

MANDATED REPORTING - CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS

WHO IS A MANDATED REPORTER

The Child Abuse and Neglect Reporting Act identifies **all teachers, aides, administrators, classified employees** and any other school district employees, as well as any employee of a public or private organization whose duties require direct contact and supervision of children as mandated reporters

WHAT MUST BE REPORTED

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.**

You may also make a report if you have knowledge of or reasonably suspect 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.

WHAT IS CHILD ABUSE OR NEGLECT

- A. Physical injury inflicted by other than accidental means upon a child by another person.
- B. Sexual abuse, meaning sexual assault or sexual exploitation.
- C. Neglect, which includes general neglect and severe neglect.
- D. Willful harming or injuring of a child or the endangering of the person or health of a child.
- E. Cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

WHAT IS NOT CHILD ABUSE

- A. Injury caused by two children fighting during a mutual altercation.
- B. Injury caused by **reasonable and necessary** force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
- C. Injury caused by any employee of a public school during the performance of his/her duties, while exercising the same degree of physical control over a pupil that a parent would be legally privileged to exercise. This shall not exceed the amount of physical control **reasonably necessary** to maintain order, protect property, or protect the health and safety of pupils.
- D. Injury caused by a public school employee when using an amount of force that is **reasonable and necessary** to quell a disturbance, for self-defense, or to obtain possession of a weapon within the control of the pupil.
- E. Consensual sexual activity between minors may or may not be reportable. Please see the chart under "Mandated Reporting of Consensual Sexual Activity." Pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

WHEN TO REPORT

The report shall be made **immediately** or as soon as is practicably possible **by telephone**, and the mandated reporter shall prepare and send, fax, or electronically transmit a **written report within 36 hours.**

TO WHOM TO REPORT

The report shall be made to any police department, sheriff's department, or the county welfare department. In Tulare County, the number to call is **1-800-331-1585, at any time of day or night.**

Be prepared to give your name, business address and position; the child's name and address, school and grade, and present location; (if known) the names and addresses of the child's parents and of the

person(s) who might have abused the child; and the facts which led to your reasonable suspicion of child abuse or neglect.

If the child is living in a home or institution which you know or reasonably suspect is unsuitable for the child because of abuse or neglect, you must bring that condition to the attention of the agency to which you make the report.

REPORTING IS AN INDIVIDUAL DUTY

- A. The duty to report is **specific to the individual who suspects the child abuse**. However, if a group of employees jointly have knowledge of or suspect child abuse or neglect, they may agree among them that a selected one will make the report on behalf of them all.
- B. Reporting a suspected case of child abuse or neglect to an employer or another school employee is not a substitute for making the mandated report to the appropriate agency.
- C. No supervisor or administrator may inhibit a mandated reporter from making a required report or sanction them for making it. The employer does not have a right to know the identity of an employee who makes a mandated report.

LEGAL PROTECTIONS FOR THOSE WHO REPORT

- A. **No** mandated reporter shall incur **civil or criminal liability** for any report which he or she is mandated or authorized by law to make, even if the reporter acquired the knowledge or reasonable suspicion outside of his or her professional capacity or outside the scope of his or her employment.
- B. No mandated reporter shall incur civil or criminal liability for taking **photographs**, or having photographs taken, of a suspected victim of child abuse or neglect and submitting them with the report.
- C. No person shall incur civil or criminal liability for providing an investigating agency with **access** to a suspected victim of child abuse or neglect.

PENALTIES FOR FAILURE TO REPORT

- A. A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect is guilty of a **misdemeanor**. Punishment is up to 6 months in jail, a fine of \$1,000, or both. If a mandated reporter intentionally conceals his or her failure to report an incident known by the reporter to be abuse or severe neglect, the failure to report is a continuing offense until discovered.
- B. The Commission for Teacher Preparation and Licensing can privately admonish, publicly reprove, **revoke or suspend a certificated person's credential** for persistent defiance of, or refusal to obey, the laws regulating the duties of persons serving in the public school system, including the duty to make mandated reports.
- C. Under certain circumstances, a mandated reporter may be held **civily liable** for failing to make a required report.

CONFIDENTIALITY

A person making a mandated report must give his/her name, but his/her identity is kept confidential. The reports themselves are also confidential, and may be disclosed only to those persons and agencies who are authorized by law to receive them. Violation is a misdemeanor.

QUESTIONING AND REMOVAL OF A CHILD

- A. A suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, by a person authorized to investigate a report of possible abuse or neglect.
- B. The investigator must inform the child of his or her right to select any adult member of the school staff to be present during the questioning. The staff member must not participate, but only lend support, and he or she is subject to all confidentiality requirements.
- C. If it is necessary for a social worker to take the child into temporary custody, the school should have the worker sign the appropriate form, indicating the legal basis for removing the child. It is the social worker's responsibility to notify the parent.
 - a. If the child is released to a peace officer, the school must immediately notify the parent. However, if the parent is the one suspected of abuse, notification of the parent should be handled by the officer.

WHEN IN DOUBT, REPORT!