

## APPENDIX I

### CHILD ABUSE AND NEGLECT REPORTING ACT REQUIREMENTS

**Duty to Report:** Section 11166 (a) of the Penal Code requires any mandated reporter of child abuse who has knowledge of or observes a child in his or her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse or neglect to make an initial report, by telephone, of the known or suspected instance of child abuse or neglect to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department **immediately** or as soon as practically possible and to prepare and send, fax, or email a written report thereof within **36 hours** of receiving the information concerning the incident.

**Voluntary Reports (Not Mandated):** Any other person (other than a mandated reporter) who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department.

**Child Abuse or Neglect Defined:** "Child abuse" means a physical injury that is inflicted by other than accidental means on a child by another person. The term "child abuse or neglect" includes sexual abuse; "neglect" means the negligent 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. The term includes both acts and omissions on the part of the responsible person. "Willful cruelty" or "unjustifiable punishment" is defined as a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his/her person or health is endangered.

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

**Mandated Reporter Defined:** The term "mandated reporter" is defined in Penal Code 11165.7. Included in the definitions of mandated reporter are the following: a clergy member, a teacher, an instructional aide, a teacher's aide, a teacher's assistant, an administrator of a day camp, an administrator or employee of a private youth center, youth recreation program, or youth organization, an administrator or employee of a private organization whose duties require direct contact and supervision of children, a licensee, an administrator, or an employee of a licensed community care or child day care facility, any person who is an administrator or presenter of, or counselor in, a child abuse prevention program in any private school. (Note, this is a partial listing).

### **Special Provisions Applicable to Clergy Members:**

(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to the reporting requirements of Section 11166(a) (the general reporting requirements applicable to mandated reporters). 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/her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his/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.

### **General Miscellaneous Provisions of the Child Abuse and Neglect Reporting Act:**

- **Penalty Provisions for Failure to Report:** Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by the Penal Code is guilty of a misdemeanor punishable by up to six months’ confinement in a county jail or by a fine of \$1,000, or by both that fine and punishment.
- **Immunity from Liability; Liability for False Reports:** No mandated reporter who reports a known or suspected instance of child abuse or neglect shall be civilly or criminally liable for any report required or authorized. Any other person reporting a known or suspected instance of child abuse or neglect shall be civilly or criminally liable for any report required or authorized. Any other person reporting a known or suspected instance of child abuse or neglect shall no incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report; and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.