



## EARLY CARE & EDUCATION LAW UNIT

Publication Date: January 2018

---

### RESPONDING TO SUSPECTED CHILD ABUSE OR DOMESTIC VIOLENCE IN A CHILD CARE SETTING

As a child care provider, you may encounter situations where you suspect or know that a child in your care is being abused or neglected. When situations like this arise, you must follow appropriate procedures to ensure that the child gets help and that you are complying with legal requirements. This handout is intended to provide basic information on responding to suspected child abuse or domestic violence in a child care setting.

#### IMPORTANCE OF REPORTING CHILD ABUSE

Child abuse can have long-lasting effects on an individual, including permanent physical changes to the developing brain that may lead to psychological, cognitive and emotional problems in adulthood, adoption of health-risk behaviors, disease, disability and social problems and early death.<sup>1</sup>

Further, by reporting suspected child abuse you could help save a child's life, prevent further abuse of the child and other children, and help families receive services they need, such as counseling and public assistance, to keep their family unit intact.

#### MANDATED REPORTING OBLIGATIONS

Child care custodians are **mandated reporters** of **known or reasonably suspected child abuse** by someone outside the child care, as well as abuse by someone who lives in the provider's home or is employed by the provider.

---

<sup>1</sup> US Department of Health and Human Services, Administration for Children & Families, Child Welfare Information Gateway (2013); <https://www.childwelfare.gov/can/impact/>

- All licensed family child care providers, assistants, child care center directors, and their employees are required by law to report any known or reasonable suspicion of physical, sexual, or emotional abuse and child neglect.
- If a provider suspects that a child is a victim of abuse or neglect, he/she is mandated to contact the police or county sheriff, or the 24-hour Child Protective Services hotline. In L.A. County, call **800-540-4000**.
- The report by telephone must be made as soon as possible and a written report must be submitted within 36 hours of the initial report. An “unusual incident report” should also be filed with Community Care Licensing.
- Failure to report can result in criminal liability punishable by up to six months in jail and/or a \$1,000 fine.
- Mandated reporters are immune from both criminal and civil liability for reporting and for any pre-reporting actions that give rise to the obligation to report, whether or not the report is eventually substantiated.
- The identity of the reporter is kept confidential and may only be disclosed to a few agencies.

Under state law, **child abuse or neglect** includes<sup>2</sup>:

- A physical injury or death inflicted by other than accidental means on a child by another person;
- Intentional cruelty or unjustified punishment or injury which causes or permits a child to suffer unjustifiable physical pain or mental suffering;
- Intentionally endangering the health of a child;
- A caregiver has neglected to provide adequate care, including supervision, food, shelter, or medical care;
- The child has been sexually assaulted, exploited, or molested

Beginning January 1, 2018, all licensed child care providers, applicants, directors and employees must complete training as specified on their mandated reporter duties and renew their training every two years. Applicants must meet requirements as a precondition to licensure, existing licensees must meet requirements by March 30, 2018, and new employees shall have 90 days from the date of employment to complete the training as required.<sup>3</sup> This training requirement may be met by using the Department’s Office

<sup>2</sup> Child Abuse and Neglect Reporting Act, California Penal Code § 11164 *et seq.*

<sup>3</sup> California Health & Safety Code § 1596.8662

of Child Abuse Prevention (OCAP) online training modules, which are free of cost and available at: <http://www.mandatedreporterca.com/>.

### **INDICATORS OF CHILD ABUSE**

The following signs in a child can indicate abuse:

- Not eager to return home
- Withdrawn and overly compliant
- Poor social skills and low self-esteem
- Unusually fearful and hyper-alert
- Bruises or burns in unusual places
- Untreated fractures
- Persistent hunger
- Compulsively seeks attention or affection
- Persistent school absence
- Poor hygiene
- Anti-social or destructive behavior
- Unusual sexual knowledge or inappropriate sexual play for the child's age

### **REQUIREMENTS OF A PROVIDER IF DOMESTIC VIOLENCE IS SUSPECTED**

- If a provider suspects that a parent is a victim of domestic violence, but does not think the child is, then the provider does not have the legal authority to refuse to release the child to a parent.
- California State Law requires that the child actually suffer the abuse him/herself for a mandatory report obligation to be triggered.
- Unlike with suspected child abuse or neglect, there is no legal obligation for a provider to report suspected domestic violence.
- If a parent confides in you that they have been abused, you may provide information to them about services available to victims of domestic violence. The National Domestic Violence Hotline can be reached at 1-800-799-7233 and Peace Over Violence offers 24 hour rape and battering hotlines that can be reached at 310-392-8381.

### **PROTECTING YOURSELF AGAINST ALLEGATIONS OF CHILD ABUSE**

- An upset parent may accuse the provider or members of the provider's family of inadequate supervision, behavior or suspected child abuse/neglect.

- In order to protect oneself from allegations of inadequate supervision, behavior or child abuse/neglect, a provider should:
  - Document all of their observations;
  - Follow Community Care Licensing regulations and keep Licensing informed of events that occur at the child care facility;
  - Communicate clearly with parents;
  - Carefully screen employees;
  - Stay informed about child development.
  
- If a provider is accused of child abuse, he/she should consider contacting their insurance agent as well as seeking legal help.

### ENFORCING RESTRAINING ORDERS

- A restraining order is a court order that can protect someone from being physically or sexually abused, threatened, stalked or harassed. Individuals may obtain restraining orders against other members of their family as well as people who they do not have a close relationship with (e.g., a neighbor, roommate, friend). Children are often listed in these orders as one of the people to be protected.
  
- Sometimes the restraining order may list a child care center as a “protected place.” When a place is deemed a “protected place,” the person against whom the restraining order is issued may not come within a certain distance of the facility (e.g., 50 or 100 yards) regardless of whether the child is present or not.
  
- It is important for the provider to have on hand a copy of the most current restraining order. Families with restraining orders should be advised that they must bring copies of current, unexpired orders for the provider’s files.
  
- **In order to enforce a restraining order that restricts a parent or other individual from coming near a child while in a child care facility, providers should:**
  - Stay calm. Explain to the individual that the child cannot be released to the restrained individual;
  - Call the police if you have any questions about the validity of the restraining order (e.g., if it appears to have expired) or are concerned about the behavior or presence of the restrained person;
  - Contact the child’s parent as soon as possible.

### ADDITIONAL RESOURCES

1. For more information about the Los Angeles County Child Protection Hotline please visit the Los Angeles County Department of Children and Family Services’ website at:  
<http://dcfs.co.la.ca.us/contactus/childabuse.html>

2. For more information about reporting child and domestic abuse please visit the Department of Social Services website at: <http://www.mandatedreporterca.com/>

**This document was prepared by Public Counsel’s Early Care & Education Law Project in January 2018 and is meant to provide general information. This document is not all-inclusive and is not intended to provide any individual or entity with specific legal advice. Receiving this document does not create any lawyer-client relationship. For questions or comments, please call the ECE Law Project Intake line at 213/ 385 2977 ext. 300.**

**© 2018 by Public Counsel. Please contact Public Counsel if you plan to make multiple copies and/or plan to charge for distribution of this product.**