

AP 3518 Child Abuse Reporting

Reference:

Penal Code Sections 261, 261.5(a), 264.1, 273(a), 273(d), 285, 286, 288, 288(a), 289, 647.6, 11164-11174.3;

Welfare and Institutions Code Sections 300, 318, 600;

Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, 7892

1.0 The District recognizes the responsibility of its staff to report to the appropriate agency when there is a reasonable suspicion that an abuse or neglect of a child may have occurred.

1.1 This procedure addresses the reporting of child abuse or neglect pursuant to the provisions of California Penal Code Sections 11164-11174.3, known as the Child Abuse and Neglect Reporting Act.

1.2 Failure to report suspected child abuse is a misdemeanor and punishable by confinement in county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both. (Penal Code Section 1117[e])

2.0 **Definitions**

2.1 Child: A person under the age of 18 years (Penal Code Section 11165).

2.2 Child Abuse or Neglect: Physical injury inflicted by other than accidental means on a child by another person; sexual assault of a child; neglect of a child; willful harming or injuring of a child or the person or health of a child; unlawful corporal punishment or injury against a child, or abuse in out-of-home care (Penal Code Section 11165.6).

2.3 Sexual Assault: Conduct including rape (Penal Code Section 261); statutory rape (Penal Code Section 261.5[a]); group rape (Penal Code Section 264.1); incest (Penal Code Section 285); sodomy (Penal Code Section 286); lewd or lascivious acts upon a child under 14 years of age (Penal Code Section 288[a] and [b]), oral sex (Penal Code Section 288[a]); penetration of a genital or anal opening by a foreign object (Penal Code Section 289); and child molestation (Penal Code Section 647.6). (Penal Code Section 11165.1[a])

2.4 Neglect: Negligent treatment or maltreatment of a child by a person responsible for a child's welfare such that harm or threatened harm to the child's health or welfare may result. This includes both acts and omissions on the part of the responsible person. (Penal Code Section 11165.2)

2.4.1 Severe Neglect: The negligent failure of a child's caretaker to protect the child from severe malnutrition or medically diagnosed failure to thrive, including those situations of neglect where a child's caretaker willfully causes or permits the person or health of that child to be placed in a situation such that his or her person or health is endangered, such as intentionally failing to provide adequate food, clothing, shelter, or medical care. (Penal Code Section 11165.2[a])

2.4.2 General Neglect: The negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or

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supervision where no physical injury to the child has occurred. (Penal Code Section 11165.2[b])

- 2.5 Willful Harming or Injuring of a Child or Endangering of the Person or Health of a Child: A situation where a person willfully causes or permits a child to suffer, or inflicts unjustifiable physical pain or mental suffering on a child, or a situation where a caretaker willfully causes or permits the person or health of the child to be endangered. (Penal Code Section 11165.3)
- 2.6 Unlawful Corporal Punishment or Injury: A situation where a person willfully inflicts upon a child any cruel or inhuman corporal punishment or injury that results in a traumatic condition. (Penal Code Section 11165.4)
- 2.7 Abuse in Out-of-Home Care: Physical injury is inflicted upon a child by another person by other than accidental means; sexual assault of a child; neglect of a child; unlawful corporal punishment or injury of a child; or the willful harming or injuring of a child; or endangering of the person or health of a child as defined above, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children; or an administrator or employee of a public or private school or other institution or agency. (Penal Code Section 11165.5)
- 2.8 Reasonable Suspicion: A person has a "reasonable suspicion" when it is objectively reasonable 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. (Penal Code Section 11166[a][1])

According to the State Office of Child Abuse and Prevention, the following warning signals are sufficient to presume abuse: fractures; lacerations; bruises that cannot be explained or explanations that are not compatible with the injury; unexplained or implausibly explained burns and/or facial injuries; self-destructive behavior; extreme fear or withdrawn behavior around others; complaints by the child of being sexually molested; indications by the child of pain from an inflicted injury; and/or suspicion of substantial neglect.

- 2.9 Child Protective Agency: A police or sheriff's department, a county probation department, or a county welfare department. (Penal Code Section 11165.9) Campus Safety and Security Services are expressly not included within the definition of a "Child Protective Agency."

3.0 Mandated Reporters

- 3.1 The following employees of the District and other persons designated pursuant to Penal Code Section 11165.7 are designated as "mandated reporters" and are required to report instances of suspected child abuse where they have a reasonable suspicion of the abuse (see the definition of reasonable suspicion in Section 2.8 above):

- 3.1.1 Administrators;

- 3.1.2 Faculty;

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- 3.1.3 Classified employees;
 - 3.1.4 Physicians, psychiatrists, psychologists, dentists, and licenses nurses employed by the District;
 - 3.1.5 Other employees whose duties involve the following:
 - 3.1.5.1 Direct contact and supervision of children;
 - 3.1.5.2 Service as instructional aides, teacher's aides or teacher's assistants;
 - 3.1.5.3 Service as an employee of a campus safety department.
 - 3.2 A mandated reporter must make a report whenever the mandated reported, 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.
 - 3.3 Any mandated reporter who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way may report the known or suspected instance of child abuse to a child protective agency.
 - 3.4 The reporting duties of mandated reporters imposed under Penal Code Section 11166 are individual, and no supervisor or administrator may impede or inhibit an individual's obligation to report, and no person making such a report may be subject to any sanction for making the report. (Penal Code Section 11166[f])
 - 3.5 Any mandated reporter who reports a known or suspected instance of child abuse shall not be civilly or criminally liable for any report required or authorized by the Penal Code. (Penal Code Section 11172[a])
 - 3.6 The District will provide an employee who is designated as a mandated reporter with a statement informing the employee that he or she is a mandated reporter and informing the employee of the reporting obligations under Penal Code Section 11166 and of his or her confidentiality rights under subdivision (d) of Penal Code Section 11167. The District will provide a copy of Penal Code Sections 11165.7, 11166, and 11167 to the employee. As a condition of employment, the employee shall sign a statement on a form provided by the District to the effect that he or she has knowledge of the provisions of Penal Code Section 11166 and will comply with those provisions.
- 4.0 **Other Reporters**
- 4.1 Reporting by persons other than mandated reporters is permissive and not subject to the broad immunity for the making of false reports provided to mandated reporters by the Penal Code. (Penal Code Sections 11165.7, 11166[a], and 11172[a])
 - 4.2 A person other than a mandated report who reports a known or suspected instance of child abuse shall not incur any liability as a result of making any report of child

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abuse, unless it can be proven that a false report was made and the person knew that the report was false. (Penal Code Section 11172[a])

- 4.3 Volunteers are not mandated reporters, but are encouraged to report suspected abuse or neglect of a child.

5.0 Reporting

- 5.1 Under the circumstances described in Section 3.2 above, a mandated reporter must report a known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. In addition, the individual making the telephone report must prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. The written report may be mailed or submitted by facsimile or electronic transmission (Penal Code Section 11166[a]). The person reporting may contact any of the following:

5.1.1 Department of Social Services/Child Welfare Agency 24-Hour Abuse Hotline: (714) 940-1000 or (800) 207-4464.

5.1.2 The local city police department.

5.1.3 The Orange County Sheriff's Department.

5.2 Information Required

5.2.1 The telephone report of a known or suspected instance of child abuse must 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 requested by the child protective agency, including information that led the person reporting to suspect child abuse (Penal Code Section 11167). Persons who are not required to report pursuant to Penal Code Section 11165.7, are not required to include their names in the report to the child protective agency.

5.2.2 If the suspected child abuse may be a result of traditional or cultural health practices, such suspicions must also be reported by telephone to the Child Abuse Hotline or other child protective agency and in writing, as described above.

- 5.3 Each campus shall designate a location on campus where child abuse reporting forms will be available.

- 5.4 The identity of all persons who report a known or suspected incident of child abuse pursuant to Penal Code Section 11164 et seq. shall be confidential and disclosed only to the following, or to comply with a court order (Penal Code Section 11167[d]):

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- 5.4.1 Child protective agencies;
- 5.4.2 Counsel representing a child protective agency;
- 5.4.3 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;
- 5.4.4 Counsel appointed pursuant to Section 318 of the Welfare and Institutions Code.
- 5.4.5 County Counsel or District Attorney in an action initiated under Family Code Sections 782, 7807, 7808, 7820-789, 7890, 7892, or Section 300 of the Welfare and institutions Code, or when those persons waive confidentiality.

6.0 **Law Enforcement Investigation:** Investigation of suspicion of child abuse is a function for local law enforcement agencies or child protective agencies. Legal charges, if deemed warranted, are filed by law enforcement agencies. Campus personnel must keep in mind that investigation of suspected child abuse is the responsibility of the child protective agencies.

7.0 Notice and Release of Information

- 7.1 When a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code, the responsible college official shall provide the peace officer with the address and telephone number of the minor's parent or guardian.
- 7.2 Non-accidental physical injury is considered to be a health and safety emergency and parental consent is not required for release of student information under the Family Education Rights and Privacy Act, or the California Student Records Act. (Education Code Section 76200 et seq.)
- 7.3 Information relevant to the incident of child abuse may be given to an investigator from a child protective agency who is investigating the known or suspected cause of child abuse. (Penal Code Section 11167[b])

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