

LOS ANGELES COMMUNITY COLLEGES
OFFICE OF THE CHANCELLOR
ADMINISTRATIVE REGULATIONS

INDEX NUMBER PS-6

REFERENCE:	TOPIC: Child Abuse Reporting
ISSUE DATE: December 26, 1985	INITIATED BY: Human Resources
CHANGES: - Previously E-74 - Added Section 4e	DATE OF CHANGES: - March 20, 2001 - February 26, 2002

1. **PURPOSE AND SCOPE**

To outline administrative procedures to be followed in cases of suspected child abuse. This procedure addresses the reporting of the sexual assault, sexual exploitation, and/or sexual abuse of a child; the willful cruelty or unjustifiable punishment of a child; incidents of corporal punishment or injury against a child; abuse in out-of-home care; and the severe and/or general neglect of a child.

2. **LEGAL AND POLICY BASIS**

- a. Reference: Penal Code sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, 11164-11174.3; Welfare and Institutions Code sections 300, 318, 600; Family Code sections 7802, 7807, 7808, 7820-7829, 7890, 7892.
- b. Failure to report suspected child abuse 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 11172e)
- c. No child care custodian (which includes teachers and is defined in section 4a, below) who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by the Penal Code. (Penal Code section 11172a). Any person other than a child care custodian reporting a known or suspected instance of child abuse shall not incur any liability as a result of making any report of child abuse, unless it can be proven that a false

report was made and the person knew that the report was false. (Penal Code Section 11172a)

3. DEFINITIONS

- a. Child - A person under the age of 18 years.
- b. Child Abuse - A physical injury inflicted by other than accidental means on a child by another person; sexual assault of a child; willful cruelty or unjustifiable punishment of a child including mental suffering (Penal Code section 273a); corporal punishment or injury against a child (Penal Code section 273d); neglect of a child; or abuse in out-of-home care. (Penal Code section 11165 et seq.)

NOTE: Also included are traditional or cultural health practices. Reports of physical evidence of such health practices are required by law.

- c. Sexual Assault - Conduct including rape (Section 261), group rape (Section 264.1), incest (Section 285), sodomy (Section 286), lewd or lascivious acts upon a child under 14 years of age (Section 288 (a) and (b)), oral sex (Section 288a), penetration of a genital or anal opening by a foreign object (Section 289,) and child molestation (Section 647a). (Penal Code section 11165.1)
- d. Neglect - Negligent treatment or maltreatment of a child by a person responsible for a child's welfare such that harm or threatened harm to the child's health or welfare may result. This includes both acts and omissions on the part of the responsible person. (Penal Code section 11165.2)
 - 1) Severe Neglect - The negligent failure of a child's caretaker to protect that child from severe malnutrition or medically diagnosed failure to thrive. This includes those situations of neglect where a child's care taker willfully causes or permits the person or health of that child to be placed in a situation such that his or her person or health is endangered, such as intentionally failing to provide adequate food,

clothing or shelter. (Penal Code section 11165.2(a))

- 2) General Neglect - The negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter or supervision even where no physical injury to the child has occurred. (Penal Code section 11165.2(b))

- e. Willful cruelty or unjustifiable punishment of a child - A situation where a person willfully causes or permits a child to suffer, or inflicts unjustifiable physical pain or mental suffering on a child, or a situation where a caretaker willfully causes or permits the person or health of the child to be endangered. (Penal Code section 11165.e)

- f. Corporal punishment or injury - A situation where a person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury that results in a traumatic condition. (Penal Code section 11165.4)

- g. Abuse in out-of-home care - Physical injury is inflicted upon a child by nonaccidental means, sexual assault or neglect, unlawful corporal punishment, or the willful cruelty or unjustifiable punishment of a child, as defined above, where the child's caretaker is a foster parent or the administrator or an employee of a public or private residential home, school or other institution or agency. This does not include injuries caused by reasonable and necessary force used by a peace officer. (Penal Code section 11165.5)

- h. Reasonable suspicion - According to the Penal Code, a person has a "reasonable suspicion" when it is objectively reasonable 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. (Penal Code section 11166a)

According to the State Office of Child Abuse and Prevention, the following warning signals are sufficient to presume abuse: fractures; lacerations;

bruises that cannot be explained or explanations that are not compatible with the injury; unexplained or implausibly explained burns and/or facial injuries; self-destructive behavior; extreme fear or withdrawn behavior around others; complaints by the child of being sexually molested; indications by the child of pain from an inflicted injury; and/or suspicion of substantial neglect.

Examples of incidents that trigger reporting duties include: observing a minor with signs of abuse; hearing of abuse from a fellow employee; reading a minor student's writing indicating the minor student is being abused; reading an adult student's writing indicating that he/she abuses his/her child; and/or observing actual abuse.

- i. Child Protective Agency - A police or sheriff's department, a county probation department, or a county welfare department. (Penal Code section 11165.9). The College's Safety and Police Services are expressly not included within the definition of a "Child Protective Agency."

4. **REPORTERS**

- a. The following persons known as "Child Care Custodians" are required to report instances of suspected child abuse where they have a reasonable suspicion of the abuse (see the definition of reasonable suspicion in Section 3h, above):

Teacher; instructional aide; teacher's aide; teacher's assistant; administrative officer; supervisor of child welfare and attendance; or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator of a public or private youth center, program, or organization; a licensed day care worker; an administrator of a community care facility licensed to care for children; Headstart teacher; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer; an administrator, presenter, or counselor for a child

abuse prevention program in any school; a district attorney investigator; inspector or family support officer unless working with an appointed attorney; and/or a peace officer, including campus police. (Penal Code section 11165.7; Education Code section 72330)

- b. Reporting by persons other than "child care custodians" is permissive and not subject to the broad immunity for the making of false reports provided to "child care custodians" by the Penal Code. (Penal Code sections 11165.7, 11166a and 11172a; Section 2c, above.
- c. Individuals listed in 4a **must** report when they have knowledge of or observe a child in their professional capacity or within the scope of their employment, who they know or who they reasonably suspect has been the victim of child abuse. This includes evidence of traditional or cultural health practices as noted in 3b. (Penal Code section 11166a)
- d. The reporting duties imposed under Penal Code section 11166 are individual, and no supervisor or administrator may impede or inhibit an individual's obligation to report, and no person making such a report may be subject to any sanction for making the report. (Penal Code section 11166f)
- e. Any mandatory reporter who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way **may** report the known or suspected instance of child abuse to a child protective agency.

5. **REPORTING**

- a. Under the circumstances described in Section 3b above a child care custodian as defined in Section 4a **must** report a known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. In addition, the individual making the telephone report must prepare and send a written report thereof within 36 hours of

receiving the information concerning the incident.
(Penal Code section 11166a)

- 1) The person reporting an incident may contact:
 - a) Child Abuse Hotline: Dial "0" - Ask for "ZENITH 21234";
 - b) 24-Hour Service: 1-800-540-4000; or
 - c) The local child protective agency (the local city police department or L.A. County Sheriff's Department).

2) Information Required:

The telephone report of a known or suspected instance of child abuse must include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information requested by the child protective agency, including information that led the person reporting to suspect child abuse. (Penal Code section 11167). Persons who are not required to report pursuant to Penal Code section 11165.7, are not required to include their names in the report to the child protective agency.

- 3) If the suspected child abuse may be a result of traditional or cultural health practices (as noted in Section 3b, above), such suspicions must also be reported by telephone to the Child Abuse Hotline or other child protective agency and in writing, as described above.
- 4) Each College shall designate a location on campus where child abuse reporting forms will be available (e.g., the Academic Affairs Office or Police Services Office).
- 5) Each College may designate a faculty member on campus who will be available to assist persons with filling out forms and answering questions on

a confidential basis. This assistance will be completely voluntary and reporters are not required to consult with this person prior to making a report.

b. The identity of all persons who report a known or suspected incident of child abuse pursuant to Penal Code section 11164 et seq. shall be confidential and disclosed only to:

- 1) child protective agencies;
- 2) counsel representing a child protective agency;
- 3) the District Attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse;
- 4) counsel appointed pursuant to Section 318 of the Welfare and Institutions Code;
- 5) County Counsel or District Attorney in an action initiated under Family Code sections 7802, 7807, 7808, 7820-7829, 7890, 7892, or section 300 of the Welfare and Institutions Code, or when those persons waive confidentiality; or
- 6) to comply with a court order. (Penal Code section 11167d)

6. **LAW ENFORCEMENT INVESTIGATION**

Investigation of suspicion of child abuse is a function for local law enforcement agencies or child protective agencies. Legal charges, if deemed warranted, are filed by law enforcement agencies. Campus personnel must keep in mind that investigation of suspected child abuse is the responsibility of the child protective agencies and, unless appropriate, it is not the responsibility of campus personnel.

7. **NOTICE AND RELEASE OF INFORMATION**

a. Notice to Parents or Guardian:

When a campus Child Development Center director or other college administrator releases a minor pupil to a peace officer for the purpose of removing the minor

from the campus, the college official shall take immediate steps to notify the parent or guardian regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken (Education Code section 87044), **except** when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the college official shall provide the peace officer with the address and telephone number of the minor's parent or guardian.

NOTE: The peace officer should take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and of 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 to be 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.

b. Release of Information:

- 1) Non-accidental physical injury is considered to be a health and safety emergency, and parental consent is not required for release of student information under the Family Education Rights and Privacy act, or the California Student Records Act. See Education Code section 76200 et seq.
- 2) Information relevant to the incident of child abuse may be given to an investigator from a child protective agency who is investigating the known or suspected cause of child abuse. (Penal Code section 11167b)