

Child Abuse Reporting Procedures**Definitions:**

Child abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury inflicted by other than accidental means on a child by another person
2. Sexual abuse of a child as defined in Penal Code 11165.1
3. Neglect as defined in Penal Code 11165.2
4. Willful cruelty or unjustifiable punishment of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury resulting in a traumatic condition as defined in Penal Code 11165.4

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 peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)
3. 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)
4. An amount of force that is reasonable and necessary for a school employee 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)

Mandated reporters include but are not limited to teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; administrators and employees of a licensed day care facility; Head Start teachers; district police or security officers; and administrators, presenters or counselors of a child abuse prevention program. (Penal Code 11165.7)

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/her training and experience, to suspect 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 mental suffering has been inflicted upon a child, or that the child's emotional well-being is endangered in any other way, may report the known or suspected instance of child abuse or neglect to the appropriate agency designated in the Reporting Procedures. (Penal Code 11166.05)

Instances that indicate that the emotional well-being of a child might be endangered include, but are not limited to, evidence that the child is suffering from emotional damage, such as severe anxiety, depression, withdrawal, or untoward aggressive behavior towards self or others.

Any person shall notify a peace officer if he/she 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, where the victim is a child under age 14. (Penal Code 152.3288)

Responsibility for Reporting:

The reporting duties 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, and when there is agreement among them, 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)

Reporting Procedures

1. Initial Telephone Report - Immediately or as soon as practicably possible after knowing or observing suspected child abuse or neglect, a mandated reporter shall make a 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 the county welfare department. (Penal Code 11166)

Call the Child Abuse and Neglect Referral and Reporting Center
 San Jose area 299-2071
 Morgan Hill/Gilroy area 683-0601

When the telephone 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 receiving the information concerning the incident, the mandated reporter shall prepare and send to the appropriate agency a written report, which includes a completed Department of Justice form. (Penal Code 11166, 11168)

Distribution of Written Report

- a. The white copy is given to the police or sheriff if appropriate
- b. Keep the yellow copy for site file
- c. Deliver in person all other copies to Student Services the day of the incident (including white copy if police or sheriff was not involved.
- d. Student Services will distribute the remaining copies to the appropriate agencies within 36 hours of the incident.

Mandated reporters may obtain copies of the above form from Student Services.

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
- d. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information
- e. The name, address, telephone number and other relevant personal information about the person(s) who might have abused or neglected the child

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)

Information relevant to the incident of child abuse or neglect may also be given to an investigator from an agency that is investigating the case. (Penal Code 11167)

3. Internal Reporting

Employees reporting child abuse or neglect to the appropriate agency are required to notify the principal or designee as soon as possible after the initial telephone report to an appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

The principal or designee so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Governing Board policy and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing these forms.

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

He/she may provide or mail a copy of the written report to the principal, Superintendent or designee without his/her signature or name.

Reporting the information to an employer, supervisor, school 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)

Training

Training of mandated reporters shall include child abuse identification and reporting. All employees receiving such training shall receive written notice of state reporting requirements and employees' confidentiality rights. (Penal Code 11165.7)

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

Upon request, a representative of an agency investigating suspected child abuse or neglect may interview a suspected victim 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, before the interview takes place, 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 by a principal or other school official ("school official"), the school official is to take immediate steps to notify the parent, guardian, or other responsible adult ("parent") of the release of the child to the peace officer and the place to which the child is reportedly being taken. (Education Code §48906) However, when the child is being released to a peace officer at times when child abuse is suspected, the school official shall *not* contact the parent or notify the parent of the child's release or whereabouts. (*Id.*; emphasis added.) The duty of reporting such details is left to the peace officer, who, may or may not (depending upon the facts surrounding each individual case) release both the fact of custody and location to the child's parents. (*Id.*)

Peace officers shall be asked to sign an appropriate release and acceptance of responsibility form.

Parent/Guardian Complaints

Upon request, the Superintendent or designee shall provide parents/guardians with procedures whereby they can report suspected child abuse occurring at a school site to appropriate agencies. Such procedures shall be in the primary language of the parent/guardian and, when communicating orally regarding those procedures, an interpreter shall be provided for parents/guardians whose primary language is other than English. (Education Code 48987)

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 to any district employee, that employee shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency and 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(a)(viii)(C).

Notifications

The Superintendent or designee shall give persons hired by the district a statement informing them that they are mandated by law to report suspected child abuse and neglect, inform them of their reporting obligations under Penal Code 11166, and provide a copy of Penal Code 11165.7 and 11166. Before beginning employment, employees shall sign the statement indicating that they have knowledge of the reporting obligations under Penal Code 11166 and that they will comply with those provisions. The signed statements 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 shall also 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. 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)
2. If a mandated reporter fails to report an incident of known or reasonably suspected child abuse or neglect, he/she is guilty of a misdemeanor 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)

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