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Fresno USD DIVISION OF HUMAN RESOURCES  
HR 4105  
CHILD ABUSE & NEGLECT REPORTING ACT

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In California, children are protected from child abuse and neglect including any act or omission that endangers or impairs a child's physical or emotional health and development.

### **CHILD ABUSE**

Child abuse is any act of omission or commission that endangers or impairs a child's physical, psychological or emotional health and development, including:

- Physical Abuse:
  - Physical injury or death inflicted on a child by another person that is not an accident other than by accidental means
  - Corporal punishment
- Sexual Abuse:
  - Sexual assault or sexual exploitation of a child for the sexual gratification of an adult
  - This can include verbalization, exposure, improper touching & sexual intercourse
- Emotional Abuse:
  - Occurs when a child suffers or is at risk of suffering serious emotional damage
  - This can include constant criticism, rejection, threats, intimidation, humiliation, the withholding of love and support, and isolation
- Neglect:
  - The negligent failure to meet the child's basic physical and medical needs
  - This can include lack of proper supervision, food, clothing, shelter, medical attention, sanitation

### **WHO MUST REPORT**

California law mandates certain public school employees to report suspected child abuse. These employees are known as "Mandated Reporters." Virtually all school district employees assigned at school sites are mandated by law to report suspected child abuse immediately to law enforcement or the California Department of Social Services (DSS) (Penal Code §1165.7) Mandated Reporters include:

- Teachers
- Principals and Vice Principals
- Nurses
- Counselors
- Police and Security Personnel
- All Classified Employees
- Athletic Coaches and Support Staff

When two or more persons are required to report are aware of an instance of suspected child abuse, it may be agreed that one will make the report. However, if any person who knows or should know that the person designated to report failed to do so, that person then has a duty to make the report.

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**WHEN TO REPORT**

A Mandated Reporter **must** make a report whenever in his/her **professional capacity** or within the **scope of employment**, the employee has **knowledge** of or **observes** a child whom the employee **knows or reasonably suspects** has been the victim of child abuse or neglect.

This means that a Mandated Reporter must **only have a reasonable suspicion** that a child is suffering from abuse in order to be required to make a report, and no evidence or proof is required.

**REPORT TO**

The report shall be made **immediately, or as soon as possible** to child welfare services and/or to a police department or sheriff's department.

**If a child is at risk of imminent harm, call 9-1-1**

Fresno County Dept. of Social Services 559-600-8320

Fresno County Sheriff's Office 559-600-3111

Fresno Police Department 559-621-7000

The following information should be provided:

- Reporter's name
- Reporter's business address
- Reporter's telephone number
- Reporter's job title
- Information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information
- Name of the child and address if known
- Present location of the child
- Nature and extent of injury or neglect
- Any other information that led the reporter to suspect child abuse
- Other information as requested

**WRITTEN REPORT REQUIRED**

**Within 36 hours** of making a telephone report, a written report, including a Suspected Child Abuse Report Form (BCIA 8572) must be faxed or submitted electronically to the agency contacted by telephone. (The form may be obtained by contacting the Prevention and Intervention Department at 457-3340)

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A copy of the form must be retained by the reporting party, copies sent to the agencies as indicated by the form, and a separate copy must be mailed to:

Department of Social Services  
Attention: Child Protective Services  
PO Box 1912  
Fresno, CA 93718

### **SAFEGUARDS FOR MANDATED REPORTERS**

The Child Abuse and Neglect Act requires that the **name of the Mandated Reporter remains strictly confidential**, although it is provided to investigative agencies working on a case of child abuse.

Under state law, Mandated Reporters are **absolutely immune from any civil or criminal liability in court** for making a required report.

### **CONSEQUENCES FOR FAILING TO MAKE A REPORT**

Failure to make a required report of suspected child abuse is a crime and constitutes a misdemeanor punishable by six months in county jail and/or up to a \$1,000 fine or both.

If a child dies or is severely injured as a result of further abuse after a Mandated Reporter failed to make a required report, this is a crime and is punishable by one year in county jail and/or up to a \$5,000 fine or both.

### **CHILD ABUSE REPORTING REQUIREMENTS**

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report a known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

“Child care custodian” includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, employees of community care facilities or child day care facilities licensed to care for children; Head Start teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including,

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but not limited to, foster parents, group home personnel, personnel of residential care facilities; social workers or probation officers; administrators or presenters of residential care facilities

“Medical practitioner” includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 1797) of the Health and Safety Code or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code.

“Non-medical practitioner” includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

### **PENAL CODE SECTION 11166**

(a) Except as provided in subdivision (b), any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident. For the purpose of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such 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.

(b) Any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film or 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 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative or slide attached within thirty-six (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, and 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.

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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.
- d) 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 may report the known or suspected instance of child abuse to a child protective agency.
  - e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, 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 such 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.
  - f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.
  - g) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone 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 as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.
  - h) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the county welfare department 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 reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

Should an employee, in the course of discharge of his/her duties, be made aware of information which he/she believes to be in conflict with the integrity of the organization, he/she will seek appropriate line authority to whom he/she can report such discrepancy and shall retain the necessary

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confidentiality required in maintaining the integrity of all individuals who are a part of the organization.

Finally, employees do not have authority or responsibility to report discrepancies directly to the general public, nor do they have the right to discuss confidential information with fellow employees or the public except as needed in the regular and necessary course of their duties.

*References:*

*BP/AR 5141.4*

*Penal code 11164-11174.4 Child Abuse and Neglect Reporting Act*

*EDUCATION CODE*

*WELFARE AND INSTITUTIONS CODE*