

CHILD ABUSE:

Educators’ and Other School Personnel’s Responsibility



What is Child Abuse?

If you fall into the category of mandated reporter, you are required by law to report suspected abuse. This requirement applies to physical abuse, severe emotional maltreatment constituting willful cruelty or unjustifiable punishment of a child, neglect, or sexual abuse. Of course, one of the most important reasons for suspecting child abuse is that a child has told you that someone has hurt him/her.

The law defines child abuse as:

- Physical abuse
- Physical neglect
- Sexual abuse
- Emotional maltreatment

Indicators of suspected child abuse are listed in this section to help educators and other school personnel meet their responsibilities under the Child Abuse Reporting Law.

Physical Abuse

“The term “child abuse or neglect” includes physical injury or death inflicted by other than accidental means upon a child by another person” (Pen. Code, 11165.6.). Inflicted physical abuse most often occurs as a result of severe corporal punishment. Physical abuse usually happens when a frustrated or angry parent or other caregiver strikes, shake, or throws a child. Intentional assault such as burning, biting, cutting, poking, twisting limbs, or otherwise torturing a child is also included in this category of child abuse. Indicators of physical abuse can be physical or behavioral.

INDICATORS OF CHILD ABUSE/NEGLECT

Indicators of abuse are not in and of themselves conclusive evidence of abuse. They are “clues” or “red flags” that help may be needed.

PHYSICAL ABUSE		
I N D I C A T O R S	P H Y S I C A L	<p>Unexplained Bruises, Welts, Lacerations, or Abrasions:</p> <ul style="list-style-type: none"> • On face, lips, mouth • On torso, back buttocks, thighs in various stages of healing • Clustered, forming regular patterns • Reflecting shape of article used to inflict (electric cord, belt buckle) • Reflecting shape of article used to inflict (electric cord, belt buckle) • On several different surface areas • Regularly appear after absence, weekend, or vacation <p>Unexplained burns:</p> <ul style="list-style-type: none"> • Cigar, cigarette burns, especially on soles, palms, back or buttocks • Immersion burns, (sock-like, glove-like, doughnut shaped on buttocks, or genitalia) • Patterned like electric burner, iron, etc. • Rope burns on arms, legs, neck, or torso • Zebra patterned burns from scalding water <p>Unexplained Fractures:</p> <ul style="list-style-type: none"> • To skull, nose, facial structure • In various stages of healing • Multiple or spiral fractures • Fractures in child under two <p>Inappropriate dress (long sleeves in hot weather)</p>
	B E H A V I O R A L	<ul style="list-style-type: none"> • Wary of physical contact with adults • Clingy and indiscriminate attachment • Seems frightened of parents or going home • Drastic behavior change in and out of parents presence • Seems overprotective of parent • Exhibits extreme fear after making a mistake • Apprehensive when other children cry • Demonstrates extremes in behavior (aggressive/passive) • Inappropriate and frequent anger • Inability to make friends • School behavior problems • Substance Abuse • Run away • Self-mutilates or attempts suicide

NEGLECT

I N D I C A T O R S	P H Y S I C A L	<ul style="list-style-type: none"> • Consistently dirty, unwashed, hungry, or inappropriately dressed • Without supervision for extended periods of time or when engaged in dangerous activities • Consistently tired/listless • Has unmet medical or dental needs • Exploited, overworked • Abandoned
	B E H A V I O R A L	<ul style="list-style-type: none"> • Begging, stealing food • Extended stays at school (early arrival/late departure) • Truancy • Constant fatigue, listlessness or falling asleep in class • Alcohol or drug abuse • Delinquency (e.g. thefts) • States there is no caretaker • Prostitution, stealing • Attempts Suicide

SEXUAL ABUSE

I N D I C A T O R S	P H Y S I C A L	<ul style="list-style-type: none"> • Difficulty in walking, sitting, or running • Pain or urination, defecation • Pain or itching in genital area • Torn, stained, or bloody underclothing • Bruises or bleeding in external genitalia or anal areas • Genital discharge • Venereal disease, especially in pre-teens • Pregnancy • Excessive masturbation
	B E H A V I O R A L	<ul style="list-style-type: none"> • Seems ashamed/self-conscious of body and hides self • Unwilling to change for gym or participate in PE class • Withdrawal, fantasy, or infantile behavior • School difficulties • Eating disorders • Sleep disturbances • Bedwetting or fecal soiling • Poor peer relationships • Seeks out or avoids adults • Exhibits sexualized behavior towards adults or other children, or has specific knowledge of sex beyond developmental age • Is engaging in delinquent acts or runs away • Attempts suicide • Reports sexual assault by caretaker

EMOTIONAL ABUSE		
I N D I C A T O R S	P H Y S I C A L	<ul style="list-style-type: none"> • Speech disorders • Delayed physical development <p><i>NOTE:</i> Emotional maltreatment, often less tangible than other forms of child abuse and neglect, is more frequently indicated by behaviors of the child and caretaker.</p>
	B E H A V I O R A L	<ul style="list-style-type: none"> • Constantly “seeking out” or “pestering” other adults for attention and affection • Antisocial destructive “acting out” behavior • Repetitive rhythmic movements (sucking, biting, rocking) • Sleep disorders • Behavior extremes • Overly Adaptive Behavior: pseudo-mature, infantile • Developmental lags (mental, emotional) • Suicide attempts

What are Educators’ and other School Personnel’s Responsibilities?

School personnel who are mandated to report known or reasonably suspected instances of child abuse play a critical role in the early detection of child abuse. Symptoms or signs of abuse are often first seen by school personnel. Because immediate investigation by a law enforcement agency, probation, or welfare department may save a child from repeated abuse, school personnel should not hesitate to report suspicious injuries or behavior. **Your duty is to report, *not investigate*.**

In the discussion on the following pages, answers are provided to some of the common concerns expressed by educators regarding their legal responsibility to report known or reasonable suspected child abuse.

What does the Child Abuse and Neglect Reporting Act require?

The CHILD ABUSE and NEGLECT REPORTING ACT (Penal Code 11166 et.seq.) requires certain professionals and lay persons who have a special working relationship or regular contact with children to report known or suspected child abuse to the proper authorities. The following is an excerpt from the law:

...a mandated reporter shall make a report to (the police or sheriff's department, the county probation department (if designated by the county to receive such reports), or the county welfare department) 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 a report to the agency immediately or as soon as is practicably possible by telephone, and the mandated reporter shall prepare and send a written report there of within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated report possesses relating to the incident.

For the 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... (Pen. Code 11166.)

Which professionals are required by law to report suspected child abuse?

Penal Code section 11165.7 defines “mandated reporter” of child abuse as follows:

1. Teacher.
2. Instructional aide.
3. Teacher’s aide or teacher’s assistant employed by any public or private school
4. Classified employee of any public school.
5. Administrative officer or supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school.
6. Administrator of a public or private day camp.
7. Administrator or employee of a public or private youth center, youth recreation program, or youth organization.
8. 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 California Department of Education, whose duties bring the employee into contact with children on a regular basis.
10. Licensee, an administrator, or an employee of a licensed community care or child day care facility.
11. Head Start teacher.
12. Licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
13. Any employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the rules of Court.
14. Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

Training in the duties imposed by this article shall include training in child abuse reporting. As part of the training, school districts shall provide to all employees being trained a written copy of the

reporting requirements and a written disclosure of the employees' confidentiality rights.

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.

The absence of training shall not excuse a mandated reporter from the duties imposed by this article. (Pen. Code 11165.7)

If I do not report, may I be prosecuted?

Yes. Failure to report by telephone immediately, or as soon as practicably possible, and in writing within 36 hours is a misdemeanor "punishable by up to six months in confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that fine and punishment." (Pen. Code 11166, subd.(b).) Basically, the purpose of this potential penalty is to ensure that mandated reporters will report all known or reasonably suspected incidents of child abuse immediately to the local police or sheriff's department, the county probation department (if designated by the county to receive such reports), or the county welfare department.

Are mandated reporters required to give their names when they make a report?

Yes. (Pen. Code 11167, subd.(a).)

Joint Knowledge – Who Reports?

When two or more persons who are required to report, have joint knowledge of a known or suspected instance of child abuse or neglect, and there is agreement among them, the telephone report may be made by the selected team member. A single written report may then be made and signed by the reporting team member. Where there is a failure by the designated team member to make

the report, any team member who knows shall then be responsible to make the child abuse report. (Penal Code 11166 subd(f).)

Is the identity of a mandated reporter confidential?

Yes. The identity of a person who reports known or suspected child abuse is confidential and may only be disclosed as follows:

- Between agencies receiving or investigating the report.
- To the district attorney in a criminal prosecution.
- To the district attorney in an action initiated under Welfare and Institutions Code Section 602 (minors violating laws defining crime, wards of court) arising from alleged child abuse.
- To the child's appointed counsel pursuant to Welfare and Institutions Code Section 371, subdivision (c).
- To the county counsel or district attorney in a proceeding under Family Code Section 7800 et seq. (termination of parental rights) or Welfare and Institutions Code Section 300 (dependent children).
- To a licensing agency when abuse in out-of-home care is reasonably suspected.
- By court order.
- When the reporter waives confidentiality. (Penal Code 11167, subd.(d)(1).)

Are reports of suspected child abuse confidential?

Yes. Required reports of suspected child abuse are confidential. The reports and the information contained therein may be disclosed only to the following:

- To persons or agencies to whom the reporter's identity may be disclosed (see above).
- To persons or agencies to whom disclosure of information maintained in the Department of Justice's Child Abuse Central Index is permitted under Penal Code Section 11170, subdivision (b).

- To persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Penal Code Section 11174 (investigation of abuse in out-of-home care).
- To multidisciplinary personnel teams as defined in Welfare and Institutions Code Section 18951, subdivision (d).
- To persons or agencies responsible for the licensing of facilities that care for children, as specified in Penal Code Section 11165.7.
- To the State Department of Social Services or any county licensing agency which has contracted with the state when an individual has applied for a community care license or child day care license, when an individual has applied for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.
- To hospital scan teams.
- To coroners and medical examiners when conducting a postmortem examination of a child.
- To the Board of Prison Terms when subpoenaed for parole revocation proceedings against a parolee charged with abuse.

Safeguards for Mandated Reporters

No supervisor or administrator may impede or inhibit a report or subject the reporting person to any sanction. (P.C. 11166(g)).

Persons other than those legally mandated to report are not required to include their names when making a report. (P.C. 11167(e)).

Reports are confidential and may be disclosed only to specified persons and agencies (P.C. 11167.5).

Is a school official required to notify a parent, guardian, or responsible relative when a minor pupil, who is a victim of suspected child abuse, is released into the custody of a peace officer?

No. If a school releases a minor pupil who is suspected of being abused into the custody of a peace officer, and the school later receives an inquiry from the minor's parent or guardian as to the student's location, the parent or guardian should be referred to the law enforcement agency that took the minor into protective custody.

The school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing. (Ed. Code, 48906)

Before releasing a child who is suspected of being abused to a peace officer, the school should obtain the officer's name, badge number, and telephone number so that it can later be given to a parent or guardian who inquires about the child's removal.

HANDLING DISCLOSURE

LISTEN & BELIEVE

Child victims of abuse often fear that no one will believe them or understand how they feel. As an empathetic teacher, you can be invaluable to such a child by providing a safe, caring environment which may encourage the child to talk. You may find the following phrases helpful:

- “Are you okay?”
- “You haven’t seemed very happy lately.”
- “I really care about you and I would like to try to help you.”
- “Is anyone hurting you or doing something that makes you feel uncomfortable?”

Be careful about promising something that cannot be provided. Often children will say there is a secret they will share **ONLY IF YOU PROMISE NOT TO TELL ANYONE ELSE**. A mandated reporter cannot keep this promise. If it is given and later the confidence is broken, the child is likely to feel betrayed and trust will be jeopardized.

SUPPORT and RESPOND

It is **extremely** important not to lead the child to say what they think you want to hear. Prompt them to give details in their own words. Always be extremely cautious to avoid using leading or coercive questioning:

As a child discloses, you can provide emotional support with phrases like:

- “I believe you.”
- “I understand how you must feel.”
- “I know this is hard to talk about.”

- “You are doing a good job helping me to understand what happened.”
- “I’ll do whatever I can to help you.”
- “I’m sorry that happened.”
- “What happened to you wasn’t your fault.”

Remember, your reaction will make a difference:

1. Do not panic or express shock.
2. Be nonjudgmental to both child and family members.
3. Be aware that abused children often have strong loyalties to their abusers.
4. Determine the child’s immediate need for safety.
5. Lessen fears and apprehension by letting the child know what you will do.
6. Avoid making promises you can’t keep.

REPORTING CHILD ABUSE

The child abuse and Neglect Reporting Act (Pen. Code 11166 et. Seq.) requires school teachers, principals, counselors, nurses, supervisors of child welfare and attendance, and other designated school personnel to report known or **suspected** child abuse to the proper authorities. These **mandated** reporters shall make a report to the agency immediately or as soon as is practicably possible. The report can be made by fax, or by a phone call with the written report sent within 36 hours (SS8572).

Child Abuse Reports

FAX REPORT

- May be used Monday through Friday, 8 a.m. to 5 p.m. only.
- Fax numbers:
 - (858)694-5240
 - (858)694-5241
 - (858)694-5725
- DO NOT need to call the CPS Hotline.

- Include as much information as possible, including address with city and zip code, area code with phone number, and school hours for student.
- Use black ink.

CHILD ABUSE HOTLINE and FORM SS8572

- May be called anytime to discuss concerns you have.
 - If all the social workers are busy you will be asked to leave a return phone number (work or home)
- CPS Hotline: Call 1-800-344-6000 or 1-858-560-2191
- Have the student's registration card and the Suspected Child Abuse Report (SS8572) with you.
- Be sure to document the date, time, and name of the person to whom you are reporting.
- Immediate response status will usually be assigned if there is a physical injury, such as a bruise or mark.
- Complete the written report within 36 hours. Send the top 3 copies via District mail to Linda Mercurio, Special Education and Pupil Services. Keep the goldenrod copy for the school file. You may need to make a Xerox copy of the original.
- Inform the principal of your report.

Remember that this report is confidential and you should not have to reveal to parent or caregiver the identity of the person making the report.