

CHILD PROTECTIVE SERVICES KNOWLEDGE FOR THE SITE ADMINISTRATOR

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I. GENERAL OVERVIEW

A. What Is Child Protective Services?

Child Protective Services is a Division of Services within the Kern County Department of Human Services, Child Welfare Services. Recently, Kern County changed the name from Child Protective Services to *Child Welfare Services*. Child Welfare Services is the governmental agency within Kern County that responds to reports of child abuse and/or child neglect.

B. What Is The Child Abuse and Neglect Reporting Act?

(1) The Child Abuse and Neglect Reporting Act:

The Child Abuse and Neglect Reporting Act¹ was created to protect children from abuse and/or neglect by designating certain community members as mandated reporters. The Act states that in the investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim. Mandated reporters are required by law to inform the proper authorities (Child Welfare Services) when abuse or neglect of a child is suspected. It is an Act that mandates that certain people must make reports to Child Welfare Services if they have a reasonable suspicion that child abuse and/or child neglect has occurred.

(2) Mandated Reporter's Responsibility: Penal Code section 11166 states:

“. . . a mandated reporter shall make a report . . . 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. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. . . .”

¹ Penal Code section 11164, et seq.

(3) Definition of Reasonable Suspicion: Reasonable suspicion means that “it is objectively reasonable for a person to entertain a suspicion, based upon fact that could cause a reasonable person in a like position, drawing, when appropriate, upon his or her training and experience, to suspect child abuse and neglect.”

This means that if, through your training of identifying child abuse indicators, you think it is possible a child is being abused, you should make a report. As a mandated reporter, you can be penalized for not making a report, but you will not be held accountable for any reports that are made in good faith and turn out to be untrue.

➤ **ALWAYS ERR ON THE SIDE OF OVER-REPORTING!**

II. DEFINITIONS OF ABUSE AND NEGLECT

A. What Is Abuse?

(1) Physical Abuse: The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian.

(2) Severe Physical Abuse: The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child.

(3) Serious Physical Harm or Illness: The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left.

B. What Is Neglect?

(1) Child Neglect: The willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability or substance abuse.

(2) Serious Emotional Damage: The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care.

(3) Sexual Abuse: The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

“Sexual abuse” means sexual assault or sexual exploitation as defined hereafter.

“Sexual assault” means rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, sexual penetration or child molestation.

“Sexual exploitation” means:

- (a) conduct involving matter depicting a minor engaged in obscene acts;
- (b) 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 purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct; and
- (c) 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.

Lewd and lascivious acts means:

- (a) Any lewd and lascivious touching of a minor accomplished with the use of force, violence, duress, menace or fear of immediate and unlawful bodily injury to the victim or another.
- (b) Any lewd and lascivious touching of a child under 14 years old, if the other person is 14 years old or older, irrespective of consent.
- (c) Any lewd and lascivious touching of a child 14 years old, if the other person is 24 years old or older, irrespective of consent.
- (d) Any lewd and lascivious touching of a child 15 years old, if the other person is 15 years old or older, irrespective of consent.

(4) Cause of Death of Another Child: The child's parent or guardian caused the death of another child through abuse or neglect.

(5) Child Has Been Left Without Any Provision for Support: The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered and the child has not been reclaimed within the 14-day period or the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(6) Child Subjected to Cruelty: The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(7) Child's Sibling Has Been Abused or Neglected: The child's sibling has been abused or neglected and there is a substantial risk that the child will be abused or neglected.

III. HOW DOES SOMEONE RECOGNIZE CHILD ABUSE?

A. Signs Of Child Abuse:

Signs of physical abuse include unexplained or unreasonable bruises, burns, cuts, abrasions and broken bones. Patterned marks made by objects like belts, cords, teeth, handprints and clothes or curling irons can be strongly indicative of physical abuse especially when combined with a child's description of how the injury was inflicted. Another strong indicator of child abuse is an explanation for injuries that would be unusual in a given age group. For example, a broken arm or leg in a four-month-old child is blamed on a fall down the stairs.

Neglect can be indicated by a child who is chronically dirty or dressed inappropriately for the weather, a child who is frequently hungry or sleepy and reports being unable to eat or sleep regularly at home, a child who does not attend school regularly or one who has not been enrolled in school, a child who remains untreated or is treated inappropriately for a medical problem or a child who describes being left alone and unable to care for himself or herself.

A good indicator of endangerment is a description by a child of events that may place him or her in danger such as being involved in a physical, domestic fight between adults in the home, seeing illegal drugs being used or sold or having access to loaded guns kept in the home

B. How Does Someone Distinguish Between Child Abuse and/or Neglect and Criminal Acts?

In California, child protection laws primarily refer to cases of harm to a child caused by parents or other caregivers in the child's home. Child abuse and neglect laws that are not filed in Juvenile Court generally refer to harmful acts caused by other people, such as acquaintances, strangers, non-relative adults or school or public agency personnel in the home. Child abuse and neglect allegations against an in-home adult are handled through the dependence court, not the criminal courts.

A crime is defined as a criminal act committed in California, committed by a competent adult, which is against the public laws of the state, and makes the offender liable for punishment. Crimes are prosecuted in the criminal courts of the state. Potentially once the police or sheriff get involved in a child abuse or neglect case, the district attorney will decide whether any acts will be prosecuted as criminal incidents. Additionally, if a person is convicted of certain offenses, they must register as sex offenders under the California law. Also, minors convicted of certain crimes must also register as sex offenders.

As stated, child abuse can be alleged and prosecuted by the district attorney, but child abuse and neglect allegations are proven by social workers and county attorneys in Juvenile Court, making them entirely separate matters.

IV. MANDATED REPORTERS

A. Who Are Mandated Reporters?

Mandated reporters are professionals who work with children (under the age of 18) in the course of their professional duties. In California, there are now 44 different categories of workers who are considered to be mandated reporters as defined in Penal Code section 11165.7. Specifically, for public schools, these categories include the following employees:

- » Teachers.
- » Instructional aides.
- » Teacher's aides or teacher's assistants employed by a public school.
- » A classified employee of a public school.
- » An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public school.
- » An administrator of a public organization whose duties require direct contact and supervision of children.
- » An employee of a county office of education whose duties bring the employee into contact with children on a regular basis.
- » A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- » A Head Start program teacher.
- » An employee of a school district police or security department.
- » A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public school.
- » An athletic coach, athletic administrator, or athletic director employed by any public school that provides any combination of instruction for kindergarten, or grades 1–12, inclusive.

As can be seen, most public school employees will fall into one of these enumerated categories. To ensure compliance with the law, many districts opt to have all employees meet the mandated reporter requirements.

B. What Are The Obligations Of Mandated Reporters?

As stated above, Penal Code section 11166 requires a mandated reporter who knows or reasonably suspects that a minor is the victim of child abuse or neglect to report immediately or as soon as reasonably practicable by telephone and in writing by follow-up report within 36 hours to an appropriate agency, including the Department of Human Services (better known as Child Welfare Services) or a police department or sheriff's department.

In the end, the best advice is: **When in doubt, report!** Schools Legal Service advises that school district employees err on the side of over-reporting to ensure a child's safety.

(1) When Should a Mandated Reporter Report Known or Suspected Child Abuse or Neglect?

The duty to report is triggered whenever a mandated reporter has knowledge of, observes, or has a reasonable suspicion that a child is a victim of child abuse or neglect. (Penal Code § 11166.)

"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." Note that "'reasonable suspicion' does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect, and 'reasonable suspicion' is sufficient." Additionally, for purposes here, "the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse." (Penal Code § 11166(a)(1).)

(2) How Does a Mandated Reporter Report Known or Suspected Child Abuse or Neglect?

A mandated reporter must report a known or reasonably suspected instance of child abuse or neglect to an appropriate agency immediately, or as soon as practicable, by telephone.

This call can be made to the local police or the sheriff, county probation department, if authorized to receive such reports, or the county welfare department. Remember that a school district police or security department is not qualified to accept child abuse reports. (Penal Code § 11165.9.)

Following the initial telephone call, the mandated reporter must prepare and send a written report within 36 hours of receiving the information concerning the incident. (See California Department of Justice Report form which is included in these materials.) The written report may be mailed or submitted by facsimile or electronic transmission. (Penal Code § 11166.)

To assist school district employees in meeting their initial obligation to telephone a report of known or suspected child abuse or neglect, the following agencies and their phone numbers are provided:

KERN COUNTY CHILD WELFARE AGENCIES:

- » Kern County Child Abuse Hotline (Countywide): 661-631-6011
- » Kern County Child Abuse Hotline (Ridgecrest): 760-375-6049
Report 24 hours per day, 7 days per week; for all emergencies call 911
- » Kern County Sheriff's Department: 661-391-7500

Substations:

- | | |
|----------------------------|---------------------------------------|
| Buttonwillow: 661-764-5613 | Ridgecrest: 760-384-5800 |
| Delano: 661-721-3800 | Rosamond: 661-256-9700 |
| Glennville: 661-536-8322 | Taft: 661-763-8550 |
| Frazier Park: 661-245-3440 | Tehachapi: 661-823-6060 |
| Kern Valley: 760-549-2100 | Walker Basin Substation: 661-867-3006 |
| Lamont: 661-868-5751 | Wasco: 661-758-7266 |
| Mojave: 661-824-7130 | |
-
- » Bakersfield City Police: 661-327-7111
 - » McFarland City Police: 661-792-2121
 - » Bear Valley Springs Police: 661-821-3239
 - » Porterville Police: 559-782-7400
 - » Tehachapi Police: 661-822-2222

SANTA BARBARA COUNTY CHILD WELFARE AGENCIES:

- » 800-367-0166
- » After hours or weekends, call Sheriff's Dispatch: 805-683-2724

SAN LUIS OBISPO COUNTY CHILD WELFARE AGENCIES:

- » 805-781-1700
- » 24-Hour Child Abuse Reporting Hotline: 805-781-5437 or 800-834-5437

(3) What Information is Required to be Included in the Report?

Any report of known or suspected child abuse or neglect must include the name, business address, and telephone number of the mandated reporter. It must also include the capacity that makes the person a mandated reporter, the information that gave rise to the reasonable suspicion of child abuse or neglect, and the source of that information. If known, the report should also include the child's name, address, present location, school, grade, and class, the names, addresses, and telephone numbers of the child's parent or guardian, and other relevant personal information about the person who might have abused or neglected the child. The mandated reporter must make a report even if some of this information is not known or is uncertain. (Penal Code § 11167(a).)

(4) Can a Report be Anonymous and is it Confidential?

If reporting on situations discovered during the reporter's professional capacity or during the course of his/her employment, the mandated reporter is required to give his/her name.

The identity of a mandated reporter who makes a report must remain confidential and may be disclosed only among agencies receiving or investigating mandated reports, to attorneys prosecuting child abuse cases, if the reporter waives confidentiality, or pursuant to a court order. (Penal Code § 11167(d)(1).)

(5) Should a Reporter Investigate the Circumstances Before Reporting?

Schools Legal Service does not advise that a mandated reporter conduct an exhaustive investigation into the facts supporting a report. The duty to investigate rests with law enforcement or other child welfare agencies. However, as described above, a reporter needs to provide information to support the reasonable suspicion that abuse or neglect has occurred.

The mandated reporter, even if receiving information "secondhand," will need to know or reasonably suspect some information to form the reasonable suspicion that child abuse or neglect occurred. That information should be shared with the appropriate agency in the required report.

(6) Should a Reporter Keep Records of the Report or the Decision Not to Report?

A reporter should always keep good records or documentation of a report or the decision not to report, if applicable. These records or documentation should be kept confidential and in a safe place. The documentation will assist a reporter in refreshing his/her memory if necessary later and ensures that documentation supporting the report will be maintained at the district even if the reporter moves on to another district.

(7) Will a Reporter Get Feedback After the Report?

After an investigation into the allegations of child abuse or neglect is completed or the matter reaches a final disposition, the investigating agency must inform the mandated reporter of the results of the investigation and any action the agency is taking with regard to the child or family. (Penal Code § 11170(b)(2).) However, due to confidentiality issues, the information a mandated reporter receives after a report is made will be quite limited.

(8) What If the Principal Disagrees with a Report Made by a Staff Member?

The duty to report as a mandated reporter is an individual obligation of each staff member. A site administrator or district office administrator should never impede or inhibit a reporter's attempt to fulfill that obligation, whether prior to a report being made or after it is made. Additionally, an employee should never be sanctioned or otherwise disciplined for making a report. (Penal Code §§ 11166(i)(1) and (2).) Remember, a site administrator should not infuse his/her own judgment in an effort to discourage a report or denigrate a reporter after a report is made.

C. What Happens After a Report is Made to a Child Welfare Agency?

Once a mandated report is made, a thorough investigation will be conducted by the responsible agencies made aware of the possible abuse. Once a report is made to a child welfare agency, the agency must "cross-report" to law enforcement and vice versa. Immediate efforts are made to protect the welfare of the child at issue.

(1) Is There Liability for Not Making a Report?

Any mandated reporter who fails to make a report of known or suspected child abuse, can be found guilty of a misdemeanor punishable by up to six months in county jail, a \$1,000 fine, or both. (Penal Code § 11166(c).) Additionally, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, where that abuse or neglect results in death or great bodily injury, can be punished by not more than one year in a county jail, by a fine, of not more than \$5,000 or both. (Penal Code § 11166.01(b).)

(2) Is There Liability for Making a False Report?

Obviously, a reporter should refrain from making reckless or knowingly false reports, but the legislature has provided certain protections to reporters who meet their obligations even if the report ultimately is determined to be false. To that end, there is absolute immunity from civil or criminal prosecution if a reporter meets the reporting obligation. (Penal Code § 11172(a).)

In fact, if a mandated reporter is sued by another party related to the report, the Mandated Reporter may present a claim to the California Victim Compensation and Government Claims Board. This claim can be made for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report as long as the court has dismissed the action upon a demurrer or motion for summary judgment made by that person or if he/she prevails in the action. (Penal Code § 11172(d)(1).)

D. How Can a District Ensure Mandated Reporters Are Aware of Their Responsibilities?

School district employers are strongly encouraged under the law to provide their employees who are mandated reporters with training regarding their mandated reporter obligations. Additionally, volunteers whose duties require direct contact with and supervision of children should be provided this training as well. The training must include training in child abuse and neglect identification and training in child abuse and neglect reporting.

The absence of training does not excuse a mandated reporter from his/her duties. School districts that do not provide this training must report to the State Department of Education the reasons why the training has not been provided. (Penal Code §§ 11165.7(c), (d), (e), and (f).) Schools Legal Service is available to conduct necessary training if requested.

Whether or not employers provide this training, employers must provide all new employees who are mandated reporters with a statement required per Penal Code section 11166.5(a) and obtain his/her signature on the statement. This statement must inform the employees of the provisions of Penal Code section 11166 and his/her obligation to comply with those provisions.

The statement shall also inform employees that they are mandated reporters and inform them of their reporting obligations under Penal Code section 11166 and of their confidentiality rights under Penal Code section 11167(d).

The employer must provide a copy of Penal Code sections 11165.7, 11166, and 11167 to the employee. The signed statements must be maintained by the employer. (Penal Code § 11166.5(a).)

While only new employees are required under the law to receive and sign the statement described above, most prudent districts require all mandated reporters to sign the statement before each school year to remind each employee of his/her obligations and to provide a record of the employee's acknowledgment of his/her mandated reporter duties.

V. DO I HAVE TO REPORT SEXUAL ACTIVITY?

A. What "Statutory Rape" Violations Must I Report?

You do not have to report all instances of "unlawful sexual intercourse." However, you MUST report the following:

(1) Sexual intercourse with a minor accomplished with the use of force, violence, duress, menace or fear of immediate and unlawful bodily injury to the victim or another, or intercourse accomplished in any other way without consent.

(2) Sexual intercourse between a minor who is under 14 years old and a partner 14 years old or older, irrespective of consent.

(3) Sexual intercourse between a minor who is 14 or 15 years old and a partner 21 years old or older, irrespective of consent.

Should intercourse be reported based on ages of victim and partner alone? YES

Please follow the chart on the next page to determine when to report sexual intercourse between the following individuals.

		Age of Partner →											
			12	13	14	15	16	17	18	19	20	21	22
Age of Victim ↓	11	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	12	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	13	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	14	Y	Y	N	N	N	N	N	N	N	N	Y	Y
	15	Y	Y	N	N	N	N	N	N	N	N	Y	Y
	16	Y	Y	N	N	N	N	N	N	N	N	N	N
	17	Y	Y	N	N	N	N	N	N	N	N	N	N
	18	Y	Y	N	N	N	N	N	N	N	N	N	N
	19	Y	Y	N	N	N	N	N	N	N	N	N	N
	20	Y	Y	N	N	N	N	N	N	N	N	N	N
	<p>KEY: <input type="checkbox"/> Y YES, report required based solely on age difference between victim and partner</p> <p> <input type="checkbox"/> N NO, report not required unless other evidence of abuse</p>												

B What Sexual Activity Should Not Be Reported?

You should not report consensual intercourse or consensual touching when there are no other indications of abuse and when:

- (1) A minor is under 14 years old and his or her partner is under 14 years old.
- (2) A minor who is between 14-17 years old and their partner is 14-17 years old.

C For The Purposes Of Child Abuse Reporting, Does A Mandated Reporter Have A Legal Duty To Try And Ascertain The Ages Of The Minor's Partners? No

No statute or case obligates reporters to ask the minor about the age of that minor's sexual partner for the purpose of reporting abuse.

D Does Pregnancy Automatically Require An Abuse Report? No

Pregnancy, in and of itself, constitutes sufficient evidence to establish a reasonable suspicion of sexual abuse.

E. Do You Have To Report The Abuse If It Happened A Long Time Ago? Yes

This law requires mandated reporters to report abuse of minors. It does not relieve reports of their reporting duty simply because acts occurred several years ago. Requiring reports of abuse, even if the abuse occurred long ago, makes some sense. While the victim of long ago abuse may no longer be at risk, the abuser may still be abusing other children. For the same reasons, many believe mandated reporters should report when an adult reveals past child abuse.

VI. ARE CONSENSUAL SEX ACTS BETWEEN CHILDREN CHILD ABUSE?

A. Yes, it can be! A minor legally becomes an adult at 18 years old in California. (Fam. Code § 6500.)

What is the age of consent for sexual activity?

While no statutes specifically establish an age at which a minor legally may consent to sexual activity, there are criminal penalties for consensual sexual activity with a minor who is under 18 years of age. (Penal Code § 261.5 – prohibiting “unlawful sexual intercourse” with a minor under 18, not the spouse of the perpetrator.)

What is the difference between children’s “normal” sex play and sexual abuse? The lack of contemporary normative data regarding sexual activity among young children makes it difficult to distinguish between normal sex play and sexual abuse. It is clear, however, that very young children without exposure or experience do not usually have substantial or detailed knowledge about sexual activity. The child who exhibits developmentally inappropriate behaviors has probably either been exposed to that behavior or has experienced it. Exposure may have occurred directly, by observing people engaged in those activities, or through a personal experience, or indirectly through television or magazine articles.

Factors to be considered, in addition to developmental appropriateness, include the dynamics of the situation. Was coercion, threat, intimidation or force involved? Were the children similar in age and size? Even in cases involving children of similar age and size, it is possible that the activity is abusive if threat, force or coercion is present.

Differences in emotional maturity and status must be evaluated as well. For example, a child who has been delegated the authority of “babysitter” by parents has a distinct status or power advantage over other children, even if the age differential is not large.

B. Do I Have To Report Consensual Sexual Intercourse Involving Children?

Remember the rule of when you have to report abuse –

“A mandated reporter shall make a report . . . 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.” (Cal. Penal Code § 11166(g).)

Yes, if you believe that sexual intercourse has occurred between children, you must make a report. It is not important whether the reporter believes that the sexual intercourse is truly

consensual since non-consensual sexual intercourse of minors must be reported. Please refer to the chart on page A-11 to determine if you must report sexual intercourse between children. All incest (that is sexual intercourse between closely related persons) is reportable, whether it is consensual or not. Also, sexual intercourse between a child and an adult is always reportable. Additionally, abuse in any intimate relationship, regardless of age, is a crime.

Remember, "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. (Penal Code § 11166(1)(1).)

C. Do I have To Report Emotional Damage?

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others, should make a report to an agency specified in Penal Code section 11165.9.

VII. WHAT IS NOT CHILD ABUSE?

A. Children Fighting:

Injuries caused by children fighting by mutual consent. So, if horseplay² is interaction by mutual consent, that is not child abuse.

B. Spiritual Treatment:

A child receiving treatment by spiritual means, or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the child does not constitute neglect.

C. Reasonable Force:

Injuries caused by reasonable and necessary force used by a peace officer acting within the scope of his or her employment.

Injuries caused by reasonable and necessary force: When used by public school personnel to stop a disturbance that is threatening physical injury to someone or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of a child.

D. Pregnancy:

Pregnancy of a minor, regardless of age, does not, in and of itself, constitute the basis of a reasonable suspicion of sexual abuse.

² Defined as rough or boisterous play by Merriam-Webster's Dictionary.

E. Past Abuse of a Child Who Is an Adult at the Time of the Disclosure:

If an adult claims that they were abused as a child, the adult should be informed to call local law enforcement to make a complaint.

F. Maternal Substance Abuse and Positive Toxicology Screen at Birth:

A positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child under the Health and Safety Code. If other factors are present that indicate risk to a child, then a child abuse report must be made. A report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to a parent's substance abuse shall be made only to a county welfare department and not to law enforcement.

G. Sudden Infant Death Syndrome (SIDS): SIDS is the unexpected, sudden death of a infant who is under 1 year of age. This should not be reported as child abuse.

VIII. ACTUAL CASES REGARDING FAILURE TO REPORT.

Mandated reporters can be prosecuted for their previous failure to immediately report known or suspected child abuse in cases where reporting was legally required.

A. 2012 San Jose Case.

In a 2012 criminal jury trial in San Jose, California, the jury convicted a former principal of failing to report suspected sexual abuse of a child by a teacher. The 36-year-old former principal was found guilty of a misdemeanor and was sentenced to two years of probation, \$602 in fines, and 100 hours of community service. All jurors agreed that the former principal had the best intentions, but according to the prosecutor, she was a "nice person who made a terrible, terrible judgment call."

The prosecution presented strong evidence against the former principal demonstrating that she inserted her own judgment and ultimately believed the teacher over the child and her mother and, therefore, failed to report an alleged act of sexual abuse. The child and her mother came to the principal's office in October 2011 and reported a disturbing incident. The mother commented that she learned of the incident when she came across a crusty white stain on the sleeve of her daughter's navy blue jacket. The child told the principal that her teacher had summoned her to the classroom and blindfolded her with no one else there, made her lie down on the floor, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around till she tasted a salty liquid. The prosecutor told the jury that "[a]nyone with common sense could see the child reported a sex act."

Instead of complying with her mandated reporter obligations and report the incident to the police or child welfare agency, the principal called her district's head of human resources who advised her to interview the teacher. The teacher claimed that he called the girl into his classroom to prepare a lesson on Helen Keller and described that he used a bath sponge on her foot and legs

and put a bottle containing salty water into her mouth. The principal believed the teacher because he appeared "forthright and at ease."

This is an example of a tragic case where a child was subjected to inappropriate sexual contact with her teacher. She and her mother reported the incident and instead of reporting further to the proper authorities, the principal chose to investigate the incident and insert her own judgment. This was her downfall. She has lost her job and will now be teaching other educators about the proper reporting of suspected child abuse as part of her community service.

B. 2013 Santa Ana Case.

On January 15, 2013, a veteran middle school math teacher was found guilty by a jury in Santa Ana, California of one misdemeanor count of failing to timely report the possible sexual assault of an 11-year-old student. She was sentenced soon thereafter to one year of probation and 20 hours of community service for her failure to properly report. The jury found that the teacher knew she was a mandated reporter as she was required by her school district to participate in annual training that covered the issue and was given yearly written notice of her responsibility under the law, the procedures for reporting, and possible punishment for non-compliance with the law. She annually signed an acknowledgment that she read this material.

Despite this knowledge of the law, the teacher failed to comply with her reporting obligations when she was made aware on May 30, 2012 by an 11-year-old female student that the student was being sexually assaulted by a relative in her home. The teacher instructed the student to write a statement detailing the abuse. She then looked for a school counselor, but when she could not locate the counselor or other administrators, she sent the child home without reporting the potential abuse. The teacher did report to a school counselor the following day and the Orange County Social Services Agency was immediately contacted. The teacher erroneously believed that her responsibility was solely to report possible abuse to a school counselor and testified in her criminal trial that she acted appropriately. She was obviously terribly mistaken.

C. 2013 Redlands Case.

More recently, the Redlands, California Police Department began an investigation pursuant to a warrant into whether Redlands Unified School District teachers, school administrators and district administrators, illegally failed to report suspected child abuse. In early July 2013, it became apparent that District personnel waited six weeks to tell police about allegations of a sexual relationship between a teenage student and a teacher who later gave birth to his baby. In the middle of May, the District began investigating allegations that a 28-year-old high school teacher was sexually involved with one of her male teenage students. District administrators interviewed the student and the teacher, yet did not notify Redlands Police because both the student and the teacher adamantly denied any improper relationship. District personnel felt there was no credible evidence of child abuse and, therefore, did not report.

On July 1, the teenager's mother complained to school personnel about the teacher. This prompted the District Assistant Superintendent to contact Police immediately with the mother present. The teacher was arrested later that day and has since been charged with 30 counts of sexual intercourse with a minor and 11 counts of oral copulation with a minor.

The Redlands Unified Superintendent has denied any wrongdoing in a recently published statement and claimed that the District did not receive credible information about a possible sexual relationship until July 1 when the teenager's mother came forward. It remains to be seen if any school personnel will ultimately be prosecuted for failing to timely report suspected child abuse. In any event, the police and the public are certainly watching.

We provide this information to encourage all mandated reporters to err on the side of over-reporting and report known or suspected child abuse or neglect immediately to the appropriate authorities. In addition to significant harm to children, a failure to report may ultimately result in criminal prosecutions, suspensions or revocations of credentials, and loss of a mandated reporter's job.

SUSPECTED CHILD ABUSE REPORT

To Be Completed by **Mandated Child Abuse Reporters**
Pursuant to Penal Code Section 11166

CASE NAME: _____

PLEASE PRINT OR TYPE

CASE NUMBER: _____

A. REPORTING PARTY	NAME OF MANDATED REPORTER	TITLE	MANDATED REPORTER CATEGORY		
	REPORTER'S BUSINESS/AGENCY NAME AND ADDRESS	Street	City	Zip	
	REPORTER'S TELEPHONE (DAYTIME) ()	SIGNATURE		DID MANDATED REPORTER WITNESS THE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
B. REPORT NOTIFICATION	<input type="checkbox"/> LAW ENFORCEMENT <input type="checkbox"/> COUNTY PROBATION		AGENCY		
	<input type="checkbox"/> COUNTY WELFARE / CPS (Child Protective Services)				
	ADDRESS	Street	City	Zip	
C. VICTIM One report per victim	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY
	ADDRESS	Street	City	Zip	TELEPHONE ()
	PRESENT LOCATION OF VICTIM		SCHOOL	CLASS	GRADE
	PHYSICALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DEVELOPMENTALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	OTHER DISABILITY (SPECIFY)		PRIMARY LANGUAGE SPOKEN IN HOME
	IN FOSTER CARE? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF VICTIM WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: <input type="checkbox"/> DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> FAMILY FRIEND <input type="checkbox"/> GROUP HOME OR INSTITUTION <input type="checkbox"/> RELATIVE'S HOME			TYPE OF ABUSE (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER (SPECIFY)
	RELATIONSHIP TO SUSPECT		PHOTOS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID THE INCIDENT RESULT IN THIS VICTIM'S DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK	
D. INVOLVED PARTIES	VICTIM'S SIBLINGS				
	NAME		BIRTHDATE	SEX	ETHNICITY
	1. _____	_____	_____	_____	_____
	2. _____	_____	_____	_____	_____
	VICTIM'S PARENTS/GUARDIANS				
	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY
	ADDRESS	Street	City	Zip	HOME PHONE ()
			BUSINESS PHONE ()		
	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY
	ADDRESS	Street	City	Zip	HOME PHONE ()
		BUSINESS PHONE ()			
SUSPECT					
SUSPECT'S NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY	
ADDRESS	Street	City	Zip	TELEPHONE ()	
OTHER RELEVANT INFORMATION					
E. INCIDENT INFORMATION	IF NECESSARY, ATTACH EXTRA SHEET(S) OR OTHER FORM(S) AND CHECK THIS BOX <input type="checkbox"/> IF MULTIPLE VICTIMS, INDICATE NUMBER: _____				
	DATE / TIME OF INCIDENT	PLACE OF INCIDENT			
	NARRATIVE DESCRIPTION (What victim(s) said/what the mandated reporter observed/what person accompanying the victim(s) said/similar or past incidents involving the victim(s) or suspect)				

DEFINITIONS AND GENERAL INSTRUCTIONS FOR COMPLETION OF FORM SS 8572

All Penal Code (PC) references are located in Article 2.5 of the PC. This article is known as the Child Abuse and Neglect Reporting Act (CANRA). The provisions of CANRA may be viewed at: <http://www.leginfo.ca.gov/calaw.html> (specify "Penal Code" and search for Sections 11164-11174.3). A mandated reporter must complete and submit the form SS 8572 even if some of the requested information is not known. (PC Section 11167(a).)

I. MANDATED CHILD ABUSE REPORTERS

- Mandated child abuse reporters include all those individuals and entities listed in PC Section 11165.7.

II. TO WHOM REPORTS ARE TO BE MADE ("DESIGNATED AGENCIES")

- Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department or sheriff's department (not including a school district police or security department), the county probation department (if designated by the county to receive mandated reports), or the county welfare department. (PC Section 11165.9.)

III. REPORTING RESPONSIBILITIES

- Any mandated reporter 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 or neglect shall report such suspected incident of abuse or neglect to a designated agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof *within 36 hours* of receiving the information concerning the incident. (PC Section 11166(a).)
- No mandated reporter who reports a suspected incident of child abuse or neglect shall be held civilly or criminally liable for any report required or authorized by CANRA. Any other person reporting a known or suspected incident of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by CANRA unless it can be proven the report was false and the person knew it was false or made the report with reckless disregard of its truth or falsity. (PC Section 11172(a).)

IV. INSTRUCTIONS

- **SECTION A - REPORTING PARTY:** Enter the mandated reporter's name, title, category (from PC Section 11165.7), business/agency name and address, daytime telephone number, and today's date. Check yes-no whether the mandated reporter witnessed the incident. The signature area is for either the mandated reporter or, if the report is telephoned in by the mandated reporter, the person taking the telephoned report.

IV. INSTRUCTIONS (Continued)

- **SECTION B - REPORT NOTIFICATION:** Complete the name and address of the designated agency notified, the date/time of the phone call, and the name, title, and telephone number of the official contacted.
- **SECTION C - VICTIM (One Report per Victim):** Enter the victim's name, address, telephone number, birth date or approximate age, sex, ethnicity, present location, and, where applicable, enter the school, class (indicate the teacher's name or room number), and grade. List the primary language spoken in the victim's home. Check the appropriate yes-no box to indicate whether the victim may have a developmental disability or physical disability and specify any other apparent disability. Check the appropriate yes-no box to indicate whether the victim is in foster care, and check the appropriate box to indicate the type of care if the victim was in out-of-home care. Check the appropriate box to indicate the type of abuse. List the victim's relationship to the suspect. Check the appropriate yes-no box to indicate whether photos of the injuries were taken. Check the appropriate box to indicate whether the incident resulted in the victim's death.
- **SECTION D - INVOLVED PARTIES:** Enter the requested information for: Victim's Siblings, Victim's Parents/Guardians, and Suspect. Attach extra sheet(s) if needed (provide the requested information for each individual on the attached sheet(s)).
- **SECTION E - INCIDENT INFORMATION:** If multiple victims, indicate the number and submit a form for each victim. Enter date/time and place of the incident. Provide a narrative of the incident. Attach extra sheet(s) if needed.

V. DISTRIBUTION

- **Reporting Party:** After completing Form SS 8572, retain the yellow copy for your records and submit the top three copies to the designated agency.
- **Designated Agency:** *Within 36 hours* of receipt of Form SS 8572, send **white copy** to police or sheriff's department, **blue copy** to county welfare or probation department, and **green copy** to district attorney's office.

ETHNICITY CODES

1 Alaskan Native	6 Caribbean	11 Guamanian	16 Korean	22 Polynesian	27 White-Armenian
2 American Indian	7 Central American	12 Hawaiian	17 Laotian	23 Samoan	28 White-Central American
3 Asian Indian	8 Chinese	13 Hispanic	18 Mexican	24 South American	29 White-European
4 Black	9 Ethiopian	14 Hmong	19 Other Asian	25 Vietnamese	30 White-Middle Eastern
5 Cambodian	10 Filipino	15 Japanese	21 Other Pacific Islander	26 White	31 White-Romanian