

B: Mandated reporters — Who are they, and what must they do?

Certain educators, health care providers, clergy, and other professionals are required to report suspected abuse of legal minors, under California Penal Code section 11166. These people are often referred to as "mandated reporters." The law states that:

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 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. 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.

Volunteer staff: While you are not mandated reporters under California state law, you are encouraged by the law to report suspected child abuse. If you suspect child abuse, you can report it directly to a state agency, or you can report it to one of the ministers, who are mandated reporters under state law.

11165.7. (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 child 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.

Paid staff: Under California state law, you are an employee of a private organization whose duties require direct contact and supervision of children, and that means you are a mandated reporter. When you are first employed, we require you to sign the form on the back of this handout, "Child Abuse and Neglect Reporting Law," to show that you understand your responsibilities. If you have any further questions, please don't hesitate to ask now!

To learn more about your responsibilities as a mandated reporter, please see the booklet "The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters" in the UUCPA office. To report abuse, call the Emergency Response Hotline Number For County Child Protective Services, Santa Clara County North — 650-493-1186.

Child Abuse and Neglect Reporting Law (P.C. 11166.5)

Definitions: The following situations are reportable conditions: 1) Physical abuse, 2) Sexual abuse, 3) Child exploitation, child pornography and child prostitution, 4) Severe or general neglect, 5) Extreme corporal punishment resulting in injury, 6) Willful cruelty or unjustifiable punishment, 7) Abuse or neglect in out-of-home care.

Who Must Report: The following individuals are legally mandated reporters:

- Clergy
- Specified public positions, including an administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

Refer to the booklet “The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters” for a comprehensive listing.

When to Report: A telephone report must be made immediately when the reporter observes a child in his/her professional capacity or within the scope of his/her employment and has knowledge of, or has reasonable suspicion that the child has been abused. A written report, on a standard form, must be sent within 36 hours after the telephone report has been made.

To Whom Do You Report: You have a choice of reporting to the Police or Sheriff’s Department or the Probation Department or Child Welfare Agency. Each County has preferred reporting procedures. Commercial film or photographic processors report only to law enforcement.

Individual Responsibility: Any individual whose occupation is named in the reporting law must report abuse. If the individual confers with a superior and a decision is made that the superior file the report, one report is sufficient. However if the superior disagrees, the individual with the original suspicion must report.

Anonymous Reporting: Mandated reporters are required to give their names. Non-mandated reporters may report anonymously. Child protective agencies are required to keep the mandated reporter’s name confidential, unless a court orders the information disclosed.

Immunity: Any legally mandated reporter has immunity when making a report. In the event a civil suit is filed against the reporter, reimbursement for fees incurred in the suit will occur up to \$50,000 (P.C. Section 11172). No individual can be dismissed, disciplined or harassed for making a report of suspected child abuse.

Liability: Legally mandated reporters can be criminally liable for failing to report suspected abuse. The penalty for this misdemeanor is up to six months in county jail, a fine of not more than \$1,000 or both. Mandated reporters can also be civilly liable for failure to report.

Notification Regarding Abuse: You are not legally required to notify the parents that you are making a report; however, it is often beneficial to let the parents know you are reporting for benefit of a future relationship.

I understand that I am a legally mandated reporter. I have clarified any information listed above which I did not understand, and am now aware of my reporting responsibilities, and am willing to comply. I have also requested an explanation of reporting policies within this agency and understand them.

Employee’s Name

Witness (Supervisor)

Date