

TO: BOARD OF EDUCATION

ACTION/MAJOR

06/26/08

FROM: DIANNE TALARICO / MICHAEL D. MATTHEWS

RE: REVISE POLICY 5141.4: Child Abuse Prevention and Reporting [Formerly "Child Abuse and Neglect (Reporting Procedures)"]

RECOMMENDATION NO. A.34

It is recommended that the Board of Education approve revisions to policy 5141.4: Child Abuse Prevention and Reporting [formerly "Child Abuse and Neglect (Reporting Procedures)"].

COMMENT: The board discussed changes to this policy at its meeting on June 5, 2008. The Ad Hoc Policy Review Committee has also reviewed these changes.

Attached:

- Board Policy 5141.4: Child Abuse Prevention and Reporting [formerly "Child Abuse and Neglect (Reporting Procedures)"]
- Administrative Regulation 5141.4

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

**THIS IS A REVISED SMMUSD POLICY**

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<u>NUMBER</u>	<u>ARTICLE</u>	<u>TITLE</u>
5141.4	Students	Child Abuse and Neglect <del>(Reporting Procedures)</del> <u>Prevention and Reporting</u>

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Welfare	X		

**DETAIL**

Child Abuse Prevention

The Governing Board recognizes the district's responsibility to educate administrators, staff and students about the dangers of child abuse so that they will acquire the skills and techniques needed to identify unsafe situations and to react appropriately and promptly. The Governing Board also recognizes the district's responsibility to provide and maintain a safe physical environment that will minimize unsafe situations for children.

The district's instructional program shall include age-appropriate and culturally and linguistically sensitive child abuse prevention curriculum. This curriculum shall explain students' right to live free of abuse, inform them of available support resources, and teach them how to obtain help and disclose incidents of abuse. The curriculum also shall include training in self-protection techniques. Students who are new to the District will receive an orientation which will include this curriculum.

The Superintendent or designee shall seek to incorporate community resources into the district's child abuse prevention programs. To the extent feasible, the Superintendent or designee shall use these community resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

Child Abuse Reporting

The Board recognizes that child abuse has severe consequences and that the district has a responsibility to protect students by facilitating the prompt reporting of known and suspected incidents of child abuse. With concern for the total well-being of each student, the Board of Education directs the employees of

the District to report known or suspected incidences of child abuse in accordance with state law and Administrative Regulations. District employees shall cooperate with the child protective agencies responsible for reporting, investigating and prosecuting cases of child abuse. The Superintendent or designee shall ~~develop and implement regulations for identifying and reporting child abuse.~~ establish procedures for the identification and reporting of such incidents in accordance with law.

Employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known, suspected, or alleged incidents of child abuse and neglect.

Mandated reporters shall not investigate any suspected incidents but rather shall cooperate with agencies responsible for investigating and prosecuting cases of child abuse and neglect.

The Superintendent or designee shall provide training regarding the reporting duties of mandated reporters.

By no later than October 31<sup>st</sup> of each year, the Superintendent shall inform the public via an Information Item in the Board of Education agenda the numbers of child abuse reports and the number involving District employees for the previous school year. The Superintendent shall also inform the public that the training for all mandated reporters has been provided. In the event that training is not provided to mandated reporters, the Superintendent shall report to the California Department of Education and the public the reasons that such training has not been provided.

## **REFERENCE**

Legal Reference

EDUCATION CODE

32280-32288 Comprehensive school safety plans

33308.1 Guidelines on procedure for filing child abuse complaints

44690-44691 Staff development in the detection of child abuse and neglect

44807 Duty concerning conduct of students

48906 Notification when student released to peach officer

48987 Dissemination of reporting guidelines to parents

49001 Prohibition of corporal punishment

51220.5 Parenting skills education

PENAL CODE

Duty to report murder, rape, or lewd or lascivious act

273a Willful cruelty or unjustifiable punishment of child; endangering life or health

288 Definition of lewd or lascivious act requiring reporting

11164-11174.4 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

Filing complaints with CDE, special education students

**MANAGEMENT RESOURCES**

CDE LEGAL ADVISORIES

514.93 Guidelines for parents to report suspected child abuse

WEBSITES

California Attorney General's Office, Crime and Violence Prevention Center:

<http://safestate.org>

California Department of Education, Safe Schools: <http://www.cde.ca.gov/ls/ss>

California Department of Social Services, Children and Family Services

Division: <http://www.childsworld.ca.gov>

U.S. Department of Health and Human Services, National Clearinghouse on Child

Abuse and Neglect Information: <http://nccanch.acf.hhs.gov>

**ADOPTED**

November 14, 1988

**REVISED**

XXXXXXX

**CSBA DATE**

November 2004

**THIS IS A REVISED SMMUSD ADMINISTRATIVE REGULATION**

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5141.4	Students	<del>Child Abuse and Neglect (Reporting Procedures)</del> <u>Prevention and Reporting</u>

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Welfare		X	

**DETAIL**

~~SUBJECT: Child Abuse and Neglect (Reporting Procedures)~~

~~ISSUED BY: Director Pupil/Administrative Services~~

~~I. EFFECTIVE DATE: November 14, 1988~~

~~II. AUTHORITY~~

~~Board of Education Policy 5141.4~~

~~III. PROCEDURES~~

~~A. Reportable Cases Under Child Abuse Reporting Law~~

~~1. Sections 11166 of the California Penal Code mandates the reporting to designated authorities of cases of suspected or known child abuse. A report, both by telephone and in writing, is required of any certificated school employee who in his/her professional capacity or within the scope of his/her employment has knowledge of or observes a child who can reasonably be suspected of having been a victim of child abuse.~~

~~2. For the purposes of this law, the following definitions apply:~~

~~a. "Child" means a person under the age of 18. Emancipation does not alter the responsibility for reporting abuse of a minor under the California Penal Code.~~

~~b. "Child abuse" means:~~

Definitions

Child abuse or neglect includes the following:

1. A physical injury or death inflicted by other than accidental means on a child by another person

2. Sexual abuse of a child, including sexual assault/molestation and/or sexual exploitation, of a child; as defined in Penal Code 11165.1

3. Neglect of a child as defined in Penal Code 11165.2

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

~~3) Any act or omission proscribed by Section 273a (willful cruelty or punishment of a child) or 273d (corporal punishment or injury) of the California Penal Code;~~

5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

Child abuse or neglect does not include:

1. A mutual affray between minors (Penal Code 11165.6)

2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)

3. An injury resulting from the exercise by a teacher, assistant 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 (Education Code 44807)

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 (Education Code 49001)

5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code 49001)

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; administrators and employees of a licensed 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 (Penal Code 1165.7)

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. (Penal Code 11166)

### Reportable Offenses

A mandated reporter shall make a report using the procedures provided 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 reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

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 emotional 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. (Penal Code 11166.05)

Any person shall notify a peace officer if he/she 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, where the victim is a child under age 14. (Penal Code 152.3, 288)

### Responsibility for Reporting

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

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. (Penal Code 11166)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

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. (Penal Code 11166)

## Reporting Procedures

### 1. Initial Telephone Report

Within 24 hours of 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. (Penal Code 11166 When possible, the telephone call should be made before the end of the school day during which the information was obtained.

#### **800-540-4000 (LA County Child Protection Hot Line 24 hours)**

Or

Santa Monica Police Department

333 Olympic Drive, Santa Monica, CA 90401

Attn: Youth Services Division

310-458-8491 (24 hours)

310-393-5051 (fax)

Or

Malibu LA County Sheriff's Department (310-456-6652, ext. 235).

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.

### 2. Written Report

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 (SS 8572). (Penal Code 11166, 11168)

Mandated reporters may obtain copies of the Department of Justice form from either the district or the appropriate agency.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter

b. The child's name and address, present location and, where applicable, school, grade, and class



- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information
- e. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

Information relevant to the incident of child abuse or neglect may also be given to an investigator from an agency that is investigating the case. (Penal Code 11167)

### 3. Internal Reporting

Employees reporting child abuse or neglect to an appropriate agency are required, to notify the principal or designee immediately after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee with the Confidential Incident Report Form.

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.

After completion of the written follow-up report, which includes a completed Department of Justice form (SS 8572), and after providing that form to the appropriate agency, the mandated reporter shall provide that form to the principal or designee. The mandated reporter shall not be required to disclose his/her identity to the principal and may remove his/her name from the form. (Penal Code 11166)

The principal or designee shall attach the follow-up report to the Confidential Incident Report Form, which shall be provided to the Superintendent.

The Superintendent or designee shall maintain a record of all reported cases of suspected child abuse regarding employees to enable the district to monitor, address and prevent repetitive child abuse in its schools. All complaints and allegations of child abuse shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action.

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. (Penal Code 11166)

### Training

Training of mandated reporters shall include child abuse and neglect identification and mandated reporting. (Penal Code 11165.7)

Training shall also include guidance in the appropriate discipline of students, physical contact with students, and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child abuse.

### Victim Interviews

Whenever a representative of a government agency investigating suspected child abuse or neglect or the state Department of Social Services deems it necessary, a suspected victim 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. The child shall be given the choice of being interviewed in private or in the presence of any adult district employee or volunteer aide selected by the child. (Penal Code 11174.3)

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: (Penal Code 11174.3)

- a. 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.
- b. The selected person shall not participate in the interview.
- c. The selected person shall not discuss the facts or circumstances of the case with the child.
- d. 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.

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. (Penal Code 11174.3)

## Release of Child to Peace Officer

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. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

Peace officers shall be asked to sign an appropriate release or acceptance of responsibility form.

## Parent/Guardian Complaints Regarding Suspected Child Abuse

Upon request, the Superintendent or designee shall provide parents/guardians with a copy of the district's administrative regulation that describes how to report suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is other than English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

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.

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.

## Notifications

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, of their reporting obligations under Penal Code 11166, and of their confidentiality rights under Penal Code 11167. The district shall also provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Before beginning employment, employees shall sign the statement

indicating that they have knowledge of the reporting obligations under Penal Code 11166 and that they will comply with those provisions. The signed statements shall be retained by the Superintendent or designee. (Penal Code 11166.5)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee shall also notify all employees that:

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 report. (Penal Code 11172)
2. If a mandated reporter fails to 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. (Penal Code 11166)
3. No employee shall be subject to any sanction by the district for making a report. (Penal Code 11166)

~~AR 5141.4 (b)~~

~~4) Neglect of a child~~

~~(a) Severe neglect (situations where any person having care or custody of a child willfully causes or permits the child to be in a situation that the child's health is endangered).~~

~~(b) General neglect (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).~~

~~e. "Reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse.~~

## ~~B. Procedures for Reporting Child Abuse~~

~~1. Suspected instances of child abuse are to be reported to the school nurse. He/she is the contact person at each school site. The nurse will assume responsibility for completing the Suspected Child Abuse Report (11166PC) form, secure the initials of the school principal on this form and contact the Santa Monica Police Department (458-8943) or Malibu Sheriff's Department (456-6652, ext. 235).~~

~~2. In the absence of the school nurse, the contact person at each site is the school principal.~~

~~3. The identity of all persons who report known or suspected child abuse is confidential as indicated in Penal Code Section 11167 subdivision (c).~~

~~AR 5141.4 (c)~~

## IV. RELATED FORMS

Suspected Child Abuse Report (11166PC)  
Department of Justice Form SS 8572

## V. APPROVAL

~~SUPERINTENDENT Gene Tucker DATE 11/14/88~~