

MANDATED REPORTING OF CONSENSUAL SEXUAL ACTIVITY

ACT	PENAL CODE	PERPETRATOR	VICTIM	REPORT ?
Unlawful sexual intercourse	261.5 (d)	21 or older	15 or under	Yes
Unlawful sexual intercourse	261.5 (a)	Any age	17 or under	No (see note 1)
Sodomy	286	Any age (see note 2)	17 or under	Yes
Lewd or lascivious act*	288 (a)	14 or older	13 or under	Yes (see note 3)
Lewd or lascivious act*	288 (a)	13 or under	13 or under	No (see note 4)
Lewd or lascivious act*	288 (c)(1)	At least 10 years older than the victim	14 or 15	Yes
Oral copulation	288 (a)	Any age	17 or under	Yes

* Including unlawful sexual intercourse.

Notes:

1. Unlawful sexual intercourse must be reported if:
 - a. It meets the definition of Penal Code § 261.5(d): the adult is 21 or older and the victim is 15 or younger; or
 - b. It meets the definition of a lewd or lascivious act under Penal Code § 288; or
 - c. There are any factors which indicate the sexual conduct may not be voluntary; or
 - d. The information is shared with a school counselor, who must report it to law enforcement when ordered to do so by a court order, to aid in the investigation of a crime, or when ordered to testify in any administrative or judicial hearing (Education Code § 49602).
2. Children under the age of 14 are presumed to be incapable of committing crimes. However, this presumption can be rebutted by clear proof that, at the time of committing the act, the child knew of its wrongfulness (Penal Code § 26).
3. A lewd or lascivious act must be reported if one of the persons is 14 or older and the other child is under 14, even if they are of similar age and the act is voluntary.
4. A lewd or lascivious act need not be reported if:
 - a. Both persons are under 14, and
 - b. They are of similar age, and
 - c. The act is voluntary.

However, a child under 14 may be found guilty of a lewd or lascivious act if there is clear proof that he/she knew that it was wrong, as required by Penal Code § 26.

Also, the provisions of Education Code §49602 may require reporting as set forth above in note 1.

Contact the District Office for assistance.