option of being interviewed in private or selecting any adult school employee or volunteer aide to be present at the interview. The purpose of having a staff member at the interview is to lend support to the child and help him/her feel as comfortable as possible. The staff member cannot participate in the interview or discuss the facts or circumstances of the case with the child, and is subject to confidentiality requirements. (Penal Code section 11174.3)

Identity of mandated reporter: The identity of all persons who are mandated reporters who report child abuse or neglect shall be confidential and disclosed only among: agencies receiving or investigating mandated reports, the district attorney in a criminal prosecution or an action initiated under Welfare & Institutions Code Section 602 arising from alleged child abuse, counsel appointed pursuant to Welfare & Institutions Code Section 317 (c), county counsel or district attorney in a proceeding under Family Code Section 7800 or Welfare & Institutions Code Section 300, a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when the mandated reporter(s) waive confidentiality, or by court order. (Penal Code section 11167)

Reports of Suspected Child Abuse or Neglect: Required reports of suspected child abuse or neglect and the information contained in those reports are confidential and may be disclosed only to: persons or agencies to whom disclosure of the identity of the mandated reporter(s) is permitted, persons or agencies to whom disclosure is permitted under Penal Code Section 11170(b), persons or agencies with whom investigations of child abuse or neglect are coordinated under Penal Code Section 11174, multidisciplinary personnel teams as defined in Welfare & Institutions Code Section 18951(d), persons or agencies responsible for the licensing of facilities which care for children, and other identified persons and agencies. (Penal Code section 11167.5.)

A violation of any of these confidentiality provisions is a misdemeanor punishable by up to six months in jail or by a fine of \$500, or both. (Penal Code section 11167.5)

FAILURE TO REPORT:

The mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect is guilty of a misdemeanor punishable by up to six months in jail or by a fine of \$1000.00, or both. (Penal Code Section 11166(c)) Educators who fail to report may also risk loss of their license or credential (Education Code Section 44421.) In addition, a failure to report may result in personal civil liability (Landeros v. Flood (1975) 17 Cal3d 399).

When two or more mandated reporters have knowledge of a known or suspected instance of child abuse or neglect, the telephone and written reports may be made by one person selected by mutual agreement.

However, if the selected person fails to report, then the other person is responsible for reporting. (Penal Code section 11166 11166 (h))

The reporting duties are individual. No supervisor or administrator may impede or inhibit the reporting duties and no person making a report shall be subject to any sanction for making the report. Internal procedures to apprise administrators and supervisors of reports may be established; however, they cannot require any employee to disclose his or her identity to the employer. Reporting possible child abuse or neglect to an employer, supervisor, principal, school counselor, coworker or other person does not substitute for making a mandated report. (Penal Code section 11166(i))

IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR MANDATED REPORTERS:

No mandated reporter shall be civilly or criminally liable for any required report. Any other person reporting known or suspected child abuse or neglect shall not incur civil or criminal liability unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard for the truth or falsity of the report and, in that event, the person is liable for any damages caused. (Penal Code section 11172)