

# REGULATION 5141.4: CHILD ABUSE PREVENTION AND REPORTING

## Comparison Chart

Section:

### SUMMARY OF UPDATE

**Summary of Update:** The Regulation was updated to reflect **NEW LAW (AB 1145, 2020)** which amends the definition of sexual assault for purposes of mandated reporting to not include voluntary conduct in violation of Penal Code 286, 287, or 289 (sodomy, oral copulation, or sexual penetration) if there are no indicators of abuse unless such conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age.

The regulation also adds licenses of licensed child day care facilities to the list of mandated reporters, reflects that the California Department of Justice form is now titled BCIA 8572, clarifies that when a staff member or volunteer aide is selected by a child to be present at an interview where child abuse is being investigated that the principal or designee inform the person of specified requirements prior to the interview, and reflects **NEW STATE REGULATION (Register 2020, No. 21)** which authorizes parents/guardians of special education students to file a complaint with CDE for safety concerns that interfere with the provision of a free appropriate public education pursuant to 5 CCR 3200-3205 rather than through uniform complaint procedures.

CSBA NOTE: Pursuant to Education Code 44691, the California Department of Education (CDE) is required to disseminate information to all school districts regarding the detection and reporting of child abuse and to provide guidance on the responsibilities of mandated reporters. See CDE's web site for information and resources.

CURRENT VERSION				REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
PARA	Section	Sub-Section	March 9, 2021	June 2021	
			<b><u>Definitions</u></b>	<b>No change</b>	
1			Child Abuse or neglect includes the following:	<b>No change</b>	
	1		A physical injury or death inflicted by other than accidental means on a child by another person	<b>No change</b>	
	2		Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1	<b>No change</b>	
	3		Neglect of a child as defined in Penal Code 11165.2	<b>No change</b>	

	4	Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3	No change	
	5	Unlawful corporal punishment or injury as defined in Penal Code 11165.4	No change	
2		Child abuse or neglect does not include:	No change	
	1	A mutual affray between minors	No change	
	2	An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment	An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of employment	
	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	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 legally 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	CSBA NOTE: Education Code 44807 provides that physical control of a student under the conditions specified in item #3 below is not subject to criminal prosecution or penalties.
	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	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, for purposes of self-defense, or to obtain weapons or other dangerous objects within the control of a student	
	5	Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student	No change	
	6	Homelessness or classification as an unaccompanied minor	No change	CSBA NOTE: Pursuant to Penal Code 11165.15, the fact that a child is homeless or is classified as an unaccompanied minor, as defined in the federal McKinney-Vento Homeless Assistance Act (42 USC 11434a), is not, in and of itself, a

					sufficient basis for reporting child abuse or neglect.
3			Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; athletic coaches, administrators, and directors; administrators and employees of a licensed child day care facility; Head Start teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program.	Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; athletic coaches, administrators, and directors; licensees, administrators, and employees of a licensed child day care facility; Head Start program teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program.	<p>CSBA NOTE: The following definition of "mandated reporters" does not list non-school persons (e.g., physicians, clergy members) who are also mandated to report suspected child abuse or neglect and may be revised to reflect additional positions applicable to the district as specified in Penal Code 11165.7.</p> <p>Penal Code 11165.7 clarifies that volunteers whose duties require direct contact with and supervision of children are not mandated reporters. However, the law encourages volunteers to obtain training in the identification and reporting of child abuse and neglect and to report known or suspected incidents of child abuse or neglect.</p>
4			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 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.	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 the person's training and experience, to suspect child 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.	
				<b><u>Reportable Offenses</u></b>	<b>New category title added</b>
5			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, he/she has knowledge of or observes a child whom the mandated reporter knows or	A mandated reporter shall make a report using the procedures provided below whenever, acting in a professional capacity or within the scope of employment, the mandated reporter has knowledge of or observes a child whom the mandated reporter	CSBA NOTE: Penal Code 11166 specifies that a mandated reporter has a duty to report when acting in a professional capacity or within the scope of employment. When a mandated reporter is acting in a private capacity, like other private citizens, making a report is discretionary.

		reasonably suspects has been the victim of child abuse or neglect.	knows or reasonably suspects has been the victim of child abuse or neglect.	
6		Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotion 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.	No change	
7		Any district employee who reasonably believes that he/she 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.	Any district employee who reasonably believes to have 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.	CSBA NOTE: Pursuant to Penal Code 152.3, it is a misdemeanor, with specified exceptions, for a witness to not report a murder, rape, or lewd or lascivious act as defined in Penal Code 288 where the victim is under age 14. Persons who fail to report such offenses may be subject to a fine and/or imprisonment.
		<b><u>Responsibility for Reporting</u></b>	No change	
1		The reporting duties of mandated reporters are individual and cannot be delegated to another person.	No change	
2		When two or more mandated reporters jointly have knowledge of a known or suspected instance of child 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.	No change	
3		No supervisor or administrator shall impede or inhibit a mandated reporter from making a report.	No change	CSBA NOTE: Penal Code 11166.01 provides that it is a crime, punishable by a fine and/or imprisonment, for a supervisor or administrator to knowingly inhibit or impede a mandated reporter from making a report.

4		Any person not identified as a mandated reporter who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency.	Any person not identified as a mandated reporter who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency.	
		<b><u>Reporting Procedures</u></b>	<b>No change</b>	
	1	Initial Telephone Report	<b>No change</b>	
	1 (2)	Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department.	<b>No change</b>	CSBA NOTE: Penal Code 11165.9 specifies the agencies that are authorized to receive reports of suspected child abuse and neglect, as detailed in the following paragraph. The agency must accept a report even if it lacks subject matter or geographical jurisdiction to investigate the case; the agency is then responsible for referring the case to an agency with proper jurisdiction.
	1 (3)	<p><b>Fort Irwin residence:</b> Any time a mandated reporter contacts the Sheriff's Department, they may also contact the Fort Irwin Military Police.</p> <p>San Bernardino County Sheriff's Department 225 E. Mountain View Barstow, CA 92311 (760) 256-1796</p> <p>Fort Irwin Military Police (760) 380-4444</p> <p>Child Protective Services 170 N. Yucca Ave., Suite D Barstow, CA 92311 (760) 255-5400</p>	<b>No change</b>	CSBA NOTE: It is recommended that the district's administrative regulation include the name, address, and phone number of the appropriate agencies in its area to whom reports should be made.
	1 (4)	<b>Valley Residence</b> (Yermo, Daggett, Ludlow, Newberry Springs, or Barstow)	<b>No change</b>	

		<p>San Bernardino County Sheriff's Department 225 E. Mountain View Barstow, CA 92311 (760) 256-1796</p> <p>Child Protective Services 170 N. Yucca Ave., Suite D Barstow, CA 92311 (760) 255-5400</p>		
	1 (5)	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.	No change	CSBA NOTE: The following paragraph is optional.
	2	Written Report	No change	
	2 (2)	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 (Form SS 8572).	Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall prepare and either send, fax, or electronically transmit to the appropriate agency a written follow-up report, which includes a completed California Department of Justice (DOJ) form (BCIA 8572).	
	2 (3)	The Department of Justice form may be obtained from the district office or other appropriate agencies, such as the county probation or welfare department or the police or sheriff's department.	The DOJ form may be obtained from the district office or other appropriate agencies, such as the police department, sheriff's department, or county probation or welfare department.	CSBA NOTE: Pursuant to Penal Code 11168, the California Department of Justice (DOJ) form shall be distributed by the police department, sheriff's department, county probation department, or county welfare department as appropriate and is available on the DOJ's web site. It may also be made available at the district office or school site. The following optional paragraph should be revised to reflect district practice.
	2 (4)	Reports of suspected child abuse or neglect shall include, if known:	No change	CSBA NOTE: Penal Code 11167 requires the mandated reporter's name when reporting known or suspected child abuse. However,

					the reporter's name and the report are confidential and are only disclosed in limited circumstances provided by law.
		a	The name, business address and telephone number of the person making the report and the capacity that makes the person a mandated reporter	No change	
		b	The child's name and address, present location and, where applicable, school, grade and class	No change	
		c	The names, addresses, and telephone numbers of the child's parents/guardians	No change	
		d	The name, address, telephone number, and other relevant personal information about the person who might have abused or neglected the child	The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child	
		e	The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information	No change	
	2 (5)		The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her.	The mandated reporter shall make a report even if some of this information is not known or is uncertain to the mandated reporter.	
	2 (6)		The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code section 11166.05.	No change	
	3		Internal Reporting	No change	CSBA NOTE: Item #3 below is optional and may be revised to reflect district practice. Pursuant to Penal Code 11166, school districts may establish internal reporting procedures encouraging employees to notify supervisors and administrators of reports that are made. These internal

					procedures must not inhibit or impede immediate and direct reporting by employees to appropriate agencies, direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances, or require any employee to disclose the employee's identity to the employer.
	3 (2)		The mandated reporter shall not be required to disclose his/her identity to his/her supervisory, the principal, or the Superintendent or designee.	The mandated reporter shall not be required to disclose the mandated reporter's identity to a supervisor, the principal, or the Superintendent or designee.	
	3 (3)		However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.	No change	
	3 (4)		The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.	No change	
	3 (5)		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.	No change	
			<b>Training</b>	No change	
1			Within the first six weeks of each school year, the Superintendent or designee shall provide training on mandated reporting requirements to district employees and persons working on	Within the first six weeks of each school year, or within the first six weeks of employment if hired during the school year, the Superintendent or designee shall provide	



		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.	training on mandated reporting requirements to district employees and persons working on their behalf who are mandated reporters.	
2		The Superintendent or designee shall use the online training module provided by the California Department of Social Services.	No change	CSBA NOTE: Education Code 44691 requires school districts to use the online training module provided by the California Department of Social Services (CDSS), available on the CDSS web site. However, if the online training module is not used, the Superintendent or designee is required to report to CDE regarding the training being used in its place.
3		The training shall include, but not necessarily be limited to, training in identification and reporting of child abuse and neglect. In addition, the training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect as required by law is a misdemeanor punishable by imprisonment and/or a fine as specified.	No change	
4		The Superintendent or designee shall obtain and retain proof of each mandated reporter's completion of the training.	No change	CSBA NOTE: Education Code 44691 requires districts to develop a process by which all persons required to receive training must provide proof of receiving the training (e.g., the use of a sign-in sheet, submission of a certificate of completion). The following paragraph may be revised to reflect district practice.
5		In addition, at least once every three years, school personnel may receive training in the prevention of child abuse, including sexual abuse, on school grounds, by school personnel, or in school-sponsored programs.	No change	CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 44691 encourages districts to provide training to all school employees, at least once every three years, on the prevention of child abuse on school grounds, by school personnel, or in school-sponsored

					programs. Pursuant to Education Code 44691, CDE's web site includes best practices for prevention of abuse and links to training resources.
			<b><u>Victim Interviews by Social Services</u></b>	<b>No change</b>	
1			Whenever the Department of Social Services or another government agency is investigating suspected child abuse or neglect that occurred within the child's home or out-of-home care facility, the student may be interviewed by an agency representative during school hours, on school premises. The Superintendent or designee shall give the student the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the student.	Whenever CDSS or another government agency is investigating suspected child abuse or neglect that occurred within the child's home or out-of-home care facility, the student may be interviewed by an agency representative during school hours, on school premises. The Superintendent or designee shall give the student the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the student.	CSBA NOTE: Penal Code 11174.3 authorizes a representative from CDSS or another government agency investigating suspected child abuse or neglect to interview a student during school hours, on school grounds, concerning a report of child abuse or neglect that occurred at home or in an out-of-home care facility. However, there is no clear guidance regarding the procedures to be followed if a social worker is accompanied by law enforcement. In <i>Greene v. Camreta</i> , the 9th Circuit Court of Appeals had ruled that, absent exigent circumstances, a social worker and sheriff could not question a student in school without obtaining a warrant, court order, or parent/guardian consent. Subsequently, that ruling was vacated by the U.S. Supreme Court on appeal ( <i>Camreta v. Greene</i> ) since the case was then moot. Districts should proceed with caution and consult legal counsel as necessary.
2			A staff member or volunteer aide selected by a child 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:	A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform the person of the following requirements prior to the interview:	
	1		The purpose of the selected person's presence at the interview is to lend support to the child and enable him/her to be as comfortable as possible.	The purpose of the selected person's presence at the interview is to lend support to the child and enable the child to be as comfortable as possible.	

	2		The selected person shall not participate in the interview.	No change	
	3		The selected person shall not discuss the facts or circumstances of the case with the child.	No change	
	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.	No change	
3			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.	No change	
			<b><u>Release of Child to Peace Officer</u></b>	No change	
1			When a child is released to a peace officer and taken into custody as a victim of suspected child 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 parent/guardian.	No change	
			<b><u>Parent/Guardian Complaints</u></b>	No change	
1			Upon request, the Superintendent or designee shall provide parents/guardians with procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. 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.	Upon request, the Superintendent or designee shall provide parents/guardians with procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those guidelines and/or procedures, an interpreter shall be provided.	CSBA NOTE: Education Code 48987 requires the district, upon request, to disseminate guidelines adopted by CDE advising parents/guardians of procedures for filing child abuse complaints. Such sample guidelines are available on CDE's web site.  Claims against the district for childhood sexual assault are governed by the timelines and procedures specified in Code of Civil Procedure 340.1; see AR 3320 - Claims and Actions Against the District.
2			To file a complaint against a district employee or other person suspected of child abuse or	To file a complaint against a district employee or other person suspected of child 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.	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 shall also file a report when obligated to do so pursuant to Penal Code 11166 using the procedures described above for mandated reporters.	
3		In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 4650.	In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 3200-3205.	CSBA NOTE: 5 CCR 3201, as added by Register 2020, No. 21, authorizes parents/guardians of special education students to file a complaint with CDE as provided in the following paragraph. CDE does not investigate allegations of child abuse or neglect, but may investigate conditions that may involve physical safety concerns as such concerns interfere with the provision of a free appropriate public education.
		<b><u>Notifications</u></b>	<b>No change</b>	
1		The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them <i>of their status as</i> mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167.	<b>No change</b>	
2		Before beginning employment, any person who will be a mandated reporter by virtue of his/her position shall sign a statement indicating that he/she has knowledge of the	Before beginning employment, any person who will be a mandated reporter by virtue of the person's position shall sign a statement indicating knowledge of the reporting	

		reporting obligations under Penal Code 11166 and will comply with those provisions. The signed statements shall be retained by the Superintendent or designee.	obligations under Penal Code 11166 and compliance with such provisions. The signed statement shall be retained by the Superintendent or designee.	
3		Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.	No change	
4		The Superintendent or designee shall also notify all employees that:	No change	CSBA NOTE: The remainder of this section is optional and <b><u>should be deleted</u></b> by districts that do not provide these additional notifications.
	1	A mandated reporter who reports a known or suspected instance of child 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 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 he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the reports.	A mandated reporter who reports a known or suspected instance of child 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 abuse or neglect outside of the mandated reporter's professional capacity or outside the scope of employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that the person knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report.	
	2	If a mandated reporter fails to timely report an incident of known or reasonably suspected child abuse or neglect, he/she may be guilty of a crime punishable by a fine and/or imprisonment.	If a mandated reporter fails to timely report an incident of known or reasonably suspected child abuse or neglect, the mandated reporter may be guilty of a crime punishable by a fine and/or imprisonment.	
	3	No employee shall be subject to any sanction by the district for making a report unless it can be shown that he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report.	No employee shall be subject to any sanction by the district for making a report unless it can be shown that the employee knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report.	

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