

## MEMBER ALERT

### Mandatory Duties (CANRA/CA Penal Code §11164)

Equal access to a free and appropriate public education is a “civil right” students are entitled to receive. School districts have several duties and responsibilities they must satisfy in order to deliver the educational services to those students placed on their campuses and in their care. When a “mandatory duty” is not met, there are negative consequences that may occur. Students can be subjected to harm, school districts can be sued in civil court or targeted for an investigation by the Office of Civil Rights. Educators can face criminal prosecution and civil liability.

The balance of this member alert will focus on those State and Federal laws that create a legal duty for educators and school personnel to take action. The call for duty presents itself in various ways. It can occur when a mandated reporter has a “reasonable suspicion” that a child is being neglected or abused. It can also occur when the district has actual notice or receives a complaint from a student or parent that a student has been the victim of sexual harassment, sexual assault or discrimination.

There are multiple scenarios that might trigger action from the district, however for the purpose of this memo we will focus on the two most common and aforementioned triggers.

### **State of California - Mandated Reporting Laws (CANRA/CA Penal Code §11166)**

Within the educational setting, people employed by a school district or county office of education are “mandated reporters” as defined under the **Child Abuse and Neglect Reporting Act “CANRA”**. This legislative enactment we refer to as “CANRA” can be found within the California Penal Code as opposed to the California Education Code. The reason that CANRA was codified in the California Penal Code is because a violation of CANRA by a mandated reporter can lead to an arrest and criminal prosecution.

### **A Mandated Report is a “TWO-STEP” process**

California Penal Code Section § 11166 is very clear and very detailed on what is required of a mandatory reporter. It must be emphasized that the reporting duty is **a two-step process**. A single phone call to the authorities does not suffice.

The criminal statute found at California Penal Code Section § 11166 reads as follows:

“. a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter’s professional capacity or within the scope of the mandated reporter’s employment, has knowledge of or observes a child whom the mandated reporter **knows or reasonably suspects** has been the victim of child abuse or neglect.

**The mandated reporter shall make an initial report by telephone** to the agency immediately or as soon as is practicably possible, **(and) shall prepare and send, fax or electronically transmit a written follow up report within 36 hours** of receiving the information concerning the incident....”

(Bold font, parenthesis and underline added for emphasis).

It is extremely important that the mandated reporter makes their telephonic report by calling the proper authority **and** that they complete the **second step** of the process. They **MUST** complete the **Suspected Child Abuse Report “SCAR”** (see attachment) and then send, fax or electronically transmits the

completed report to the:

- City Police Department;
- County Sheriff Department; or
- County Department of Children's Service / Children's Protective Services aka "CPS".

It is also important that the mandatory reporter preserve the evidence that documents having successfully submitted the **SCAR** via facsimile or email. Print and preserve the successful fax transmission or email that was sent. If a mandated reporter is accused or charged with a crime for failing to satisfy their duty as a mandated reporter, the mandated reporter will want to have their documentation as evidence to support their defense against any criminal action or civil lawsuit.

California Penal Code § 11166 (c) "A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is **guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000)** or by both that imprisonment and fine. If a mandated reporter intentionally conceals the mandated reporter's failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense."

Evidence of the SCAR report having been successfully transmitted to the appropriate government agency protects both the child and the mandated reporter from a phone call "falling through the cracks" if the law enforcement officer or CPS worker becomes distracted or fails to follow through. The agencies responsible to receive SCAR reports have a mandated process to ensure follow up upon receipt of the SCAR reports. They must share these reports with additional agencies and meet certain time deadlines.

These laws governing mandated procedures have a purpose with the intent to protect children.

It is important to note that peer on peer sexual abuse, assault or exploitation between minors must be treated in the same manner as if an adult is the person suspected of abusing the child. We have noticed a common misunderstanding that if the accused perpetrator is under the age of 18 that mandated reporting duties do not apply. This is false! If you suspect that a child has been abused or neglected, you must report. Generally, if the perpetrator does not live in the home with the abused minor, then you must call law enforcement. If the perpetrator lives in the same home as the abused minor, you must call CPS, as they are the only agency that can remove a child from a home or parent where the child is being abused. If you are unsure, send the SCAR report to both agencies and let them decide which agency will take the lead.

## **What to Report?**

Under the law, when the victim is a child (a person under the age of 18) and the perpetrator is any person (including a child), the following types of abuse must be reported by all legally mandated reporters:

### **Physical abuse (Penal Code-11165.6):**

Any act which results in a non-accidental physical injury, including a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

### **Neglect (PC 11165.2):**

The negligent treatment or maltreatment of a child by a parent or caretaker under circumstances indicating harm or threatened harm to the child's health and welfare. The term includes both acts and omissions on the part of the responsible person, and may include the following:

- Inadequate food
- Inadequate clothing/hygiene
- Inadequate/hazardous shelter
- Inadequate supervision
- Inadequate medical/mental health care
- Caregiver absence/abandonment/incapacity
- Involving child in criminal activity
- Failure to protect

**Severe neglect (Penal Code 11165.5):**

The negligent failure of a caregiver to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. Severe neglect also means those situations where any person having the care and custody of a child willfully causes or permits the health of the child to be endangered, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

**Emotional abuse (Penal Code 11165.3):**

Caregiver actions, statements, or threats have led or are likely to lead to a child's emotional damage (e.g., anxiety, depression, withdrawal), behavioral concerns (includes untoward aggressive behavior toward self or others), and/or adverse impact on the child's emotional development (includes delayed speech development, abnormal attachment behaviors, impulse control behaviors). This includes exposure to domestic violence among household members.

**Sexual abuse (Penal Code 11165.1):**

When a child is abused for the sexual gratification of an adult or older adolescent. It includes: direct sexual contact; the adult or older person engaging in indecent exposure to a child with intent to gratify their own sexual desires, to intimidate or groom the child; asking or pressuring a child to engage in sexual activities; and displaying pornography to a child, or using a child to produce child pornography.

**Commercial Sexual Exploitation of Children (CSEC) (Penal Code 11165.1):**

Sexual activity involving a child in exchange for something of value, or promise of something of value, to the child or another person. The exchange may be monetary or non-monetary (e.g. for food, shelter, or goods). CSEC involves a child who is sexually trafficked, receives food or shelter in exchange for sexual acts, or is paid to perform sexual acts, AND whose parent or guardian failed or was unable to protect the child.

In the event you have any questions regarding this member alert and/or your districts policies relative to CANRA, please contact Tuolumne JPA Executive Director Norma Wallace (209) 536-2035.



## SUSPECTED CHILD ABUSE REPORT (Pursuant to Penal Code section 11166)

**To Be Completed by Mandated Child Abuse Reporters**  
**PLEASE PRINT OR TYPE**

**CASE NAME:** \_\_\_\_\_

**CASE NUMBER:** \_\_\_\_\_

<b>A. REPORTING PARTY</b>	NAME OF MANDATED REPORTER		TITLE		MANDATED REPORTER CATEGORY			
	REPORTER'S BUSINESS/AGENCY NAME AND ADDRESS Street City Zip			DID MANDATED REPORTER WITNESS THE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO				
	REPORTER'S TELEPHONE (DAYTIME)		SIGNATURE			TODAY'S DATE		
<b>B. REPORT NOTIFICATION</b>	<input type="checkbox"/> LAW ENFORCEMENT <input type="checkbox"/> COUNTY PROBATION <input type="checkbox"/> COUNTY WELFARE / CPS (Child Protective Services)		AGENCY					
	ADDRESS Street City Zip			DATE/TIME OF PHONE CALL				
	OFFICIAL CONTACTED - NAME AND TITLE			TELEPHONE				
<b>C. VICTIM</b> One report per victim	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX		ETHNICITY	
	ADDRESS Street City Zip			TELEPHONE				
	PRESENT LOCATION OF VICTIM		SCHOOL		CLASS		GRADE	
	PHYSICALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO		DEVELOPMENTALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO		OTHER DISABILITY (SPECIFY)		PRIMARY LANGUAGE SPOKEN IN HOME	
	IN FOSTER CARE? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF VICTIM WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: <input type="checkbox"/> DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> FAMILY FRIEND <input type="checkbox"/> GROUP HOME OR INSTITUTION <input type="checkbox"/> RELATIVE'S HOME			TYPE OF ABUSE (CHECK ONE OR MORE): <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER (SPECIFY) _____		
	RELATIONSHIP TO SUSPECT		PHOTOS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO		DID THE INCIDENT RESULT IN THIS VICTIM'S DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK			
	VICTIM'S SIBLINGS		NAME BIRTHDATE SEX ETHNICITY					
<b>D. INVOLVED PARTIES</b> VICTIM'S PARENTS/GUARDIANS	1. _____		3. _____					
	2. _____		4. _____					
	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX		ETHNICITY	
	ADDRESS Street City Zip		HOME PHONE		BUSINESS PHONE			
<b>D. INVOLVED PARTIES</b> SUSPECT	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX		ETHNICITY	
	ADDRESS Street City Zip		HOME PHONE		BUSINESS PHONE			
	SUSPECT'S NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX		ETHNICITY	
	ADDRESS Street City Zip		HOME PHONE		BUSINESS PHONE			
<b>E. INCIDENT INFORMATION</b>	IF NECESSARY, ATTACH EXTRA SHEET(S) OR OTHER FORM(S) AND CHECK THIS BOX <input type="checkbox"/> IF MULTIPLE VICTIMS, INDICATE NUMBER: _____							
	DATE/TIME OF INCIDENT		PLACE OF INCIDENT					
	NARRATIVE DESCRIPTION (What victim(s) said/what the mandated reporter observed/what person accompanying the victim(s) said/similar or past incident's involving the victim(s) or suspect)							

**DO NOT** submit a copy of this form to the Department of Justice (DOJ). The investigating agency is required under Penal Code section 11169 to submit to DOJ a Child Abuse or Severe Neglect Indexing Form BCIA 8583 if (1) an active investigation was conducted and (2) the incident was determined to be substantiated.



## SUSPECTED CHILD ABUSE REPORT (Pursuant to Penal Code section 11166)

### DEFINITIONS AND GENERAL INSTRUCTIONS FOR COMPLETION OF FORM BCIA 8572

All Penal Code (PC) references are located in Article 2.5 of the California PC. This article is known as the Child Abuse and Neglect Reporting Act (CANRA). The provisions of CANRA may be viewed at: <http://leginfo.ca.gov/faces/codes.xhtml> (specify "Penal Code" and search for sections 11164-11174.3). A mandated reporter must complete and submit form BCIA 8572 even if some of the requested information is not known. (PC section 11167(a).)

#### I. MANDATED CHILD ABUSE REPORTERS

Mandated child abuse reporters include all those individuals and entities listed in PC section 11165.7.

#### II. TO WHOM REPORTS ARE TO BE MADE ("DESIGNATED AGENCIES")

Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department or sheriff's department (not including a school district police or security department), the county probation department (if designated by the county to receive mandated reports), or the county welfare department. (PC section 11165.9.)

#### III. REPORTING RESPONSIBILITIES

Any mandated reporter 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 or neglect shall report such suspected incident of abuse or neglect to a designated 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. (PC section 11166(a).)

No mandated reporter who reports a suspected incident of child abuse or neglect shall be held civilly or criminally liable for any report required or authorized by CANRA. Any other person reporting a known or suspected incident of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by CANRA unless it can be proven the report was false and the person knew it was false or made the report with reckless disregard of its truth or falsity. (PC section 11172(a).)

#### IV. INSTRUCTIONS

**SECTION A – REPORTING PARTY:** Enter the mandated reporter's name, title, category (from PC section 11165.7), business/agency name and address, daytime telephone number, and today's date. Check yes/no whether the mandated reporter witnessed the incident. The signature area is for either the mandated reporter or, if the report is telephoned in by the mandated reporter, the person taking the telephoned report.

#### IV. INSTRUCTIONS (*continued*)

**SECTION B – REPORT NOTIFICATION:** Complete the name and address of the designated agency notified, the date/time of the phone call, and the name, title, and telephone number of the official contacted.

**SECTION C – VICTIM (One Report per Victim):** Enter the victim's name, birthdate or approximate age, sex, ethnicity, address, telephone number, present location, and, where applicable, enter the school, class (indicate the teacher's name or room number), and grade. List the primary language spoken in the victim's home. Check the appropriate yes/no box to indicate whether the victim may have a developmental disability or physical disability and specify any other apparent disability. Check the appropriate yes/no box to indicate whether the victim is in foster care, and check the appropriate box to indicate the type of care if the victim was in out-of-home care. Check the appropriate box to indicate the type of abuse. List the victim's relationship to the suspect. Check the appropriate yes/no box to indicate whether photos of the injuries were taken. Check the appropriate box to indicate whether the incident resulted in the victim's death.

**SECTION D – INVOLVED PARTIES:** Enter the requested information for Victim's Siblings, Victim's Parents/Guardians, and Suspect. Attach extra sheet(s) if needed (provide the requested information for each individual on the attached sheet(s)).

**SECTION E – INCIDENT INFORMATION:** If multiple victims, indicate the number and submit a form for each victim. Enter date/time and place of the incident. Provide a narrative of the incident. Attach extra sheet(s) if needed.

#### V. DISTRIBUTION

**Reporting Party:** After completing form BCIA 8572, retain a copy for your records and submit copies to the designated agency.

**Designated Agency:** **Within 36 hours** of receipt of form BCIA 8572, the initial designated agency will send a copy of the completed form to the district attorney and any additional designated agencies in compliance with PC sections 11166(j) and 11166(k).

#### ETHNICITY CODES

1 Alaskan Native	6 Caribbean	11 Guamanian	16 Korean	22 Polynesian	27 White-Armenian
2 American Indian	7 Central American	12 Hawaiian	17 Laotian	23 Samoan	28 White-Central American
3 Asian Indian	8 Chinese	13 Hispanic	18 Mexican	24 South American	29 White-European
4 Black	9 Ethiopian	14 Hmong	19 Other Asian	25 Vietnamese	30 White-Middle Eastern
5 Cambodian	10 Filipino	15 Japanese	21 Other Pacific Islander	26 White	31 White-Romanian

**State of California**

**PENAL CODE**

**Section 11166**

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11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "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. "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; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, the mandated reporter shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which the mandated reporter filed the report. A mandated reporter who files a one-time automated written report because the mandated reporter was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section

that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) This section does not supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals the mandated reporter's failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the clergy member's church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in the clergy member's professional capacity or within the scope of the clergy member's employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of that person's professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) A commercial computer technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.



(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, the mandated reporter makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person 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 an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in the person's private capacity and not in the person's professional capacity or within the scope of the person's employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, 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 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.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making 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 this article. An internal policy shall not direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee's identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission 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 or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a

written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given 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 or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(Amended by Stats. 2019, Ch. 27, Sec. 16. (SB 80) Effective June 27, 2019.)