

**A REPORT BY  
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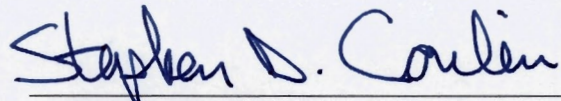
**Report 1402**

**TRAINING SCHOOL DISTRICT  
EMPLOYEES IN REPORTING CHILD  
ABUSE**

**ARE SCHOOL DISTRICTS IN THE COUNTY FAILING THE TEST?**

APPROVED BY THE GRAND JURY:

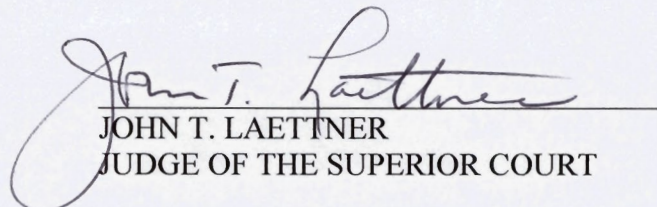
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JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1402

**Training School District Employees in Reporting Child Abuse**

***Are School Districts in the County Failing the Test?***

**TO: Each School District, County Office of Education and Contra Costa Community College District**

**SUMMARY**

The explosion of cases against school districts in the County alleging child abuse, and the accompanying payouts of millions of dollars to settle those cases, has revealed a disturbing fact: most districts have failed for years to adequately train their employees about their legal obligations to recognize and report suspected, or known, instances of child abuse. Some districts have now made a good, but belated, start to put in place training programs. However, it is essential that all districts immediately establish and implement training programs that educate all school employees, and volunteers who interact with children; that such training be conducted on an annual basis; and that all districts have a system in place to verify that each employee has completed the training program.

**METHODOLOGY**

1. Review of California Penal Code sections mandating reporting of child abuse;
2. Review of Publications by the State Office of Child Abuse Prevention, Greater Bay Area Child Abuse Prevention Council Coalition and Child Abuse Prevention Council of Contra Costa County;
3. Detailed survey of each school district, office of education and community college district regarding their policies, procedures and practices in the training of employees to report suspected child abuse;
4. Interviews of child abuse prevention experts.
5. Interview of school district personnel in charge of "mandated reporter" training.

**BACKGROUND**

The first child abuse reporting law was enacted in California in 1963. Fifty years later, communities within the County are still confronting instances of suspected or known child abuse in schools that have gone unreported by those who had both the legal and moral responsibility to

report the abuse. The failure to report suspected abuse of children by school personnel who are required to recognize and report such abuse arises from a fundamental lack of training. Recent examples are now well documented and publicized.

## 1. The Problem

In 2013, the Moraga School District settled two lawsuits brought by former students who claimed they were sexually abused by a District teacher over several years in the 1990's. The students claimed that District employees, including a former principal and a superintendent, became aware of the abuse, but failed to report the same.

During the legal proceedings, the District argued that the lawsuits should be dismissed because the alleged abuse had occurred in the 1990's and were, therefore, barred by the statute of limitations. Attorneys for the former students countered this argument, in part, by showing that the "clock" on the statute of limitations did not start to run until a reporter for the Contra Costa Times uncovered evidence that the District administrators had known about the alleged abuse years earlier and failed to report it. As one of the attorneys explained:

"Effectively, the District is asking for a get out of jail free card. They're saying they did such a good job concealing what they knew that [the students'] claim should be time-barred."

The District eventually settled the lawsuits for more than **4.5 million dollars**. Other lawsuits alleging similar failures to report abuse are pending against that District.

Moraga is not the only school district settling claims that arose from the failure to report suspected child abuse. In December 2013, the Antioch School District agreed to pay **8 million dollars** to settle a federal lawsuit brought by the families of eight students. The suit alleged that the students had been abused by a teacher and that the abuse was known to administrators in the District who failed to report it. Following the settlement, an attorney for the former students stated:

"It's a matter of training. If you have training and a culture in a school where it's OK to tell, you can stop this.... You can stop this from happening right away if you do your job."

And, as recently as January 2014, the Brentwood Union School District agreed to pay **8 million dollars** to settle a lawsuit over its handling of child abuse claims alleged against a special-education teacher who was allowed to remain in the classroom. Following the lawsuits, the District engaged the Child Abuse Prevention Council of Contra Costa County to provide ongoing in-person training for all employees, except substitute teachers. Previously, the District simply required new hires in the District to sign an acknowledgement that the law mandated them to report suspected or known child abuse and principals would remind their staff of the same at the start of each school year.

Claims are currently pending on behalf of seven students against the Mt. Diablo School District alleging that they were abused by a popular teacher. These former students claim that school administrators failed to contact police despite an internal District report in 2006 that identified

potential child abuse by the teacher. The District even allowed the teacher to continue teaching until April 2013, just before his arrest on molestation charges.

An attorney for the District also initially refused to turn over the full internal report to a detective from the Concord Police Department who was investigating the abuse claims. The detective had to explain to the attorney that the School District was required by law to provide a complete report of suspected child abuse. The detective wrote in her report:

“I told [the attorney for the District] as a mandatory reporter, the School District has a legal obligation to provide the police department with the names of any potential victims.”

Only then did the District provide the police with a copy of the complete report.

These are some examples of what appears to be a lack of training of school personnel in their legal obligations to identify and report known or suspected child abuse. Evidence uncovered by the Grand Jury, as well as other investigations, have revealed that school districts within the County have “scrambled” in the last two years to create training programs where none previously existed and to correct inadequacies in the programs that were used to train school personnel in abuse reporting. Nevertheless, many programs still have deficiencies and there is a lack of uniformity in programs throughout the County.

## 2. The Law

The California Child Abuse and Neglect Reporting Law is set forth in Penal Code sections 11165 – 111743.3. Since its enactment in 1963, the law has been amended on several occasions, expanding both the definition of “abuse” and the persons – known as “mandated reporters” – who are required to report suspected instances of child abuse. The law defines the obligations in detail, including:

1. **What** is child abuse (Penal Code section 11165.6 [all references are to the Penal Code]);
2. **What** must be reported (P.C. section 11166);
3. **Who** is a mandated reporter (P.C. section 11165.7);
4. **When** the suspected abuse should be reported (P.C. section 11166)
5. **To Whom** the suspected abuse should be reported (P.C. section 11166);
6. **Safeguards** for persons making the mandated reports (P.C. section 11172)
7. **Liabilities** for failure to make a required report (P.C. section 11166.01);and
8. **Responsibilities** of the agency employing the mandated reporter (P.C. section 11166.1).

The law makes it clear that “mandated reporters” in schools are not limited to teachers, but

encompass virtually every employee within the school district who has any contact with children, including custodians, teacher aides and administrators. A report of suspected child abuse must be made immediately, or as soon as practical, to legal authorities by phone and then followed up by a written report within 36 hours. Failure to do so, subjects the mandated reporter to criminal liability. Moreover, the obligation to make the report cannot be satisfied by merely telling a supervisor, colleague or principal – an apparent misconception in many of the cases where child abuse was alleged.

The law does not specifically **require** that a school district provide training to mandated reporters in their obligations to report known or suspected child abuse. However, the statute states that:

“Employers are **strongly encouraged** to provide their employees who are mandated reporters with training in the duties imposed by this article.” (P.C. section 11165.7(c)) (emphasis added).

Moreover, the statute also provides:

“School districts that do not train their employees . . . in the duties of the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.” (P.C. section 11165.7(d)).

These statutory provisions, coupled with recommendations by child abuse experts and state publications on child abuse, lead to the inescapable conclusion that school districts in the County should adopt and implement adequate programs to train employees in their obligations to recognize and report known or suspected instances of child abuse.

### 3. The Training

#### a. Mandated Reporters

Until recently, the training of school district employees in the County about their obligations to report suspected child abuse has often been cursory, haphazard and sporadic, and in some districts, non-existent. The explosion of child abuse lawsuits in the last couple of years finally drove most districts to reevaluate their programs and change them, some in radical ways, although the results are hardly uniform within the County. The following examples are by no means an analysis of the inadequacies of training in each district.

The Contra Costa Community College District has no training program despite the presence of more than 1500 minors enrolled in the District, and many more in the District’s summer programs and child care centers. The Pittsburg School District had no formal training program for all employees until the 2013 – 2014 school year when its Human Resources department was finally directed to create one. Training of all employees was only adopted by many other districts in the last two years, including Liberty Union, Oakley and Mt. Diablo.

The scramble to revise and create training programs has resulted in a hodgepodge of programs

among the school districts within the County. Some districts have gone to on-line training; some now use live presentations; and some use a combination of both. The Child Abuse Prevention Council of Contra Costa County (CAPC) has been retained by an increasing number of districts to provide reporter training to their employees. CAPC provides live training by qualified instructors at school sites. The training lasts approximately one to one and a half hours and includes sample scenarios, as well as a “give and take” discussion with the training participants. Moreover, the training is provided at no cost to the district.

The evidence clearly suggests that school districts within the County should be encouraged to adopt a uniform training program in order to ensure adequate and comprehensive education of school personnel in reporting suspected child abuse. A review of the Penal Code provisions, as well as publications by the State Office of Child Abuse, the Greater Bay Area Child Abuse Prevention Council Coalition and interviews with the CAPC indicate that an effective and comprehensive training program should be mandatory for all district employees, from custodians to superintendents. The programs should be given annually and, at a minimum, include the following topics:

1. Who are “mandated reporters”;
2. What is “reasonable suspicion” of child abuse;
3. How and when should a report be made;
4. What safeguards are in place to protect mandated reporters;
5. What are the ramifications of making a suspected child abuse report.

In addition, each district should establish a procedure for verifying that all employees have successfully completed the training program.

#### **b. Volunteers**

The training of “volunteers” in school districts with respect to reporting child abuse is complicated, but needs serious consideration by the districts. “Volunteers”, even those who have direct contact with and supervise children, are specifically excluded from the definition of “mandated reporters” under the Penal Code (P.C. section 11165.7(b).) However, the statute also provides that such volunteers are:

“...encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instance of child abuse or neglect ...”

There have been well-documented instances of child abuse by “volunteers” in school districts, particularly by coaches or assistant coaches of various sports. Given the level of, and potential for abuse, as well as the admonition of the statute that encourages training of volunteers, serious consideration should be given by each district to include “volunteers” in its abuse training program.

Training programs alone cannot prevent all instances of child abuse. And there might be some districts that balk at the time required for each employee to take a one to one and a half hour training program every year. However, if an effective and comprehensive training program prevents only one child from being abused, one family from having to endure the hardships of an abused child, one district from having to pay millions of dollars to settle a child abuse lawsuit, then there is no reason for any district to resist implementing the training.

## **FINDINGS**

1. Lawsuits have been filed against school districts in the County, alleging failures of school personnel to report child abuse, and millions of dollars have been paid to settle some of the lawsuits.
2. The law strongly encourages school districts to train school employees in their obligations to identify and report known or suspected child abuse and any district which does not provide such training must report the reasons to the State Board of Education. (Penal Code section 11165.7 (c) and (d).)
3. Training in child abuse reporting obligations should be given to every employee of school districts in the County on an annual basis.
4. Training in child abuse reporting obligations should include:
  - a. Who are “mandated reporters”;
  - b. What is “reasonable suspicion” of child abuse;
  - c. How and when a report should be made;
  - d. What safeguards are in place to protect mandated reporters;
  - e. What are the ramifications of making a suspected child abuse report.
5. While “volunteers” who have direct contact or supervise children are excluded as “mandated reporters” under the Penal Code, the law “encourages” such volunteers to obtain training in the identification and reporting of known or suspected child abuse.
6. School districts should establish a procedure to verify that each employee has successfully completed the child abuse training program.
7. The Child Abuse Prevention Council of Contra Costa County provides training services about abuse reporting at no cost to school districts in the County.

## **RECOMMENDATIONS**

1. Each district should evaluate its program currently in place to train its employees in their obligations to identify and report suspected cases of child abuse.
2. Each district should adopt a program that provides training on an annual basis to all

employees of the district about their obligations to report known or suspected child abuse.

3. The training program in child abuse reporting obligations should include:
  - a. Who are “mandated reporters”;
  - b. What is “reasonable suspicion” of child abuse;
  - c. How and when a report should be made;
  - d. What safeguards are in place to protect mandated reporters;
  - e. What are the ramifications of making a report about known and/or suspected child abuse.
4. Each district should establish a procedure for verifying that each employee has successfully completed the training program each year.
5. Each district should consider including all “volunteers” who have direct contact with and/or supervise children in their abuse reporting training programs.
6. Each district should consider retaining the Child Abuse Prevention Council of Contra Costa County to provide training services about child abuse reporting at no cost to the district.

## REQUIRED RESPONSES

|                                                | <u><b>Findings</b></u> | <u><b>Recommendations</b></u> |
|------------------------------------------------|------------------------|-------------------------------|
| Acalanes Union High School District            | 1-7                    | 1-6                           |
| Antioch Unified School District                | 1-7                    | 1-6                           |
| Brentwood Union Elementary School District     | 1-7                    | 1-6                           |
| Byron Union Elementary School District         | 1-7                    | 1-6                           |
| Canyon School District                         | 1-7                    | 1-6                           |
| Contra Costa County Office of Education        | 1-7                    | 1-6                           |
| Contra Costa County Community College District | 1-7                    | 1-6                           |
| John Swett Unified School District             | 1-7                    | 1-6                           |
| Knightesen Elementary School District          | 1-7                    | 1-6                           |

|                                                  |     |     |
|--------------------------------------------------|-----|-----|
| Lafayette Elementary School District             | 1-7 | 1-6 |
| Liberty Union High School District               | 1-7 | 1-6 |
| Martinez Unified School District                 | 1-7 | 1-6 |
| Moraga Elementary School District                | 1-7 | 1-6 |
| Mt. Diablo School District                       | 1-7 | 1-6 |
| Oakley Union Elementary School District          | 1-7 | 1-6 |
| Orinda Union Elementary School District          | 1-7 | 1-6 |
| Pittsburg Unified School District                | 1-7 | 1-6 |
| San Ramon Valley Unified School District         | 1-7 | 1-6 |
| Walnut Creek Elementary School District          | 1-7 | 1-6 |
| West Contra Costa County Unified School District | 1-7 | 1-6 |