

SECTION: ADMINISTRATIVE POLICIES AND PRACTICES

SUBJECT: Program Compliance Monitoring

ITEM: Child Abuse Reporting and Release of Confidential Information

Purpose

To ensure compliance with federal regulation and state law when reporting known or suspected cases of child abuse.

Policy

The local agency [mandated reporter](#) is required to report any known or suspected case of [child abuse](#) within 36-hours of receiving information concerning the incident. The mandated reporter may only disclose confidential information sufficient to meet this reporting obligation.

Authority

7 CFR 246.26 (d)(ii)(3)
FNS Instruction 800-1
California Penal Code Sections 11165-11174.3

Required Procedures

- I. California law requires mandated reporters to report known or suspected cases of child abuse including:
 - A. Physical injury inflicted by other than accidental means on a [child](#).
 - B. Child sexual abuse including both sexual assault and sexual exploitation. Sexual assault includes sex acts with children, intentional masturbation in the presence of children, and child molestation. Sexual exploitation includes preparing, selling, or distributing pornographic materials involving children, performances involving obscene sexual conduct, and child prostitution.
 - C. Sexual contact with persons under the age of fourteen, regardless of the young person's consent, if the offender is over age 14. The pregnancy of a minor does not, in and of itself, constitute a basis for a [reasonable suspicion](#) of sexual abuse.
 - D. Instances of sexual contact between children if the mandated reporter suspects that the child has been sexually abused or exploited.
 - E. Willful cruelty or unjustified punishment, including inflicting or permitting

- unjustifiable physical or mental suffering, or the endangerment of the child's person or health. Mental suffering, in and of itself, does not constitute a basis for a reasonable suspicion of abuse. It may, however, be reported.
- F. Unlawful physical punishment or injury resulting in a traumatic condition.
 - G. Severe or general neglect of a child if the perpetrator is a person responsible for the child's welfare. **NOTE:** It may be considered child neglect for parents to throw a minor child out of the home unless the child is an emancipated minor. This is a grey area in law; however, it must be reported to proper authorities and the court will make the final decision as to whether or not the child has been neglected.
 - H. If child abuse is suspected, it must be reported.
- II. The local agency mandated reporters must:
- A. Contact a proper authority when he/she has knowledge of or observes a child in his/her professional capacity, or within the scope of his/her employment, who he/she knows or reasonably suspects has been the victim of abuse.
 - B. Make a report immediately (or as soon as practically possible) by telephone to any child protective services agency, police department or sheriff's office. The choice is up to the mandated reporter. Reporting possible child abuse situation to any other person or agency does not satisfy the mandatory reporting requirement.
 - C. Submit a written report to the child protective services agency, police department or sheriff's office within 36-hours of receiving the information concerning the incident. Written reports must be submitted on official *Department of Justice* forms, which can be requested from your local child protective services agency. Go to http://ag.ca.gov/childabuse/pdf/ss_8572.pdf for a sample copy of the form. The investigating agency will inform the local agency of the results of the investigation.
- III. Non-mandated reporters in a local WIC agency are not required to report known or suspected cases of child abuse under the law. However, they should alert a local agency mandated reporter if they have knowledge of or suspect child abuse. The local agency mandated reporter must immediately intervene to assess the situation and determine if a report should be made.
- IV. Mandatory reporters have immunity from criminal or civil liability for reporting, as required, and no supervisor or administrator may delay or hinder a report or penalize a mandatory reporter in any way for reporting known or suspected child abuse. All reports are confidential and can only be disclosed to persons or agencies specified in State law.

Any non-mandated WIC employee also has immunity from reporting instances of suspected child abuse to a WIC mandatory reporter unless a false report is made and the person knew the report was false.

- V. A mandatory reporter who fails to report known or suspected child abuse is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine. A mandatory reporter may also be found civilly liable for damages, especially if the child-victim or another child is further victimized because of the failure to report.

- VI. The local agency employing or subcontracting with a mandatory reporter must have that individual sign a statement, to be retained by the local agency, to the effect that he/she has knowledge of and will comply with the California child abuse reporting laws. Go to www.teenhealthrights.org/fileadmin/teenhealth/teenhealthrights/ca/CA_dss_pub_132.pdf for a sample statement.

Guidelines

In general, the USDA expects state and local agencies to fully adhere to its confidentiality regulation, but realizes that many states have laws which require specified persons to report instances of suspected child abuse to appropriate officials. USDA has taken the position that WIC regulations pertaining to confidentiality do not take priority over any state law mandating the reporting of known or suspected child abuse. Therefore, the confidentiality requirements discussed in WPM Sections 110-40 (Access to Administrative, General Program, and Fiscal Records), 120-10 (Access to and Security of Confidential Information) and 120-20 (Subpoenas and Search Warrants) do not apply when reporting known or suspected instances of child abuse and WIC staff can disclose confidential information to the proper authorities without first obtaining signed consent.

There may be situations in which a child protective services agency or law enforcement contacts a local WIC agency for information to substantiate allegations of child abuse made by someone other than a WIC employee. Since the original report was not made by WIC and WIC is only being asked for supporting documentation, the confidentiality policies discussed in WPM Sections 120-10 and 120-20 *shall* apply. That is, the requested information may be disclosed only with written consent of the individual to whom the confidential information pertains or by authority of a subpoena or search warrant.