



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 6370

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CATEGORY: **Students, Welfare**

EFFECTIVE: **8-16-66**

SUBJECT: **Child Abuse or Neglect (Nonaccidental Physical Injury)**

REVISED: **2-11-05**

A. PURPOSE AND SCOPE

1. To outline administrative procedures to be followed in suspected child abuse situations when a physical injury has been inflicted on a child by another person other than by accidental means. This procedure includes the sexual assault of a child, willful cruelty or unjustifiable punishment of a child, corporal punishment or injury, and the neglect of a child.
2. **Related Procedures:**
 - Juvenile arrests/interviews/removal from school 5060
 - Release of directory-type student information 6525

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: C-2200; F-6000, H-8900, I-1350, I-1400; Education Code Section 44690; Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, 11165-11174, 11174.3; Civil Code Section 232; Welfare and Institutions Code Sections 300, 602.
2. **Liabilities for Failure to Report.** Any person mandated by Penal Code who fails to report any instance of child abuse or neglect that he/she knows or reasonably suspects to exist can incur criminal, civil, and/or professional liability. Failure to report is a misdemeanor and punishable by confinement in county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both (Penal Code Section 11172[d]).
3. **Liability.** No person shall incur any civil or criminal liability as a result of making any report authorized unless it can be proven that a false report was made and the person knew or should have known that the report was false (Penal Code Section 11172[a]).
4. **Confidentiality.** Reports of suspected child abuse or neglect and information contained therein are confidential and may be disclosed only as follows:
 - a. The identity of the reporting person(s) shall be disclosed only between child protective agencies; to counsel representing a child protective agency; to the district attorney in a criminal prosecution or in an action initiated under the Welfare and Institutions Code Section 602 arising from alleged child abuse or neglect; to counsel appointed pursuant to the Welfare and Institutions Code Section 318; to the county counsel or district attorney in an action initiated

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under Civil Code Section 232 (termination of parental rights) or Welfare and Institutions Code Section 300 (dependent children); to a licensing agency when abuse or neglect in out-of-home care is suspected; by court order; in a criminal or civil proceeding; when the person who reports waives confidentiality.

- b. The contents of the report shall only be disclosed to persons or agencies permitted under D.5.a. and Penal Codes. Penal Code Sections 11167(d) and 11167.5 require that the identity of all persons who report child abuse or neglect remain confidential.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Student Services Division, Office of School Site Support.
2. **Definitions**
 - a. **Child:** A person under the age of 18 years.
 - b. **Perpetrator:** Any individual who commits child abuse as defined in California Penal Code Sections 11165.1 through 11165.6.
 - c. **Child Abuse:** A physical injury inflicted by other than by accidental means on a child by another person; sexual assault of a child or any act proscribed by Penal Code Section 273a (willful cruelty or unjustifiable punishment of a child) or Penal Code Section 273d (corporal punishment or injury); neglect of a child or abuse in out-of-home care (Penal Code Section 11165.6)].

Note: Included are traditional or cultural health practices.

Reports of physical evidence of such health practices are required by law. Child abuse includes:

- (1) **Physical injury** (external or internal), such as a bruise, welt, burn, cut inflicted by other than accidental means on a child by another person.
- (2) **Sexual abuse.** Defined as sexual assault and/or sexual exploitation. Sexual assault includes rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, penetration of a genital or anal opening by a foreign object, or child molestation. Sexual exploitation includes conduct or activities related to pornography depicting minors and

promoting prostitution by minors (Penal Code Section 11165.1). Anytime an employee has a reasonable suspicion that a minor is involved in an actual abuse situation, it must be reported. However, if the report involves consensual sexual intercourse a report should be made when the student is under 16 and the sexual partner is over 21. In cases involving a pregnant student, it is necessary to look at her age when conception took place.

- (3) **Physical abuse.** Physical abuse may be defined as any act that results in a nonaccidental physical injury. Inflicted physical injury most often represents unreasonably severe corporal punishment or unjustifiable punishment. This usually happens when a person is frustrated or angry and strikes, shakes, or throws the child. Intentional, deliberate assault, such as burning, biting, cutting, poking, twisting limbs, or otherwise torturing a child, is also included in this category of child abuse.
- (4) **Mental suffering.** The intentional infliction of unjustifiable mental suffering under conditions likely to produce great bodily harm constitutes child abuse (Penal Code Sections 11165.6 and 273a).
- (5) **Neglect.** The negligent treatment or maltreatment of a child by a person responsible for a child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. Includes both acts and omissions on the part of the responsible person. (Penal Code Section 11165[c])
 - (a) **Severe neglect:** The negligent failure of a person having the care or custody of a child to protect that child from severe malnutrition or medically diagnosed non-organic failure to thrive; those situations of neglect where any person having the care or custody of a child willfully causes or permits that child to be placed in a situation such that his/her person or health is endangered, including intentional failure to provide adequate food, clothing, or shelter (Penal Code 11165[c][2]).
 - (b) **General neglect:** The negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred (Penal Code Section 11165 [c][2]).

- (6) **Reasonable suspicion.** It is objectively plausible for a person to entertain such a belief if it is based upon a person's training and experience and upon facts or allegations that would cause a person of sound judgment in a like position to suspect child abuse or neglect. Child abuse or neglect should be suspected/reported when an *allegation constituting child abuse or neglect* is brought to the attention of a (mandated) reporter from any source, whether that source is the alleged victim, a friend of the alleged victim, anonymous, third party, spoken, or written. (Corporal punishment or injury, Penal Code Section 273d; and neglect of a child or abuse in out-of-home care, Penal Code Section 11165[g].)

Note: Included are traditional or cultural health practices. Reports of physical evidence of such health practices are required by law.

D. IMPLEMENTATION

1. **Reporting Requirements.** Penal Code Section 11166 mandates the reporting to designated authorities of cases of suspected child abuse or neglect as follows:
 - a. Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his/her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse or neglect shall report the known or suspected instance of child abuse or neglect to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.
 - b. The Penal Code obligation to report child abuse or neglect applies but is not limited to certificated employees, health practitioners, school police, and employees of child care centers. This law also applies to instructional aides, teachers' aides, teachers' assistants, and classified employees who have been trained in the duties imposed by this law and where this training has been declared by the state.
 - c. Reasonable suspicion means that it is objectively plausible for a person to entertain such a belief if it is based upon a person's training and experience and upon facts or allegations that would cause a person of sound judgment in a like position to suspect child abuse or neglect. Child abuse or neglect should be suspected/reported when an *allegation constituting child abuse or neglect* is brought to the attention of a (mandated) reporter from any source, whether that

source is the alleged victim, a friend of the alleged victim, anonymous, third party, spoken, or written. (Corporal punishment or injury, Penal Code Section 273d; and neglect of a child or abuse in out-of-home care, Penal Code Section 11165[g].)

Note: Included are traditional or cultural health practices. Reports of physical evidence of such health practices are required by law.

- d. Persons required to report, such as educators, are not liable either in civil damages or for criminal prosecution for reporting as required by law (Penal Code Section 11172[a]). The district will defend employees who make a report consistent with policy in the course of their employment against any actions or claims that may be made as a result of said report and will pay expenses associated with such defense. Failure to comply with this reporting policy may subject an employee to professional and personal liability.
- e. Child abuse *does not* include:
 - (1) Use of an amount of force that is reasonable and necessary for a person employed or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by California Education Code Section 49001. *A single act of physical injury may typically constitute a battery and not necessarily reach the prosecutable level of child abuse.*
 - (2) Mutual altercation between minors.
 - (3) Injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.
 - (4) Use of an amount of force reasonable and necessary for a certificated employee to exercise, during the performance of his/her duties, to reasonably maintain order, protect property, and protect the health and safety of pupils as authorized by California Education Code Section 44807.

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2. **Reporting Procedures**

- a. Reports of suspected child abuse or neglect should be made to an official child protective agency. In San Diego County, reports are made to either a law enforcement agency (i.e., San Diego Police Department [SDPD]) or to the San Diego County Health and Human Services Agency (HHSA) Children's Services. *School Police Services Department is not a child protective agency.*
- b. Typically, suspected child abuse or neglect in the absence of visible injury or trauma would be reported to the San Diego County Health and Human Services Agency. In cases of suspected child abuse or neglect that includes visible injury, trauma, or if the child appears at risk given known facts, the mandated reporter should contact the San Diego Police Department. If in doubt, start with the San Diego County Health and Human Services Agency.

3. **Reporting of Incident(s).** When a suspected child abuse or neglect report is made, the individual who observed or has knowledge of the abuse/neglect makes the report by telephone and written report using "Suspected Child Abuse/Neglect Report" form (E.1.) or by Fax report.

- a. **Telephone report and written report.** The telephone report must be made immediately or as soon as possible to **one** of these agencies.
 - (1) **San Diego County Health and Human Services Agency (HHSA) Children's Services**
Phone (858) 560-2191 (24-hour response number)
 - (2) **San Diego Police Department Child Abuse Unit**
Phone (619) 531-2260 (Monday-Friday, business hours)
Phone (619) 531-2000 (24-hour response number)
- b. **Written Report.** Following the telephone report, the mandated reporter must submit a written report within 36 hours of receiving the information concerning the incident, using "Suspected Child Abuse/Neglect Report" form (E.1.). Copies of report shall be mailed as follows:

White **S. D. County Health and Human Services Agency**
6950 Levant Street
San Diego, CA 92111

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Blue **Child Abuse Team**
San Diego Police Department (MS 719)
1401 Broadway
San Diego CA 92101

Pink **San Diego Unified School District
Nursing and Wellness Program Office**
2351 Cardinal Lane, Annex B
San Diego, CA 92123

Yellow The school copy is confidential and shall remain in the principal's office.

- c. **Report.** The reporting person shall give his/her own name (legally-mandated reporters may not report anonymously); the child's name, home address, telephone number, and date of birth; mother's name; names of siblings; prior reports; special needs of the child; home language; description of injury; statement about what led the reporter to suspect child abuse or neglect; present location of the child. During the telephone report, reporting person shall:
- (1) Document the date and time the call is made.
 - (2) Record contact person's name, title, position, I.D./badge number.
 - (3) Apprise the contact person of the time school is dismissed and how the child goes home, i.e., bus, parent.
 - (4) Inquire and record the agency's plan regarding what action will be taken and when.
 - (5) Clarify and record the agency's directive as to what the school should/should not do regarding the reported incident/victim/perpetrator.
 - (6) Have the contact person read back the report information verbatim.
- d. **Fax Reporting** (Use only on Monday through Friday between 8:00 a.m. and 5:00 p.m.)
- (1) The "Suspected Child Abuse 'Fax' Report" forms (Attachments 1, 2, and 3) satisfy both the telephone and written report requirements. Do not send both faxed and written reports.

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- (2) If not within "Fax" hours (M-F 8:00 a.m.–5:00 p.m.) including holidays, follow instructions for telephone report and written report (D.3.a. and b.).
- (3) When faxing, a copy must be submitted to the Nursing and Wellness Program Office.
- (4) When faxing, copy must be submitted to school principal to be kept in confidential files in the principal's office.
- (5) Step-by-step instructions for completing the Fax report are found on the back of the "Suspected Child Abuse 'Fax' Report" form (to be referenced as needed).

NOTE: REPORTING PERSON SHOULD NOT CONTACT THE CHILD'S HOME OR CONDUCT AN INVESTIGATION OF ANY KIND.

- e. **Persons observing evidence of suspected child abuse or neglect** may inform principal or designee. Although it is not required, it is strongly suggested that employees inform the principal of the incident. Students and parents/guardians shall be made aware that students also may report instances of child abuse or neglect on themselves or others to their teachers, counselors, or the principal.
- f. **Removing child from school.** When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent/guardian or responsible relative of the minor regarding the release of the minor to the officer and the place to which the minor is reportedly being taken, *except* when a minor has been taken into custody as a victim of suspected child abuse or neglect, as defined in Penal Code Section 11165 or pursuant to Welfare and Institutions Code Section 305. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent/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/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 to be held or that 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. (Education Code Section 48906)

4. **Report of Incidents Involving Staff Members.** Any employee, who becomes aware of facts that lead them to reasonably suspect another employee has engaged in child abuse with a student, shall do the following:
- a. Notify the principal or appropriate site administrator.
 - b. Comply with mandated reporting requirements.
 - c. The principal or appropriate site administrator, who is notified of an incident alleging child abuse by an employee, shall do the following:
 - (1) Ensure the reporting requirements are met by the reporting employee.
 - (2) Contact the Chief Human Resources Officer at (619) 725-8142 for assistance relating to the principal's/site administrator's role and responsibilities.
 - (3) Notify School Police Services at (619) 725-7035 (Monday-Friday, business hours), or (619) 291-7678 (24-hour response number).
 - d. The Chief Human Resources Officer or designee, who is notified of an incident alleging child abuse by an employee, shall do the following:
 - (1) In conjunction with the Office of General Counsel, determine the appropriate course of action with respect to the accused employee.
 - (2) A meeting between the principal/site administrator, Human Resources Division representatives, and General Counsel representatives should be promptly scheduled for this purpose.
 - (3) After review of the entire investigation, the Chief of Human Resources Officer will determine any appropriate discipline, and in some cases, make recommendations to the Board of Education:
 - (a) For classified personnel: The employee may be disciplined pursuant to the Employment Regulations for the Classified Service of the San Diego Unified School District.

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(b) For certificated personnel: A letter of reprimand, suspension, or termination may be appropriate.

5. **Regulations**

- a. **Interview at school of suspected victim of child abuse or neglect.** Penal Code Section 11174.3 states:

Whenever a representative of a child protective agency or the State Department of Social Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility or anywhere where child abuse or neglect is observed. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the child protective agency or the State Department of Social Services shall inform the child of that right prior to the interview.

The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible.

However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected 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. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

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- (1) Whenever a representative of a child protective agency, the State Department of Social Services, or a law enforcement agency presents identification to the school personnel, photocopies *shall not be made. This will prevent any possible reproduction of an official identification card.*
 - (2) *Whenever a social worker or law enforcement agency is on a school campus and asks to see a student, prior approval from an administrator or other school personnel is not necessary. The social worker or law enforcement agency will be granted access to a student any time during school hours. It is the sole discretion of the social worker or law enforcement agency where the student is to be interviewed, either at home or at school. (Penal Code Section 11174.3[a])*
 - (3) Should there be any question in identifying the investigating agency, school personnel should contact the School Police Services Department at (619) 725-7000 for assistance.
- b. **School nurse or district counselor** assists in determining appropriate follow-up action at principal's request; coordinates efforts of school and agencies to provide continuing protection and service to student as needed.
 - c. **Principal or designee** may disseminate information to those individuals (such as vice principal, district counselor, school nurse, and other school personnel) who may be involved in coordinating efforts of the school and agencies to provide continuing protection and service to student as needed.
 - d. **Student Services Division, Office of School Site Support.** Specific questions regarding unusual circumstances may be made by telephone to the Student Services Division. Questions may be addressed to the director, program manager, or resource staff.

Note: Services of physician consultant are available to principal or designee when he/she wishes to seek physician's advice or assistance in substantiating and recording the scope and degree of injuries. It should be noted that full evaluation of a child by a physician is not a requirement for reporting a suspected case.

E. FORMS AND AUXILIARY REFERENCES

1. Suspected Child Abuse/Neglect Report, Inventory Item 22-R-2163

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2. Suspected Child Abuse "FAX" Report cover sheet, Attachments 1, 2, 3
3. Child Abuse/Neglect Reporting Flowchart (when suspect is not a school employee), Attachment 4
4. Child Abuse/Neglect Reporting Flowchart (when suspect is a staff member), Attachment 5

F. REPORTS AND RECORDS

G. APPROVED BY

Kerry B. Flanagan

Chief of Staff, Kerry Flanagan
For the Superintendent of Public Education