



Managers Toolkit to Comply with CANRA

Many University employees are required by law to report crimes against children or dependent adults and elders to law enforcement or social services authorities. California's *Child Abuse and Neglect Reporting Act (CANRA)* imposes an obligation to report child abuse or neglect of certain individuals and establishes procedures to report suspected child abuse or neglect or the suspected abuse of dependent adults and elders.

This toolkit is intended to provide University managers and employees with the background information, forms, and resources needed to achieve compliance with CANRA. The tools are grouped in the steps a department would take to provide employees with an explanation of their reporting requirements, capture compliance efforts in the Talent Acquisition Management (TAM) job posting system and Human Capital Management system (HCM), and sustain periodic audits of CANRA compliance.

Also provided in this toolkit are many common questions about CANRA and the obligation to report suspected child abuse or neglect. The toolkit is organized with the following forms:

CONTENTS

<u>Employee Handout on Mandated Reporters</u>	Page 2
<u>Instructions for Departments to Enter Mandated Reporter</u>	Page 5
<u>Statement Acknowledging Requirement to Report Child Abuse</u>	Page 6
<u>Statement Acknowledging Requirement to Report Suspected Abuse of Dependent Adults and Elders</u>	Page 7
<u>Appendix 1: Who is a Mandated Reporter Under CANRA?</u>	Page 8
<u>Appendix 2: CANRA - Selected Provisions</u>	Page 9
<u>Appendix 3: Elder Abuse and Dependent Adult Civil Protection Act - Selected Provisions</u>	Page 12



EMPLOYEE HANDOUT ON MANDATED REPORTERS

What is CANRA? It is a state law that requires certain University employees to report known or suspected child abuse or neglect. Employers are required to identify “Mandated Reporters” and secure acknowledgment of their reporting obligations as a condition of employment.

Who is a Mandated Reporter¹?

An employee is considered a mandated reporter if his/her duties require:

- Contact with children on a regular basis; or
- Direct contact and supervision of children; or
- Supervision of other mandated reporters.

Mandated reporters at UC Berkeley include:

- Teachers and instructional aides whose duties require direct contact with and supervision of children.
- Administrators and employees whose duties require direct contact with and supervision of children.
- Administrators and employees in day care centers and youth recreation programs; medical and mental health professionals, trainees, and interns; and police employees.
- Coaches (including graduate assistants).

Faculty members whose contact with children is limited to registered UC students are **not** mandated reporters.

Faculty members may be considered mandated reporters if they have:

- Responsibility for instruction at the pre-school, elementary, or high school level;
- Direct contact and supervision of children (such as hiring minors to assist with research);
- Supervision of other mandated reporters.

Volunteers in University sponsored programs are generally **not** considered mandated reporters. However, departments must consider the qualifications or services provided by the volunteer to determine if he or she meets the criteria of a mandated reporter. Volunteers who direct or manage official University programs could be considered mandated reporters.

What are CANRA's Basic Reporting Provisions?

- Reporting Abuse of Children*

A Mandated Reporter must make a report whenever, in his/her professional capacity or within the scope of his/her employment, he/she has knowledge of, or observes a person under the age of eighteen whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

- Reporting Abuse of Dependent Adults or Elders*

Mandatory Reporters are also required to report suspected abuse or neglect of dependent adults or elders when told by the dependent adult or elder that he/she has experienced abuse or neglect, or when the Mandated Reporter reasonably suspects abuse or neglect of a dependent adult or elder.

What Types of Child Abuse and Neglect Must Be Reported?

Mandated Reporters must report the following types of child abuse and neglect:

- Sexual abuse meaning sexual assault or sexual exploitation of a child.
- Neglect meaning the negligent treatment, lack of treatment, or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare.
- Physical injury inflicted by other than accidental means.
- Willful harming or injuring or endangering a child meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer, unjustifiable physical pain or mental suffering, or causes or permits a child to be placed in a situation in which the child or child's health if endangered.

¹ The full list of mandated reporter categories is located in appendices 1 & 2 of the *UC Policy on Reporting Child Abuse and Neglect* at: <http://hrweb.berkeley.edu/files/attachments/CANRA-statements.pdf>.



-
- Unlawful corporal punishment or injury willfully inflicted on a child and resulting in traumatic conditions.

What are the Reporting Requirements?² A report must be made when a 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 he or she knows or reasonably suspects has been the victim of child abuse or neglect. Mandatory reporters must make an initial external report immediately or as soon as possible to a designated agency by phone. Then, they must submit a written follow up report by mail, fax or other electronic means within 36 hours. Under UC policy, mandatory reporters must also make an internal report.

Where Should a Mandated Reporter Make a Report of Suspected Child Abuse and Neglect?

Reports of suspected child abuse or neglect must be made to:

- any police department or sheriff's department,
- county probation department (if designated by the county to receive mandated reports),
- county welfare departments, or
- the campus police department.

What Forms Does a New Employee Have to Complete to Comply With CANRA?

All new employees who are in mandated reporter positions must sign statements that they have knowledge of CANRA and will comply with its provisions. Campus departments will determine which positions are mandated reporters and obtain the signed forms as a prerequisite to employment. The HR administrator will enter the date the employee signed the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT CHILD ABUSE* and the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS*. The forms will then be placed in the employee's personnel file. The forms are located at: <http://hrweb.berkeley.edu/files/attachments/CANRA-statements.pdf>.

What Forms Does a Current Employee Have to Complete to Comply With CANRA?

All current employees who are in mandated reporter positions must sign statements acknowledging that they have knowledge of CANRA and will comply with its provisions. If such statements are not on file, the department must obtain them from the employee. Campus departments will determine which positions are mandated reporters and obtain the signed forms as a prerequisite to employment. The HR administrator will enter the date the employee signed the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT CHILD ABUSE* and the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS*. The forms will then be placed in the employee's personnel file. The forms are located at: <http://hrweb.berkeley.edu/files/attachments/CANRA-statements.pdf>.

Is there Immunity for Making a Report?

Those persons legally mandated to report suspected child abuse have immunity from criminal or civil liability for reporting as required or authorized by the child abuse and neglect reporting law.

May a University Employee Report Child Abuse Even if They Are Not a Mandated Reporter?

Any person who has knowledge of or observes a child whom he or 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.

May Child Abuse Reports be Made Anonymously?

Mandated reporters must identify themselves when making child abuse reports. However, persons not legally mandated to report may make anonymous reports.

Will My Identity and My Report be Confidential?

The identity of all persons who report under CANRA will be confidential and disclosed only:

² Reporting requirements under the *UC Policy on Reporting Child Abuse and Neglect* are listed in full at: <http://hrweb.berkeley.edu/files/attachments/CANRA-statements.pdf>.



-
- Among agencies receiving or investigating mandated reports;
 - To counsel in certain cases arising out of a report;
 - To a licensing agency when abuse or neglect in out-of-home care is reasonably suspected;
 - When those persons waive confidentiality; or
 - By court order.

What if a Mandated Reporter is Not Sure That Abuse Has Occurred?

Confirmation of abuse is not required. Reporters must report whenever they have "reasonable suspicion" that abuse has occurred.

Why do Volunteers (non-employees) Have to Sign the Acknowledgement Forms if They Work for Programs That are Run or Sponsored by the University?

Volunteers in University sponsored programs are generally not considered mandated reporters. However, departments must consider the qualifications or services provided by the volunteer to determine if he or she meets the criteria of a mandated reporter.

Volunteers who direct or manage official University programs could be considered mandated reporters. For example, a volunteer who is a University "official," such as a volunteer who runs a retreat program for kids on behalf of the University, would be considered a mandated reporter.

Why are some faculty considered Mandated Reporters under CANRA?

UC Berkeley faculty members are not generally considered Mandated Reporters under CANRA, even when students under the age of 18 enroll in their classes. However, some faculty members may be Mandated Reporters under other provisions of the Act. The following are some examples of situations in which a faculty member would be considered a Mandated Reporter:

- Physicians, nurses, and other health professionals;
- Faculty members and other academic personnel who have responsibility for instruction at the preschool, elementary, or high school level such as those who teach high school seminars or who serve as mentors in on-campus high school internship programs;
- Individuals whose University duties require direct contact and supervision of children are Mandated Reporters. This group may include faculty members who hire children under age 18 to assist with scholarship, research, or other academic activities as volunteers or interns.

Why are University Coaches Considered Mandated Reporters under CANRA?

Effective January 1, 2013, athletic coaches are considered mandated reporters. This includes, but is not limited to, an assistant coach or a graduate assistant involved in coaching.

Do departments have to provide employees with copies of CANRA?

No. Employees are asked to sign forms acknowledging their responsibility to report known or suspected abuse in compliance with CANRA. The acknowledgement forms provide employees with a link to the complete statute (California Penal Code sections 11164-11174.4) available at [Official California Legislative Information](http://leginfo.ca.gov/pub/07_01_01_11164_11174_4.html).

What happens if a mandated reporter refuses to sign the acknowledgment forms?

For new employees, refusal to sign the mandated reporter acknowledgment forms can be the basis to revoke an offer of employment. For current employees, refusal to sign the mandated reporter acknowledgment forms can be the basis to prohibit the employee's contact with children. Under the UC Policy on Reporting Child Abuse and Neglect, this can lead to disciplinary action up to and including dismissal.

Where Can Employees Find More Information About Campus FAQs? <http://hrweb.berkeley.edu/faq/178>



INSTRUCTIONS FOR DEPARTMENTS TO ENTER MANDATED REPORTER INFORMATION

Entering Mandated Reporter Status in TAM Job Postings

There must be a statement in the job posting letting prospective applicants know if a position is classified as a Mandated Reporter. A department's HR administrator should indicate in the TAM job posting system when a position falls within mandated reporter requirements. The following language is now stored in the Job Posting Library and, when selected, will populate and be made visible to all applicants subject to reporting requirements:

"This position has been identified as a mandated reporter required to report the observed or suspected abuse or neglect of children, dependent adults, or elders to designated law enforcement or social service agencies. We reserve the right to make employment contingent upon completion of signed statements acknowledging the responsibilities of a mandated reporter."

Steps to Indicate Mandated Reporter Status in TAM:

1. Navigate to Job Details > Job Descriptions
2. Click on Description Type Mandated Reporter > Description ID Mandated Reporter
3. Click on the OK button

Tracking Mandated Reporter Form Completion in HCM

All current and new employees who are in mandated reporter positions must sign statements acknowledging that they have knowledge of CANRA and will comply with its provisions. If such statements are not on file, the department must obtain them from the employee.

Campus departments will determine which positions are mandated reporters and obtain the signed forms as a prerequisite to employment. The HR administrator should enter the date the employee signed the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT CHILD ABUSE* and the *STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS*, then place the forms in the employee's personnel file. The forms are located in this toolkit and are also available on UC Berkeley's HR website at: <http://hrweb.berkeley.edu/files/attachments/CANRA-statements.pdf>.

A department's HR administrator should indicate on HCM when an employee has signed and completed mandated reporter forms.

Steps to Track Mandated Reporter Form Completion in HCM:

1. Navigate to Workforce Administration > Job Data
2. Bring up the employee's record.
3. Do NOT click to add a new row. (This is the ONLY action in the Job Data section of Workforce Administration that does not require a new row.)
4. Click on the Employment Data link at the bottom of the page.
5. In the Mandatory Reporting Signature Date field, enter the appropriate date.
6. Click the Save button.
7. Place the form in the employee's personnel file.



STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT CHILD ABUSE

Name:
Title:
Campus:

California law *requires* certain people to report known or suspected child abuse or neglect. You have been identified as one of those people – a “mandated reporter.” A summary of mandated reporter categories is provided at Appendix 1. Relevant provisions of the Child Abuse and Neglect Reporting Act (CANRA) are provided in Appendix 2. The complete statute can be found online at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>.

WHEN REPORTING ABUSE IS REQUIRED

A mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has knowledge of or observes a person under the age of 18 years (even an enrolled or registered student) whom he or she knows or reasonably suspects has been the victim of child abuse or neglect must report the suspected incident. The reporter must contact a designated agency immediately or as soon as practically possible by telephone, and must prepare and send a written report within 36 hours of receiving the information concerning the incident. [CANRA § 11165.6]

ABUSE THAT MUST BE REPORTED

- *Physical injury* inflicted by other than accidental means. [CANRA § 11165.6]
- *Sexual abuse* meaning sexual assault or sexual exploitation of a child. [CANRA § 11165.1]
- *Neglect* meaning the negligent treatment, lack of treatment, or the maltreatment of a child by a person responsible for the child’s welfare under circumstances indicating harm or threatened harm to the child’s health or welfare. [CANRA § 11165.3]
- *Willful harming or injuring or endangering a child* meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer, unjustifiable physical pain or mental suffering, or causes or permits a child be placed in a situation in which the child or child’s health is endangered. [CANRA § 11165.3]
- *Unlawful corporal punishment or injury* willfully inflicted on a child and resulting in a traumatic condition. [CANRA § 11165.4]

WHERE TO CALL IN AND SEND THE WRITTEN ABUSE REPORT

Reports of suspected child abuse or neglect must be made to any police department or sheriff’s department (not including a school district police or security department), county probation department (if designated by the county to receive mandated reports), or county welfare department. [CANRA § 11165.9] Campus Police accept reports. The written report must include the information described in CANRA § 11167(a) and may be submitted on form SS 8572, available online at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf. In addition, an internal report must be made to your supervisor or to the University Compliance Hotline. This internal report may be made anonymously.

IMMUNITY AND CONFIDENTIALITY OF REPORTER AND OF ABUSE REPORTS

Mandated reporters have immunity from criminal or civil liability for reporting as required or authorized by law. [CANRA § 11172(a)] The identity of a mandated reporter is confidential and disclosed only among agencies receiving or investigating reports, and other designated agencies. [PC § 11167(d)(1)] Reports are confidential and may be redisclosed only to specified persons and agencies. Any violation of confidentiality provided by CANRA is a misdemeanor punishable by imprisonment, fine, or both. [PC § 11167.5(a)-(b)]

PENALTY FOR FAILURE TO REPORT ABUSE

A mandated reporter who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail, a fine of \$1000, or both. [CANRA § 11166(b)]



COPY OF THE LAW

Prior to my employment at the University of California, my employer provided me with a copy of CANRA sections 11165.7, 11166, and 11167. [CANRA § 11166.5(a)]

ACKNOWLEDGEMENT OF RESPONSIBILITY

I have knowledge of my responsibility to report known or suspected child abuse or neglect in compliance with CANRA § 11166.

Signature:

Date:

STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS

Name:

Title:

Campus:

California law *requires* certain people to report known or suspected dependent adult or elder abuse or neglect. You have been identified as one of those people – a “mandated reporter.” Mandated reporters are individuals who have “assumed full or intermittent responsibility for the care or custody of an elder or dependent adult,” as well as health care practitioners, clergy members, and law enforcement personnel. [W&I § 15630(a)]

DEPENDENT ADULTS AND ELDERS

A dependent adult is a California resident aged 18-64 who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. These include persons with physical or developmental disabilities or whose physical or mental abilities have diminished with age. [W&I 15610.23] Elders are California residents age 65 or older. [W&I 15610.27]

WHEN REPORTING ABUSE IS REQUIRED

A mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be dependent adult or elder abuse or neglect, or who is told by a dependent adult or elder that he or she has experienced abuse or neglect, or reasonably suspects abuse or neglect, must report this information by telephone immediately or as soon as practically possible, and by written report within two (2) working days. [W&I 15630(b)]

ABUSE THAT MUST BE REPORTED

- *Physical abuse* [W&I § 15610.63]
- *Neglect* [W&I § 15610.57]
- *Financial abuse* [W&I § 15610.30(a)]
- *Abandonment* [W&I § 15610.65]
- *Isolation* [W&I § 15610.43]
- *Abduction* [W&I § 15610.06]

WHERE TO CALL IN AND SEND THE WRITTEN ABUSE REPORT

If the abuse occurred in a long-term care facility or residential facility serving adults or elders or an adult day program, you must report to either local law enforcement or the local long-term care ombudsman. [W&I § 15630(b)(1)(A)]. Otherwise, you must report to local law enforcement (including Campus Police) or county adult protective services. [W&I § 15630(b)(1)(C)] Forms for submitting written reports may be found online at <http://www.cdss.ca.gov/agedblinddisabled/PG1298.htm>. In addition, an internal report must be made to your supervisor or to the University Compliance Hotline. This internal report may be made anonymously.



PENALTY FOR FAILURE TO REPORT ABUSE

Failure to make a mandatory report may result in fines ranging from \$1000-\$5000 and imprisonment for 6 months to 1 year, depending on the circumstances. [W&I § 15630(h)]

COPY OF THE LAW

Prior to my employment at the University of California, my employer provided me with a copy of the Welfare & Institutions Code (“W&I”) section 15630 (Appendix 3). [W&I § 15659]

ACKNOWLEDGEMENT OF RESPONSIBILITY

I have knowledge of my responsibility to report known or suspected child abuse or neglect in compliance with CANRA § 11166.

Signature:

Date:

**Appendix 1
Who is a Mandated Reporter Under California’s Child Abuse and Neglect Reporting Act (“CANRA”)?**

Type of Entity or Profession	Affected Individuals
postsecondary institutions <i>(as of January 1, 2013)</i>	<ul style="list-style-type: none"> - an employee or administrator whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution - an athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions
public or private schools	teachers, instructional aides, teacher’s aides, teacher’s assistants, classified employees, administrative officers and supervisors of child welfare attendance, and certified pupil personnel employees, administrators or presenters of or counselors in child abuse prevention programs
community care or child day care facilities	licensees, administrators, and employees
day camps	administrators
private youth centers, youth recreation programs, youth organizations	administrators or employees
health care professionals	all licensed health professionals and certain trainees and interns, including: physicians, psychiatrists psychologists, dentists (and residents and interns), podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, marriage and family therapists (and trainees and interns), clinical social workers, professional clinical counselors (and trainees and interns); certified EMTs, paramedics, and other emergency technicians; registered psychological assistants; alcohol and drug counselors; coroners, medical examiners, and others who perform autopsies



Table with 2 columns: Category and Description. Categories include law enforcement and public safety professionals, clergy, any public or private organization, child care institutions, State Department of Education, State Department of Social Services, Head Start Program, commercial photography and filmmaking, and miscellaneous.

Appendix 2

California Child Abuse & Neglect Reporting Act - Selected Provisions

Note: The complete text of CANRA may be found online at http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3.

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
(2) An instructional aide.
(3) A teacher's aide or teacher's assistant employed by any public or private school.
(4) A classified employee of any public school.
(5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
(6) An administrator of a public or private day camp.
(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
(9) Any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis.
(10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
(11) A Head Start program teacher.
(12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
(13) A public assistance worker.
(14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
(15) A social worker, probation officer, or parole officer.
(16) An employee of a school district police or security department.
(17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.



-
- (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner, or any other person who performs autopsies.
- (29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- (30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.
- (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:
- (A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.
- (B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.
- (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.
- (34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.
- (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.
- (36) A custodial officer as defined in Section 831.5.
- (37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
- (38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.
- (39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.
- (40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.
- (b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.
- (c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.
- (d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.
- (e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.
- (f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.
11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 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 to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.
- (1) For purposes of this article, "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. "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; any "reasonable suspicion" is sufficient. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.



-
- (2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.
- (3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.
- (b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.
- (1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
- (2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.
- (3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.
- (4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.
- (5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.
- (c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.
- (2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.
- (3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.
- (B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.
- (C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.
- (e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:
- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
 - (2) Penetration of the vagina or rectum by any object.
 - (3) Masturbation for the purpose of sexual stimulation of the viewer.
 - (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
 - (5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.
- (f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).
- (g) Any other person who has knowledge of or observes a child whom he or 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 an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.
- (h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone 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.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision

(b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

11167. (a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons 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 or her.

(b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

(d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.

Appendix 3

Elder Abuse and Dependent Adult Civil Protection Act - Selected Provisions

Note: The complete text of the Elder Abuse and Dependent Adult Civil Protection Act may be found online at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=wic> (scroll down to Section 15600).

15630. (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.



(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.

The local ombudsperson and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.



- (2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
- (3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
- (4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.
- (5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.
- (d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, 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.
- (e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.
- (f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.
- (g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.
- (2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.
- (3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.
- (h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.
- (i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.