

Administrative Regulation

STUDENTS

Child Abuse and Neglect (Reporting Procedures)

Duty to Report

Certificated employees and classified employees trained in child abuse identification and reporting shall report known or suspected child abuse to a child protective agency by telephone immediately or as soon as practically possible and in writing within thirty-six (36) hours. The reporting duties are individual and cannot be delegated to another individual.

Definitions

1. Child Abuse," as defined by law, pursuant to Penal Code Sections 273 and 11165.6, and for purposes of this regulation, includes the following:
 - a. An intentional physical injury inflicted on a child.
 - b. Physical neglect, including both severe and general neglect, resulting in a child's negligent treatment or maltreatment.
 - c. Sexual abuse, including both sexual assault and sexual exploitation.
 - d. Emotional abuse and emotional deprivation, including willful cruelty or unjustifiable punishment.
 - e. Severe corporal punishment.

"Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman 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 or engaged in 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, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Education Code Section 44807.

2. "Mandated Reporters" are those people defined by law as "child care custodians," "health practitioners," child visitation monitors," and "child protective agency" employees. Mandated reporters include virtually all school employees. The following school personnel are required to report:

Teachers, administrators, supervisors of child welfare and attendance, certificated pupil personnel employees, child care institution employees, Headstart teachers, school psychologists, licensed nurses, counselors, child abuse prevention program presenters, and those instructional aides or other classified employees trained in child abuse reporting.

3. "Child Protective Agencies" are those law enforcement and child protective services responsible for investigating child abuse reports, including the local police or sheriff department, county welfare or juvenile probation department and child protective services.
4. "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. (Penal Code Section 11166)

Reporting Procedures

1. To report known or suspected child abuse, any employee shall report by telephone to the local child protective agency.

Child Protective Services
55 West Younger Street
San Jose, CA 95110
(408) 299-2071

The telephone report must be made immediately or as soon as practically possible, upon suspicion. The verbal report will include:

- a. The name of the person mailing the report.
- b. The child's name.
- c. The child's present location.
- d. The nature and extent of any injury.
- e. Any other information the child protective agency requests, including the information that led the mandated reporter to suspect child abuse.

When the verbal 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. Within thirty-six (36) hours of making the telephone report, the mandated reporter will complete and mail to the local child protective agency a written report, which includes a completed Department of Justice form. (DOJ 558572) Mandated reporters may obtain copies of the Department of Justice form from either the district or the local child protective agency.

Detailed instructions are included on the back of the form. Reporters may ask the site administrator for help completing and mailing the form; however, the mandated reporter is still responsible for ensuring that the written report is correctly filed. Whenever a site administrator is notified of a child abuse report, the site administrator shall inform the Superintendent or designee.

The completed form shall be sent to the Pupil Services Department for mailing to CPS. One copy will be given to the principal for a child abuse confidential file (optional). The mandated reporter may keep a copy of the completed form.

3. Employees reporting child abuse to a child protective agency are encouraged, but not required, to notify the site administrator or designee as soon as possible after the initial verbal telephone

report.

If the mandated reporter does not disclose his/her identify to a district administrator, he/she shall at least provide or mail a copy of the written report to the district without his/her signature or name.

Legal Responsibility and Liability

1. Mandated reporters have absolute immunity. District employees required to report are not civilly or criminally liable for filing a required or authorized report of known or suspected child abuse.
2. A mandated reporter who fails to report an instance of child abuse, which he/she knows to exist or reasonably should know to exist, is guilty of a misdemeanor punishable by confinement in jail for a term not to exceed six (6) months, or by a fine of not more than one thousand dollars (\$1,000), or both. The mandated reporter may also be held civilly liable for damages for any injury to the child after failing to report.
3. When two (2) or more persons who are required to report jointly have knowledge of a suspected instance of child abuse, the telephone report may be made by any one of them who is selected by mutual agreement, and a single report may be made and signed by the person selected. However, if any person who knows or should know that the person designated to report failed to do so, that person then has a duty to report.
4. The duty to report child abuse is an individual duty that no supervisor or administrator may impede or inhibit. Furthermore, employees shall not be subject to any sanction for filing a child abuse report.

Victim Interviews

Upon request, a child protective agency representative may interview a suspected child abuse victim during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home. The child shall be given the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide the child selects. The child protective agency representative shall inform the child of that right prior to the interview. (Penal Code Section 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 legal requirements:

1. The purpose of the selected person's presence at the interview is to support 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 Reporting Act (Penal Code Section 11164, et seq.), a violation of which may be punished as specified by Penal Code Section 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 Section 11174.3)

The principal or designee shall schedule the interview and ensure that the student has the opportunity to make up any class work missed during the interview.

Release of Child to Peace Officer

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse, the Superintendent and/or principal shall not notify the parent or guardian as required in other instances of removal of a child from school, but rather shall provide the peace officer with the address and telephone number of the child's parent or guardian.

It is the peace officer's responsibility to notify the parent or guardian of the situation. Peace officers will be asked to sign an appropriate release or acceptance of responsibility form.

When School Employees Are Accused of Child Abuse

Regardless of who child abusers may be, mandated reporters' major responsibilities are to: (1) identify incidents of suspected child abuse; and, (2) comply with laws requiring reporting suspected abuse to the proper authorities. Determining whether or not the suspected abuse actually occurred is not the reporter's responsibility. The child protective agency will make that determination and follow-up investigation.

Parents/guardians who reasonably suspect that a district employee or other person at a school site has engaged in child abuse should file a formal report with the local child protective agency by telephone, in person, or in writing. The parent/guardian filing this report should also notify the district Superintendent.

Parents/guardians or members of the public accusing district employees of child abuse should be made aware of the ramifications of falsely reporting and should be provided with information regarding child abuse and child abuse reporting. Penal Code Section 11172 provides that any person who makes a report of child abuse known to be false or with reckless disregard for the truth or falsity of the report is liable for any damages caused.

The Assistant Superintendent of Personnel Services shall be notified immediately whenever a district employee is accused of child abuse.

Adopted: February 25, 1988;

Revised: July 15, 1997