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March 17, 2015

CHANCELLORS
DIRECTOR ALIVISATOS
MEDICAL CENTER CHIEF EXECUTIVE OFFICERS
VICE PRESIDENT ALLEN-DIAZ

Dear Colleagues:

Enclosed is the revised *Reporting Child Abuse and Neglect Policy*. This update brings the policy into compliance with California State Assembly Bill 1775(AB 1775). On January 1, 2015, AB 1775 went into effect and updated the definition of “sexual exploitation” as it applies to the Child Abuse and Neglect Reporting Act (CANRA), specifically section 11165.1 of the Act. The definition of sexual exploitation now includes “a person who knowingly downloads, streams, or accesses through any electronic or digital media, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct.”

This amendment to CANRA required that we update our systemwide CANRA policy. Working with the Office of the General Counsel, the Office of Ethics, Compliance, and Audit Services, Human Resources, and Academic Personnel, technical changes were made to the Presidential policy to reflect the updated definition. There are three specific areas which were updated to include the new definition of sexual exploitation: Appendix 2, Appendix B, and Appendix C. There were no other changes to the policy.

The updated policy has been published and is accessible on policy.ucop.edu.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal line extending to the right.

Janet Napolitano
President

Enclosure

cc: Members, President's Cabinet
Chief Human Resource Officers
Universitywide Policy Office



Reporting Child Abuse and Neglect

Academic Officer:	Vice Provost - Academic Personnel and Programs
Academic Office:	AP - Academic Personnel and Programs
Staff Officer:	VP - Human Resources
Staff Office:	HR - Human Resources
Issuance Date:	March 17, 2015
Effective Date:	March 17, 2015
Last Review Date:	February 24, 2015
Scope:	This policy applies to all University employees, volunteers, and students.

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I. POLICY SUMMARY

The California Child Abuse and Neglect Reporting Act (“CANRA”), codified at California Penal Code §§ 11164-11174.3, requires that employers of Mandated Reporters (as defined in the Act) promote identification and reporting of child abuse or neglect. It is the policy of the University of California to comply with its obligations under the Act; to require that all University employees and administrators who are Mandated Reporters make required reports to child protection or law enforcement agencies; and more broadly to encourage *all* members of the University community who observe, have actual knowledge of, or reasonably suspect child abuse or neglect at a University facility or perpetrated by University personnel to promptly report the concern to appropriate external and University officials.

II. DEFINITIONS

Child: A person under the age of 18 years. The term “child” includes Students who are under the age of 18, even those who are enrolled in regular University programs or who are not legally “minors.”

Child Abuse or Neglect: Refers to physical injury or death inflicted by other than accidental means on a child by another person. It includes willful harm or injury; sexual abuse, assault, and exploitation; endangerment; and unlawful corporal punishment or injury. See the attached “*Frequently Asked Questions*” for additional guidance on what type of conduct might meet the definition of abuse or neglect under CANRA.

Child Abuse and Neglect Reporting Act (the “Act” or “CANRA”): California Penal Code §§ 11164-11174.3, as currently in effect or subsequently amended.

Mandated Reporter: A University Employee, Official, or Volunteer who is required under the Act due to their licensure or profession, or otherwise by virtue of their University position or activities, to report child abuse and neglect to specified authorities. See Appendix A, *Mandated Reporter Categories*, for a summary of affected jobs and professions. For purposes of this policy, an “Employee” is any individual who has a relationship with the University for which compensation is paid through the University’s payroll system. An “Official” (referred to as an “administrator” in CANRA) is any individual who, other than as an Employee (for example, as an independent contractor or a volunteer) supervises Employees performing official University business or directs or manages official University programs. A “Volunteer” is an individual providing a service to the University under the supervision of the University (other than as an Employee, Official, or Student), without receipt of monetary compensation. “Without-compensation” academic personnel are “volunteers” under this policy.

Senior Administrator: This group refers to any Employee or Official holding the title of Director or above. Senior Administrators include, among others, all Chancellors and Vice Chancellors, Provosts and Vice Provosts, Deans, Associate Deans, and Assistant Deans, Department Chairs, Division Chiefs, and Chief Executive Officers.

Student: An individual for whom the University maintains student records and who is enrolled in or registered with any University academic program and who is not a University Employee. For purposes of this policy, the term “student” does not apply to other individuals who may qualify as students under general University policies. See Policies Applying to Campus Activities, Organizations, and Students ([AOS 14.40](#)).

III. POLICY TEXT

A. *Mandated Reporters*

1. Identification of Mandated Reporters

Each campus or location must identify job classifications or individual academic or staff Employees and Officials who, by virtue of professional licensure or required job qualifications (e.g., licensed health professionals) or their University duties or activities (e.g., day care workers, campus police, high school internship supervisors), are Mandated Reporters. Each campus or location also should attempt to identify Volunteers who are Mandated Reporters.

2. Notification to Employees Who Are Mandated Reporters

Each campus or location must develop and implement procedures to assure that, prior to and as a condition of employment (whether first-time employment or to a new position within the University), all Employees who are Mandated Reporters sign a statement that they understand and will comply with the Act. Completed forms shall be maintained in Employees' personnel files. See Appendix B, *Model Acknowledgement Forms and Appendices*, for a sample form that may be used to comply with this policy. This sample form may be modified for use by a campus or location as long as the local form complies with the Act's substantive acknowledgement mandate. A campus that discovers that an existing Employee is a Mandated Reporter but has not previously signed the acknowledgement form must secure the signature within thirty (30) days of the discovery.

3. Education of Mandated Reporters and Others

Each campus unit shall determine what, if any, training (in addition to that provided through the acknowledgment form process itself) is necessary and appropriate to advise Mandated Reporters and other members of the University community on the subject of child abuse and neglect identification and reporting and of their obligations under the Act. See Appendix C, *Frequently Asked Questions ("FAQs")* for available training resources. **Note: Mandated Reporters must comply with the duties imposed by the Act whether or not they have received training from the University or any third party.**

B. Reporting Requirements

1. Assault

Separate from CANRA, the California Penal Code requires *any person* who reasonably believes he or she has observed murder, rape, or certain lewd or lascivious acts where the victim is a child under the age of 14 years to notify a peace officer (such as a campus or community police officer or a county sheriff) of the potential crime. **This reporting mandate applies whether or not the witness is a mandated reporter and regardless of his or her affiliation with the University.** It is subject only to very limited exceptions, and violation may result in criminal penalties. For additional details, see Appendix C, *Frequently Asked Questions* (“FAQs”).

2. Mandated Reporters

External Reports. Mandated Reporters must report observed or suspected child abuse or neglect to agencies designated to receive such reports. These include police and sheriffs’ departments, such as the UC Police Department, and county welfare departments. See <http://www.cdss.ca.gov/cdssweb/PG20.htm> for a current list of Child Protective Services hotlines across California. Initial external reports must be made immediately, by telephone, and followed by written reports as soon as reasonably practicable but in any event within 36 hours. A written report must include the information described in Section 11167(a) of the Act and may be submitted on form SS 8572, available online at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf (instructions at http://oag.ca.gov/sites/all/files/pdfs/childabuse/8572_instruct.pdf). Note that local agency procedures may vary. **Failure to make a mandated external report may result in criminal penalties.**

3. Internal Reports.

Under this policy, anyone who is required to make an external report must also make internal reports, as further described below. This *internal* reporting requirement does not apply to: (1) clinicians or staff who identify abuse or neglect in connection with the provision of mental health services through Faculty and Staff Assistance Programs; nor (2) victim advocates employed by or volunteering in campus resource or advocacy centers who identify abuse or neglect in connection with their confidential work as advocates.

An internal report made under this policy is not a substitute for a Mandated Reporter's required external reports under CANRA or other applicable laws.

- **Mandated Reporters at University Healthcare Facilities.** Mandated Reporters who observe or suspect child abuse or neglect at University owned or operated hospitals, clinics, or other health care facilities, including student health and psychological services facilities, must comply with any internal reporting obligations set forth in the facilities' local bylaws and policies. *Note: Abuse or neglect suspected to have occurred in licensed health facilities and clinics may trigger additional reporting requirements to the California Department of Public Health, The Joint Commission, and other agencies and organizations.*
 - **Other Mandated Reporters.** All Mandated Reporters other than those working at University healthcare facilities must promptly report observed or suspected child abuse or neglect to their supervisors or through the University Compliance Hotline (by phone: 1-800-403-4744 or at <http://www.universityofcalifornia.edu/hotline/>). Supervisors who receive reports should promptly forward those reports to the Hotline. These internal reports may be made anonymously.
 - **Other Personnel.** Other personnel who reasonably believe they have observed murder, rape, or leud or lascivious acts involving a victim who is under the age of 14 must also promptly report that conduct to their supervisors or through the University Compliance Hotline (by phone: 1-800-403-4744 or at <http://www.universityofcalifornia.edu/hotline/>). Supervisors who receive reports should promptly forward those reports to the Hotline. These internal reports may be made anonymously.
4. **Other University Personnel and Members of the University Community.**

Individuals who are not otherwise required to report under this policy are nevertheless encouraged to report observed or suspected child abuse or neglect to their supervisors or through the University Compliance Hotline (by phone: 1-800-403-4744 or at <http://www.universityofcalifornia.edu/hotline/>). These internal reports may be made anonymously.

5. Management of Reports Made to Senior Administrators or to the Hotline.

All reports of potential child abuse or neglect made initially to a Senior Administrator shall immediately be forwarded to the University Compliance Hotline. Hotline reports shall, within twenty-four (24) hours, be forwarded in writing to: (1) the relevant campus police unit and/or any appropriate external law enforcement authority for further investigation and handling as appropriate; *and* (2) the Office of General Counsel, through the relevant campus or medical center Office of Legal Affairs.

C. *Indemnification and Immunity*

The University will, consistent with [Cal. Gov. Code § 995](#) and [Regents Policy 4202](#), defend and indemnify University Employees in any civil action arising from a good faith report of child abuse or neglect required or encouraged under this policy. CANRA provides immunity from liability and other protections to all reporters of abuse and neglect. For additional details, see the FAQs in Appendix C.

D. *Local Policies and Practices*

1. Each Campus and Laboratory may develop and implement local policies or procedures to facilitate reporting and apprise Senior Administrators of reports made or required under the Act.
2. No supervisor, administrator, or other Official may impede or inhibit a Mandated Reporter's duties, nor impose any sanction on any person making a good-faith report under the Act or under this policy. Retaliation against any good-faith reporter will be handled under the University's regular whistleblower protection policy.
3. Individuals making reports to the University compliance hotline are encouraged but not required to identify themselves to facilitate thorough investigation of all reported concerns. University personnel (other than law enforcement officials) may not require any Mandated Reporter to disclose his or her identity to University administrators.

IV. COMPLIANCE / RESPONSIBILITIES

A. *Audits*

Systemwide and local Audit Services offices will conduct periodic audits to confirm compliance with this policy and local policies and procedures.

B. Non-Compliance and Disciplinary Action

Failure to make a required report under this policy may result in disciplinary action under applicable University policies or, as applicable, collective bargaining agreements. Failure to comply with CANRA may constitute an improper governmental activity.

V. PROCEDURES

Any local procedures implemented under this policy must be consistent with this policy and the Act, as well as with guidance provided in the attached *Frequently Asked Questions*.

VI. RELATED INFORMATION

Child Abuse and Neglect Reporting Act, [Cal. Pen. Code §§ 11164-11174.3](#).

UC Whistleblower Policies, <http://www.ucop.edu/uc-whistleblower/policies-training/index.html>

UC Whistleblower Hotline: by phone: 1-800-403-4744 or at
<http://www.universityofcalifornia.edu/hotline/>

VII. FREQUENTLY ASKED QUESTIONS

See Appendix C, attached.

VIII. REVISION HISTORY

03/17/2015 - Technical update – Updated Appendix B and C and Appendix 2 with the updated definition of “sexual exploitation” per [AB 1775](#), which took effect January 1, 2015.

06/13/2013 - This is the first version of this policy.

Appendix A - Mandated Reporter Categories

Type of Entity or Profession	Affected Individuals
postsecondary institutions (as of January 1, 2013)	<ul style="list-style-type: none"> - an employee or administrator whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution - an athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions
public or private schools	teachers, instructional aides, teacher's aides, teacher's assistants, classified employees, administrative officers and supervisors of child welfare attendance, and certified pupil personnel employees, administrators or presenters of or counselors in child abuse prevention programs
community care or child day care facilities	licensees, administrators, and employees
day camps	administrators
private youth centers, youth recreation programs, youth organizations	administrators or employees
health care professionals	all licensed health professionals and certain trainees and interns, including: physicians, psychiatrists, psychologists, dentists (and residents and interns), pharmacists, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, marriage and family therapists (and trainees and interns), clinical social workers, professional clinical counselors (and trainees and interns); certified EMTs, paramedics, and other emergency technicians; registered psychological assistants; alcohol and drug counselors; coroners, medical examiners, and others who perform autopsies
law enforcement and public safety professionals	employees of any police department, county sheriff's department, county probation department, or county welfare department; peace officers; firefighters; district attorney investigators, inspectors, local child support agency caseworkers (unless the investigator, inspector or caseworker is working with certain attorneys to represent the children); social workers; probation officers, parole officers; employees of school district police or security departments; animal control and human society officers
clergy	priests, ministers, rabbis, religious practitioners, or similar functionaries of any church, temple, or recognized denomination or organization; and their respective records custodians
any public or private organization	administrators or employees whose duties require direct contact and supervision of children
child care institutions	employees (including, but not limited to, foster parents, group home personnel, personnel of residential care facilities)
State Department of Education County Offices of Education	employees whose duties bring them into contact with children on a regular basis
State Department of Social Services (and county contractors)	licensing workers and licensing evaluators
Head Start Program	teachers
commercial photography and filmmaking	commercial film and photographic print processors (including anyone who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation, as well as their employees), excluding public agencies
miscellaneous	public assistance workers; state and county public health employees who treat minors for VD or other conditions; compensated child visitation monitors; employees or volunteers of Court Appointed Special Advocate program; certain custodial officers; supportive services providers delivering services to children under the Welfare & Institutions Code

Appendix B

Model Acknowledgement Forms

Please note that the second form attached below is not required under the University's Policy on Reporting Child Abuse and Neglect, but rather is provided to campuses as a convenience to facilitate management of their obligations to secure acknowledgements from mandated reporters of dependent adult and elder abuse under the Welfare and Institutions Code. Only University employees who have assumed full or intermittent responsibility for the care or custody of dependent or elder adults; as well as those who are physicians or other health care practitioners, clergy members, or law enforcement personnel, are mandated reporters of dependent adult and elder abuse under the Welfare and Institutions Code.

STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT CHILD ABUSE

Name:
Title:
Campus:

California law *requires* certain people to report known or suspected child abuse or neglect. You have been identified as a person who may be a “mandated reporter.” A summary of mandated reporter categories is provided at Appendix 1. Relevant provisions of the Child Abuse and Neglect Reporting Act (CANRA) are provided in Appendix 2. The complete statute can be found online at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>.

WHEN REPORTING ABUSE IS REQUIRED

Any person who reasonably believes he or she has observed murder, rape, or lewd or lascivious acts where the victim is age 14 or younger must promptly notify law enforcement authorities. In addition, a mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has knowledge of or observes a person under the age of 18 years (even an enrolled or registered student) whom he or she knows or reasonably suspects has been the victim of child abuse or neglect must report the suspected incident. The reporter must contact a designated agency immediately or as soon as practically possible by telephone, and must prepare and send a written report within 36 hours of receiving the information concerning the incident. [CANRA § 11165.6]

ABUSE THAT MUST BE REPORTED

- *Physical injury* inflicted by other than accidental means. [CANRA § 11165.6]
- *Sexual abuse* meaning sexual assault or sexual exploitation of a child. [CANRA § 11165.1]
- *Sexual exploitation*, meaning depicting a child in, or knowingly developing, duplicating, printing, downloading, streaming, accessing through any electronic or digital media, or exchanging, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct. [P.C. 11165.1]
- *Neglect* meaning the negligent treatment, lack of treatment, or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. [CANRA § 11165.3]
- *Willful harming or injuring or endangering a child* meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer unjustifiable physical pain or mental suffering, or causes or permits a child to be placed in a situation in which the child or child's health is endangered. [CANRA § 11165.3]
- *Unlawful corporal punishment or injury* willfully inflicted on a child and resulting in a traumatic condition. [CANRA § 11165.4]

WHERE TO CALL IN AND SEND THE WRITTEN ABUSE REPORT

Reports of suspected child abuse or neglect must be made to any police department or sheriff's department (not including a school district police or security department), county probation department (if designated by the county to receive mandated reports), or county welfare department. [CANRA § 11165.9] Campus Police accept reports. The written report must include the information described in CANRA § 11167(a) and may be submitted on form SS 8572, available online at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf. In addition, an internal report must be made to your supervisor or to the University Compliance Hotline. This internal report may be made anonymously.

IMMUNITY AND CONFIDENTIALITY OF REPORTER AND OF ABUSE REPORTS

Mandated reporters have immunity from criminal or civil liability for reporting as required or authorized by law. [CANRA § 11172(a)] The identity of a mandated reporter is confidential and disclosed only among agencies receiving or investigating reports, and other designated agencies. [PC § 11167(d)(1)] Reports are confidential and may be redisclosed only to specified persons and agencies. Any violation of confidentiality provided by CANRA is a misdemeanor punishable by imprisonment, fine, or both. [PC § 11167.5(a)-(b)]

PENALTY FOR FAILURE TO REPORT ABUSE

A mandated reporter who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail, a fine of \$1000, or both. [CANRA § 11166(b)]

COPY OF THE LAW

My employer, the University of California, has provided me with a copy of CANRA sections 11165.7, 11166, and 11167. [CANRA § 11166.5(a)]

ACKNOWLEDGEMENT OF RESPONSIBILITY

I have knowledge of my responsibility to report known or suspected child abuse or neglect in compliance with CANRA § 11166.

•	Signature	Printed Name	•	Date
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STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS

Name:
Title:
Campus:

California law *requires* certain people to report known or suspected dependent adult or elder abuse or neglect. You have been identified as one of those people who may be a “mandated reporter.” Mandated reporters are individuals who have “assumed full or intermittent responsibility for the care or custody of an elder or dependent adult,” as well as health care practitioners, clergy members, and law enforcement personnel. [W&I § 15630(a)]

DEPENDENT ADULTS AND ELDERS

A dependent adult is a California resident aged 18-64 who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. These include persons with physical or developmental disabilities or whose physical or mental abilities have diminished with age. [W&I 15610.23] Elders are California residents age 65 or older. [W&I 15610.27]

WHEN REPORTING ABUSE IS REQUIRED

A mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be dependent adult or elder abuse or neglect, or who is told by a dependent adult or elder that he or she has experienced abuse or neglect, or reasonably suspects abuse or neglect, must report this information by telephone immediately or as soon as practically possible, and by written report within two (2) working days. [W&I 15630(b)]

ABUSE THAT MUST BE REPORTED

- *Physical abuse* [W&I § 15610.63]
- *Neglect* [W&I § 15610.57]
- *Financial abuse* [W&I § 15610.30(a)]
- *Abandonment* [W&I § 15610.65]
- *Isolation* [W&I § 15610.43]
- *Abduction* [W&I § 15610.06]

WHERE TO CALL IN AND SEND THE WRITTEN ABUSE REPORT

If the abuse occurred in a long-term care facility or residential facility serving adults or elders or an adult day program, you must report to either local law enforcement or the local long-term care ombudsman. [W&I § 15630(b)(1)(A)]. Otherwise, you must report to local law enforcement (including Campus Police) or county adult protective services. [W&I § 15630(b)(1)(C)] Forms for submitting written reports may be found online at <http://www.cdss.ca.gov/agedblinddisabled/PG1298.htm>. In addition, an internal report must be made to your supervisor or to the University Compliance Hotline. This internal report may be made anonymously.

PENALTY FOR FAILURE TO REPORT ABUSE

Failure to make a mandatory report may result in fines ranging from \$1000-\$5000 and imprisonment for 6 months to 1 year, depending on the circumstances. [W&I § 15630(h)]

COPY OF THE LAW

My employer, the University of California, provided me with a copy of the Welfare & Institutions Code (“W&I”) section 15630 (Appendix 3). [W&I § 15659]

ACKNOWLEDGEMENT OF RESPONSIBILITY

I have knowledge of my responsibility to report known or suspected dependent adult or elder abuse or neglect in compliance with W&I § 15630.

• Signature	Printed Name	• Date
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Appendix I

Who is a Mandated Reporter Under California's Child Abuse and Neglect Reporting Act ("CANRA")?

Type of Entity or Profession	Affected Individuals
postsecondary institutions (as of January 1, 2013)	<ul style="list-style-type: none"> - an employee or administrator whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution - an athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions
public or private schools	teachers, instructional aides, teacher's aides, teacher's assistants, classified employees, administrative officers and supervisors of child welfare attendance, and certified pupil personnel employees, administrators or presenters of or counselors in child abuse prevention programs
community care or child day care facilities	licensees, administrators, and employees
day camps	administrators
private youth centers, youth recreation programs, youth organizations	administrators or employees
health care professionals	all licensed health professionals and certain trainees and interns, including: physicians, psychiatrists, psychologists, dentists (and residents and interns), pharmacists, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, marriage and family therapists (and trainees and interns), clinical social workers, professional clinical counselors (and trainees and interns); certified EMTs, paramedics, and other emergency technicians; registered psychological assistants; alcohol and drug counselors; coroners, medical examiners, and others who perform autopsies
law enforcement and public safety professionals	employees of any police department, county sheriff's department, county probation department, or county welfare department; peace officers; firefighters; district attorney investigators, inspectors, local child support agency caseworkers (unless the investigator, inspector or caseworker is working with certain attorneys to represent the children); social workers; probation officers, parole officers; employees of school district police or security departments; animal control and human society officers
clergy	priests, ministers, rabbis, religious practitioners, or similar functionaries of any church, temple, or recognized denomination or organization; and their respective records custodians
any public or private organization	administrators or employees whose duties require direct contact and supervision of children
child care institutions	employees (including, but not limited to, foster parents, group home personnel, personnel of residential care facilities)
State Department of Education County Offices of Education	employees whose duties bring them into contact with children on a regular basis
State Department of Social Services (and county contractors)	licensing workers and licensing evaluators
Head Start Program	teachers
commercial photography and filmmaking	commercial film and photographic print processors (including anyone who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation, as well as their employees), excluding public agencies
miscellaneous	public assistance workers; state and county public health employees who treat minors for VD or other conditions; compensated child visitation monitors; employees or volunteers of Court Appointed Special Advocate program; certain custodial officers; supportive services providers delivering services to children under the Welfare & Institutions Code

Appendix 2

California Child Abuse & Neglect Reporting Act - Selected Provisions

Note: The complete text of CANRA may be found online at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>.

11165.1 As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

- (a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).
- (b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:
 - (1) Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
 - (2) Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
 - (3) Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.
 - (4) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.
 - (5) The intentional masturbation of the perpetrator's genitals in the presence of a child.
- (c) "Sexual exploitation" refers to any of the following:
 - (1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).
 - (2) A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.
 - (3) A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

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 and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, 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 and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage and family 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 or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images 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.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions.

(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 practically possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof 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 his or her 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 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 practically 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 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 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) 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 and information relevant to a report made pursuant to Section 11166.05 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, and information relevant to a report made pursuant to Section 11166.05 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.

Appendix 3

Elder Abuse and Dependent Adult Civil Protection Act - Selected Provisions

Note: The complete text of the Elder Abuse and Dependent Adult Civil Protection Act may be found online at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=wic> (scroll down to Section 15600).

15630. (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.

The local ombudsperson and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is 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.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or

suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, 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.

(e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. 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 a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.

(i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

APPENDIX C
UNIVERSITY OF CALIFORNIA POLICY ON
REPORTING CHILD ABUSE AND NEGLECT

Frequently Asked Questions

1. Which University personnel are likely to be Mandated Reporters under the Child Abuse and Neglect Reporting Act (“CANRA” or “the Act”)?

A complete list of Mandated Reporters with detailed definitions is published at Cal. Penal Code § 11165.7. See the attached *Mandated Reporter Categories* table for a summary. For additional guidance, contact your local campus counsel.

2. Are faculty members Mandated Reporters?

Although faculty members are not typically “teachers” under CANRA (even when students under the age of 18 enroll in their classes), some may be Mandated Reporters under other provisions of the Act:

- Physicians, nurses, and other health professionals are generally Mandated Reporters.
- Faculty members and other academic personnel who have responsibility for instruction at the preschool, elementary, or high school level, for example those who teach high school seminars or who serve as mentors in on-campus high school internship programs.
- Individuals whose University duties require direct contact *and* supervision of children are Mandated Reporters. This group may include faculty members who hire children under age 18 to assist with scholarship, research, or other academic activities as volunteers or interns.
- *Effective January 1, 2013, employees (including faculty members and other academic personnel) and administrators whose duties bring them into contact with children on a regular basis, or who supervise others with such duties, are mandated reporters for child abuse or neglect occurring on the University’s premises or at official University activities or programs.*

The law does not define the definition of “duties” or “regular basis”. Questions about whether a particular individual is a Mandated Reporter should be directed to the Office of General Counsel or your local campus or medical center counsel office (Office of Legal Affairs).

3. Are the National Laboratories “Post-Secondary Institutions” Under CANRA?

No.

4. I’m not a Mandated Reporter under CANRA, but I saw an adult who seemed to be touching a child inappropriately. What should I do?

Separate from CANRA, the California Penal Code requires *any person* who reasonably believes he or she has observed murder, rape, or certain lewd or lascivious acts where the victim is a child under the age of 14 years to notify a peace officer (such as a campus or community police officer or a county sheriff) of the potential crime. **This reporting mandate applies whether or not the witness is a mandated reporter and regardless of his or her affiliation with the University.**

5. Does CANRA or the University Policy on Reporting Child Abuse and Neglect require contractors or volunteers (other than University administrators) to sign certification forms?

The certification mandate applies only to employees. However, local campus units may utilize the certification form as a means of notifying volunteers of their statutory obligations and University expectations for reporting. This approach is particularly encouraged for volunteers who serve as University administrators and therefore may be Mandated Reporters effective January 1, 2013; as well as for volunteers who otherwise regularly interact with children through University programs.

6. Do teaching assistants have to sign?

Those whose duties bring them into contact with students under the age of 18 on a regular basis must sign. *Note that their immediate supervisors would also be considered mandated reporters and, therefore, also must sign.*

7. May members of the University community who are not Mandated Reporters make reports about suspected child abuse or neglect directly to law enforcement officials?

Yes, and in fact they are encouraged to do so. Anyone may make a report to the appropriate state agency, or to any law enforcement agency, including the University of California Police Department.

8. What is a “reasonable suspicion?”

“Reasonable suspicion” is defined in CANRA to mean that it is reasonable for a person to suspect abuse or neglect based on the information he or she has and his or her training or experience. It does not require certainty that child abuse or neglect has occurred, nor a specific medical indication of abuse or neglect.

9. What type of conduct is reportable?

Child abuse or neglect, including:

- *Physical injury* inflicted by other than accidental means. [CANRA § 11165.6]
- *Sexual abuse*, meaning sexual assault or sexual exploitation of a child. [CANRA § 11165.1]
- *Sexual exploitation*, meaning depicting a child in, or knowingly developing, duplicating, printing, downloading, streaming, accessing through any electronic or digital media, or exchanging, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct. [P.C. 11165.1]
- *Neglect*, meaning the negligent treatment, lack of treatment, or the maltreatment of a child by a person responsible for the child’s welfare under circumstances indicating harm or threatened harm to the child’s health or welfare. [CANRA § 11165.3]
- *Willful harming or injuring or endangering a child*, meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer unjustifiable physical pain or mental suffering, or causes or permits a child to be placed in a situation in which the child or child’s health is endangered. [CANRA § 11165.3]
- *Unlawful corporal punishment or injury* willfully inflicted on a child and resulting in a traumatic condition. [CANRA § 11165.4]

Child abuse does not include “mutual affray” between minors (e.g., fist-fights); the pregnancy of a minor does not *in and of itself* constitute a basis for reasonable suspicion of sexual abuse.

The following concerns may be reported even absent abuse or neglect: Serious emotional damage or substantial risk of serious emotional damage, evidenced by states of being or behavior including but not limited to severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others. For detailed definitions of reportable conduct, please refer to the definitions found in [Cal. Penal Code § 11165.1-11165.6](#). Additional helpful information is available through the [Los Angeles County Department of Public Health website](#).

Note: The duty to report child abuse or neglect supersedes a licensed health professional's duty to maintain the confidentiality of communications with his or her patients (e.g., the physician-patient or psychotherapist-patient privilege).

10. What information must a Mandated Reporter report?

Mandated reports must include name, business address, and telephone number of the mandated reporter, what 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. The following information, if known, must also be included: child's name, address, present location and if applicable school, grade, and class; names, addresses, and phone numbers of the child's parents or guardians; name, address, phone number, and other relevant personal information about the person or persons who might have abused or neglected the child. A mandated report must be made even if some of the above information is unknown or uncertain at the time of the report.

Written reports are made on a form designated by the California Attorney General (http://oag.ca.gov/sites/all/files/pdfs/childabuse/ss_8572.pdf). See http://oag.ca.gov/sites/all/files/pdfs/childabuse/8572_instruct.pdf for instructions.

11. When must an external report be made?

A Mandated Reporter must make an initial report immediately or as soon as is practicably possible by telephone; and must submit a written follow-up report by mail, fax, or other electronic means within 36 hours of receiving the information about the incident.

12. Does the Act require background checks?

No. However, many federal, state and/or accreditation standards require background checks in order to license and/or credential professionals who may also be Mandated Reporters. In the case of policy-covered staff employees, Mandated Reporters and other University employees who regularly encounter minors in the course and scope of their employment, work, or studies typically are considered to fill "Critical Positions" and would therefore be subject to background checks pursuant to the [Systemwide Guidelines on Designating Critical Positions](#) (attached to PPSM 21). In addition, the University's sexual misconduct and molestation insurance may not provide coverage if the individual involved was not appropriately fingerprinted and/or underwent the appropriate background checks.

13. What if I am working for the University in another state or outside the United States?

CANRA is a California law. Child abuse and neglect identification and reporting laws vary by state, although they tend to impose similar requirements. Information about state laws on child abuse and neglect can be found at http://www.childwelfare.gov/systemwide/laws_policies/state/can/. Employees who would like input on child abuse and neglect reporting laws of another state or those that pertain to their international activities, should contact their local Office of Legal Affairs to obtain advice.

14. Do I have to report potential child abuse or neglect to my supervisor?

Any University employee who, regardless of their location, witnesses or otherwise forms a reasonable suspicion of child abuse or neglect while working within the course or scope of their University activities out of state or overseas, must promptly report their concerns to their supervisors or the University compliance hotline. Medical center, student health center, and FSAP employees are exempt from this reporting obligation but must comply with any site-specific policies.

15. We rent our facilities to individuals and organizations that operate programs for children such as conferences, retreats, and day camps. Does the policy apply in those situations?

CANRA applies to any mandated reporter and to any employer (such as an independent camp that rents University facilities) of mandated reporters. The University policy on reporting child abuse and neglect applies to University personnel who provide services to those camps. For example, a University employee who provides food services at a camp and thus regularly comes into contact with campers who are children is a Mandated Reporter under this policy, as is his or her immediate supervisor. A volunteer who runs a retreat program for children on behalf of the University is also a Mandated Reporter (an “Official” under the policy). University administrators who are responsible for managing facility rentals for camps or other programs that may bring children onto campus facilities should comply with any contracting standards that may be adopted by the campuses requiring such renters to conduct background checks, comply with CANRA, and promptly report any observed or suspected abuse to appropriate authorities.

16. What happens if a mandated reporter refuses to sign an acknowledgement form?

Failure to sign an acknowledgement form required by the law may result in revocation of an offer of employment. In the case of current employees who are required to sign but who have not previously signed, failure to sign when requested may result in a prohibition on contact with minors. This in turn may result in an inability to perform required job functions and, ultimately, disciplinary action up to and including dismissal.

17. What happens if I don't make a mandatory report?

Violation of the University Policy on Reporting Child Abuse and Neglect may result in disciplinary action consistent with applicable University personnel policies and collective bargaining agreements. Violation of the law requiring Mandated Reporters to promptly report suspected child abuse or neglect may result in criminal penalties including fines, imprisonment, or both.

18. What if an adult states that he/she was abused as a child?

The child abuse reporting law mandates a report be made when there is reasonable suspicion or knowledge that children may be at risk. Therefore, childhood abuse of adults should be reported if there is a reasonable suspicion that there may be another potential child victim. (This does not impose an investigatory duty on the professional.)

19. Where can I find additional information and resources?

California Mandatory Violence Law, [Cal. Penal Code §§ 11160-11163.6](#)

Dependent Adults and Elders, [Cal. Welfare & Institutions Code § 15630](#)

California Department of Social Services: [Hotlines and Other Resources](#)

California Department of Justice

- Child Abuse [Page](#) and [Forms](#) and [Background Check Information](#)

- [Bureau of Medi-Cal Fraud & Elder Abuse](#)

Mandated Reporter Training: [Child Abuse Mandated Reporter Training Project](#)

[CDC Guide](#) to Preventing Child Abuse Within Youth-Serving Organizations

[California Attorney General Citizen's Guide](#) to Preventing Elder Abuse

Child Abuse Prevention and Treatment Act [Information](#)

[Clery Act](#) and Information for [UC Campus Management](#)