

Child and Dependent Adult Abuse Reporting

The Solano County Office of Education (SCOE) is committed to supporting the safety and well-being of its students and desires to facilitate the prevention of and response to child abuse and neglect. SCOE recognizes that child and dependent adult abuse has severe consequences and that SCOE has a responsibility to protect students by facilitating the prompt reporting of known and suspected incidents of child/dependent adult abuse. The County Superintendent or designee shall develop and implement strategies for preventing, recognizing, and promptly reporting known or suspected child abuse and neglect.

The Superintendent or designee may provide a student who is a victim of abuse with school-based mental health services or other support services and/or may refer the student to resources available within the community as needed.

The Superintendent or designee shall establish procedures for the identification and reporting of known and suspected child or dependent adult abuse and neglect in accordance with law. Procedures for reporting child/dependent adult abuse shall be included in SCOE's comprehensive safety plan. (Education Code section 32282)

Employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child/dependent adult abuse and neglect. Mandated reporters shall not investigate any suspected incidents but rather shall cooperate with agencies responsible for investigating and prosecuting cases of child/dependent adult abuse and neglect.

The Superintendent or designee shall provide training regarding the reporting duties of mandated reporters.

In the event that training is not provided to mandated reporters, the Superintendent or designee shall report to the California Department of Education (CDE) the reasons that such training is not provided. (Penal Code 11165.7)

Definitions

Child/dependent adult abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child/dependent adult by another person
2. Sexual abuse of a child/dependent adult, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child/dependent adult as defined in Penal Code 11165.2
4. Willful harming or injuring of a child/dependent adult or the endangering of the person or health of a child/dependent adult as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

Child/dependent adult abuse or neglect *does not* include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)

Policy 5141.4 (Continued)

3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code §44807)
4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, to protect himself/herself, or to obtain weapons or other dangerous objects within the control of the student (Education Code §49001)
5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code §49001)
6. Homelessness or classification as an unaccompanied minor (Penal Code 11165.15)

Mandated reporters include, but are not limited to, teachers; paraeducators; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child/dependent adult attendance; athletic coaches, administrators, and directors; administrators and employees of a licensed day care facility; Head Start teachers; SCOE police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child/dependent adult abuse prevention program. (Penal Code 11165.7)

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/her training and experience, to suspect child/dependent adult abuse or neglect. However, 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. (Penal Code 11166)

Reportable Offenses

A mandated reporter shall make a report using the procedures provided below whenever, in his/her professional capacity or within the scope of his/her employment, s/he has knowledge of or observes a child/dependent adult whom the mandated reporter knows or reasonably suspects has been the victim of child/dependent adult abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child/dependent adult is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11166.05, 11167)

Any employee who reasonably believes that s/he has observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

Responsibility for Reporting (Penal Code 11166)

The reporting duties of mandated reporters are individual and cannot be delegated to another person.

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child/dependent adult abuse or neglect, the 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.

Policy 5141.4 (Continued)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report.

Any person not identified as a mandated reporter who has knowledge of or observes a child/dependent adult whom s/he knows or reasonably suspects has been a victim of child/dependent adult abuse or neglect may report the known or suspected instance of child/dependent adult abuse or neglect to the appropriate agency.

Reporting Procedures

1. Initial Telephone Report

Immediately, or as soon as practicable, after knowing or observing suspected child/dependent adult abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a SCOE or school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. Solano County contact information is below. All phone numbers are in the 707 area code unless otherwise indicated.

- Child Protective Services (CPS), 275 Beck Avenue, Fairfield (800-544-8696, 24-hour)
- Adult Protective Services, Dept. of Health & Social Services, 275 Beck Ave., Fairfield (800-850-0012, 24-hour)
- Family Violence Prevention, 675 Texas Street, Fairfield (784-7789)
- Law Enforcement: Solano County Sheriff, 530 Union Ave., Ste. 100, Fairfield (784-7030)
 - Benicia (745-3411) ▪ Fairfield (428-7300) ▪ Vacaville (449-5200)
 - Dixon (678-7070) ▪ Suisun City (421-7373) ▪ Vallejo (648-4321)

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

2. Written Report (Penal Code 11166–11168)

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall then prepare and either send, fax, or electronically submit to the appropriate agency a written follow-up report, which includes a completed Department of Justice form (SS 8572). Mandated reporters may obtain copies of the Department of Justice form from either SCOE's Human Resources Department or the appropriate agency. Reporting forms may be different depending on whether the abuse involves a child or a dependent adult.

Reports of suspected child/dependent adult abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's/dependent adult's name and address, present location, and where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's/dependent adult's parents/guardians
- d. The information that gave rise to the reasonable suspicion of child/dependent adult abuse or neglect and the source(s) of that information
- e. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child/dependent adult

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

Policy 5141.4 (Continued)

Information relevant to the incident of child/dependent adult abuse or neglect, or to report serious emotional damage pursuant to Penal Code 11166.06, may also be given to an investigator from an agency that is investigating the case, including a licensing agency.

3. Internal Reporting (Penal Code 11166)

The mandated reporter shall not be required to disclose his/her identity to his/her supervisor, the principal, or the Superintendent or designee. Employees reporting child/dependent adult abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal or designee as soon as possible after the initial telephone report to the appropriate agency. S/he may provide or mail a copy of the written report to the principal or Superintendent or designee without his/her signature or name. When so notified, the principal shall inform the Superintendent or designee.

The principal or designee so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, SCOE policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency.

Training

Within the first six weeks of each school year, the Superintendent or designee shall provide training on mandated reporting requirements to SCOE employees and persons working on their behalf who are mandated reporters. Any school personnel hired during the school year shall receive such training within the first six weeks of employment. (Education Code §44691; Penal Code 11165.7)

The Superintendent or designee shall use the online training module provided by the California Department of Social Services or will report to the CDE regarding training used in its place. (Education Code §44691)

Training of mandated reporters shall include, but not necessarily be limited to, identification and reporting of child/dependent adult abuse and neglect. In addition, the training shall include information that failure to report an incident of known or reasonably suspected child/dependent adult abuse or neglect as required by law is a misdemeanor punishable by imprisonment and/or a fine as specified. (Education Code §44691; Penal Code 11165.7)

Training shall also include guidance in the appropriate discipline of students, physical contact with students, and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child/dependent adult abuse.

The Superintendent or designee shall obtain and retain proof of each mandated reporter's completion of the training. (Education Code §44691)

Victim Interviews (Penal Code 11174.3)

Whenever the California Department of Social Services or another government agency is investigating suspected child/dependent adult abuse or neglect that occurred within the victim's home or out-of-home care facility, a suspected victim may be interviewed by an agency representative during school hours, on school premises. The Superintendent or designee shall give the child/dependent adult the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the child/dependent adult.

Policy 5141.4 (Continued)

A staff member or volunteer aide selected by a child/dependent adult may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform him/her of the following requirements:

1. The purpose of the selected person's presence at the interview is to lend support to the child/dependent adult and enable him/her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child/dependent adult.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school.

Release of Child/Dependent Adult to Peace Officer

When a child/dependent adult is released to a peace officer and taken into custody as a victim of suspected child/dependent adult abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's/dependent adult's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation.

Peace officers shall be asked to sign an appropriate release or acceptance of responsibility form.

Parent/Guardian Complaints

Upon request, the Superintendent or designee shall provide parents/guardians with SCOE's procedures for reporting to appropriate agencies any suspected child/dependent adult abuse occurring at a school site. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

To file a complaint against a SCOE employee or other person suspected of child/dependent adult abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.

In addition, if the child/dependent adult is enrolled in special education, a separate complaint may be filed with the CDE pursuant to 5 CCR 4650.

Notifications (Penal Code 11166.5)

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, of their reporting obligations under Penal Code 11166, and of their confidentiality rights under Penal Code 11167. SCOE shall also provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167.

Before beginning employment, any person who will be a mandated reporter by virtue of his/her position shall sign a statement indicating that s/he has knowledge of the reporting obligations under Penal Code 11166 and will comply with those provisions. The signed statement shall be retained by the Superintendent or designee.

OFFICE OF THE SOLANO COUNTY SUPERINTENDENT OF SCHOOLS

Policy 5141.4 (Continued)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee shall also notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child/dependent adult abuse or neglect shall not be held civilly or criminally liable for making a report, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child/dependent adult abuse or neglect outside of his/her professional capacity or outside the scope of his/her employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that s/he knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)
2. If a mandated reporter fails to report an incident of known or reasonably suspected child/dependent adult abuse or neglect, s/he may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166)
3. No employee shall be subject to any sanction by SCOE for making a report unless it can be shown that s/he knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11166)

Legal Reference:

EDUCATION CODE

32280-32288 Comprehensive school safety plans
33308.1 Guidelines on procedure for filing child abuse complaints
44252 Teacher credentialing
49407 Liability for treatment
44690-44691 Staff development in the detection of child abuse and neglect
44807 Duty concerning conduct of students
48906 Notification when student released to peace officer
48987 Dissemination of reporting guidelines to parents
49001 Prohibition of corporal punishment
51220.5 Parenting skills education
51900.6 Sexual abuse and sexual assault awareness and prevention

PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act
273a Willful cruelty or unjustifiable punishment of child; endangering life or health
288 Definition of lewd or lascivious act requiring reporting
11164-11174.4 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

4650 Filing complaints with CDE, special education students

UNITED STATES CODE, TITLE 42

11434a McKinney-Vento Homeless Assistance Act; definitions

COURT DECISIONS

Camreta v. Greene (2011) 131 S.Ct. 2020

Policy 5141.4 (Continued)

Policy Cross-Reference:

- 0450 Comprehensive Safety Plan
- 1020 Youth Services
- 1240 Volunteer Assistance
- 1312.1 Complaints Concerning District Employees
- 1312.3 Uniform Complaint Procedures
- 3515.3 District Police/Security Department
- 4112.9 Employee Notifications
- 4119.21 Professional Standards
- 5144 Discipline
- 5145.7 Sexual Harassment
- 5145.11 Questioning and Apprehension by Law Enforcement