

CITY OF DIAMOND BAR POLICY AND PROCEDURE

Number: S-9
Authority: City Manager 
Effective:
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CHILD ABUSE AND NEGLECT REPORTING POLICY

1. PURPOSE

The California Child Abuse and Neglect Reporting Act requires certain professionals whose duties require direct contact with children to immediately report alleged child abuse or neglect to law enforcement. This policy establishes reporting procedures for City Employees.

2. GENERAL PROVISIONS

City Employees that have a reasonable suspicion that a child has been the victim of abuse or neglect must immediately notify law enforcement, e.g. the Los Angeles County Sheriff's Department, or a child welfare agency. Employees are encouraged, but not required to report the incident to their supervisor after contacting law enforcement (Los Angeles County Sheriff's Dept.). Employees will not be disciplined, dismissed, retaliated against, discriminated against or harassed for making a mandated report of reasonably suspected child abuse.

- a) Within thirty-six (36) hours of learning of alleged abuse or neglect, the reporting employee must complete Form SS 8572 (included as Exhibit A) and return it to the Sheriff's Department or other investigating agency.

3. VIOLATIONS

- a) Employees failing to make or submit a report in a timely manner when there is reasonable suspicion of child abuse or neglect may be subject to administrative disciplinary action, up to and including termination.
- b) Any supervisor impeding or inhibiting the reporting of alleged abuse or neglect, or subjecting subordinates to sanctions or discipline for submitting a report may be subject to administrative disciplinary action, up to and including termination.
- c) Any employee making a report of child abuse or neglect that is known to be false or is made with reckless disregard of the truth or falsity of the report is liable for any damages caused and may be subject to administrative disciplinary action, up to and including termination.

ACKNOWLEDGMENT OF MANDATED REPORTING REQUIREMENTS, AND RECEIPT OF PENAL CODE STATUTES

A mandated reporter is an individual who is obligated by law to report suspected cases of child abuse and neglect. In general, any individual who, in the ordinary course of their employment, has contact with children is a mandated reporter. Mandated reporters include child care workers, teachers and coaches. (California Penal Code § 11165.7.)

If your job duties as an employee or an independent contractor of the City of Diamond Bar include contact with children, you are a Mandated Reporter. Prior to commencing employment and as a prerequisite of that employment, California law requires that you sign a statement to the effect that you have knowledge of the provisions of the Mandated Reporter Law, and will comply with those provisions. (California Penal Code § 11166.5.)

Following are your Mandated Reporter responsibilities under California law. You are also being provided with a separate informational document which includes the text of the California Mandated Reporter Law and contact information for Child Abuse and Neglect Reporting for the County of Los Angeles. Please review this information carefully and acknowledge your receipt and understanding where indicated. If you have questions or concerns about this form or your Mandated Reporter responsibilities, please contact Human Resources [HR] at: 909-839-7017.

I understand that:

- By virtue of my employment or independent contractor status with the City of Diamond Bar and because my employment requires me to have contact with children, I am a Mandated Reporter as defined by California Penal Code 11165.7.
- The following situations are mandatory reports: a) Physical Abuse (willful harming of a child); b) Sexual Abuse including sexual assault, child exploitation, pornography, and trafficking; c) Severe or General Neglect; and d) Extreme Corporal Punishment (resulting in injury). (Cal. Pen. Code § 11165 et seq.) I further understand that I may, but am not required to, report suspected Emotional Abuse. (Cal. Pen. Code § 11165.05.)
- If I reasonably suspect that a child is being abused, I must immediately make a telephone report. I must follow up with a written report within 36 hours. This report may be made to local law enforcement, or County Sheriff's Department, Probation Department or Child Welfare Agency. (Cal. Pen. Code § 11166(a).)
- If I reasonably suspect that a child is being abused, I may consult with my supervisor or management. My supervisor and I may agree to file a joint report, but I understand that even if my supervisor disagrees with me, if I reasonably

suspect that a child is being abused, I must make a report. (Cal. Pen. Code § 11166(h).)

- I am not required to, but I may, share information about suspected abuse with my supervisor or management or the parents of the alleged victim.
- When I make a mandated report, I will be required to give my name. However, my identity will be kept confidential unless I either consent to disclosure or pursuant to a court order. Further, agencies investigating the mandated report may disclose my identity to one another. (Cal. Pen. Code § 11167(d).)
- The following agencies and individuals receiving or investigating mandated reports may disclose my identity to one another:
 - Prosecutors in a criminal prosecution or in an action initiated under section 602 of the Welfare and Institutions Code arising from alleged child abuse;
 - Counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code;
 - The county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code;
 - A licensing agency when abuse or neglect in out-of-home care is reasonably suspected. (Cal. Pen. Code § 11167.5.)
- I may not be disciplined, dismissed, retaliated against, discriminated against or harassed for making a mandated report of reasonably suspected child abuse.
- As a Mandated Reporter, I have civil and criminal immunity when making a report. (Cal. Pen. Code § 11172.)
- As a Mandated Reporter, **it is a misdemeanor to fail to comply with Mandated Reporting laws and I can be held criminally liable for failing to report suspected abuse.** The penalty for this is up to six months in County jail, a fine of not more than \$1000, or both. I further understand I could be civilly liable for failure to report. (Cal. Pen. Code § 11166(c).)

I have been provided with a copy of California Penal Code sections 11164-11174.3 (Mandated Reporter Law).

I understand that I am a legally Mandated Reporter. I am aware of and understand my responsibilities under the Mandated Reporter laws of this state and am willing and able to comply. I understand that a copy of this Acknowledgement will be kept in my personnel file.

Name (Signature)

Date

Name (Print)

**Mandated Reporter Information and
California Penal Code Sections 11164, 11165.7, 11166, 11167**

Mandated Reporting: Los Angeles County

- Reasonably suspected child abuse must be immediately reported to local law enforcement, the County Sheriff's Department, or the Children and Family Services Department of the Los Angeles County's Human Services Agency.
- Children Services Division 24-Hour Reporting Hotline: **800-540-4000**
- A telephone report must be followed up with a written report **within 36 hours**.
- You may request a copy of the Mandated Reporter form from the Administration Office or download one, free of charge, online from the California Attorney General at <http://ag.ca.gov/childabuse/forms.php>
- If you have questions, you may contact HR at: 909-839-7017

California Penal Code Sections 11164-11174.3

11164. (a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act; (b) The intent and purpose of this article is to protect children from abuse and neglect. In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following: (1) A teacher. (2) An instructional aide. (3) A teacher's aide or teacher's assistant employed by any public or private school. (4) A classified employee of any public school. (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school. (6) An administrator of a public or private day camp. (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization. (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children. (9) Any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis. (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility. (11) A Head Start program teacher. (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11. (13) A public assistance worker. (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities. (15) A social worker, probation officer, or parole officer. (16) An employee of a school district police or security department. (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school. (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor. (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section. (20) A firefighter, except

for volunteer firefighters. (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code. (22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code. (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code. (24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code. (25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code. (26) A state or county public health employee who treats a minor for venereal disease or any other condition. (27) A coroner. (28) A medical examiner, or any other person who performs autopsies. (29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency. (30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law. (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings: (A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations. (B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code. (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization. (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166. (34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department. (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court. (36) A custodial officer as defined in Section 831.5. (37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code. (38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect. (b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9. (c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5. (d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided. (e) Unless

otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article. (f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

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 his or her professional capacity or within the scope of his or her 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 to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any non privileged documentary evidence the mandated reporter possesses relating to the incident. (1) For the 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 his or her training and experience, to suspect child abuse or neglect. For the purpose 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) Any 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, he or she 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 follow up call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written follow up 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 follow up 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) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report. (5) Nothing in this section shall 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) Any 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 his or her 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 his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her 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 his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse 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) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following: (1) 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. (2) Penetration of the vagina or rectum by any object. (3) Masturbation for the purpose of sexual stimulation of the viewer. (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer. (5) Exhibition of the genitals, pubic, or rectal areas of any 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, he or she 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 he or 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 an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her 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. (2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her 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) 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 which 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. (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.

11167. (a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons 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 or her. (b) Information relevant to the incident of child abuse or neglect may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect. (c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, may be given to the licensing agency when it is investigating a

known or suspected case of child abuse or neglect. (d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order. (2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order. (e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article. (f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.