



TRI - COUNTIES REGIONAL CENTER (TCRC) POLICY

Policy Title: Zero Tolerance Policy
(Dependent adult and child abuse)

Policy Number: 3107

Date Originated: 06/30/98

Date Revised: 08/30/2013

1. Scope

Pursuant to the requirements in Article I, Section 17 of TCRC's master contract with the State of California, the TCRC hereby adopts the following Zero Tolerance Policy to prevent abuse or neglect of people served by TCRC. This policy applies to:

- A. All of TCRC's vendored service providers that provide direct services and supports (as defined by Welfare & Institutions Code (WIC) section 4512(b)) to individuals with developmental disabilities within TCRC's catchment area (people/person served).
- B. All long-term health care facilities serving people served by TCRC.
- C. TCRC employees, if any, who are considered "mandatory reporters" under either of the reporting laws described in Sections 4 and 5 below.

2. Effective Date

This policy shall become effective October 1, 2013.

3. Background

The California Legislature has adopted various laws to protect all children, dependent adults, and elder adults from various types of abuse and neglect. These laws also apply to people served by TCRC. This policy concerns the application of such laws to people served by TCRC.

4. The Adult Reporting Law

California WIC sections 15600-15675, known as the Elder Abuse and Dependent Adult Civil Protection Act (adult reporting law) provides (among other things) that any person who has assumed responsibility for the care or custody of an adult person-served, including administrators, supervisors, and any licensed staff of a facility that provides care or services for adult people served, is a mandated reporter. Under the adult reporting law, any mandated reporter who

experiences any of the following shall report the abuse to the applicable governmental authorities (subject to certain limited exceptions described in the adult reporting law).¹

- A. Has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an adult person-served.
- B. Is told by an adult person-served that he or she has experienced adult abuse.
- C. Reasonably suspects the existence of adult abuse.

5. **The Child Reporting Law**

California Penal Code sections 11164 – 11174.3., known as the Child Abuse and Neglect Reporting Act (child reporting law) provides (among other things) that various categories of persons who interact with a person-served under the age of 18 are mandated reporters.² Under Penal Code section 11166, any mandated reporter who has knowledge of or observes a person under 18 whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect (child abuse), shall report the abuse to the applicable government authorities (subject to certain limited exceptions described in the child reporting law).³ It is important to note that the list of mandated reporters who are obligated to report child abuse is different than the list of mandated reporters obligated to report adult abuse.

6. **Purpose**

The purpose of this policy is to protect the interests of TCRC's people served and their families by:

- A. Educating all mandated reporters about their legal obligation to report adult and child abuse of person's served.
- B. Requiring mandated reporters to fully comply with the adult and child abuse reporting laws.
- C. Providing information to assist mandated reporters in reporting person served abuse in a timely manner as specified in the law to the proper authorities.
- D. Describing the consequences resulting from a mandated reporter's failure to comply with the reporting laws and this policy. The implementation of this policy will assist in ensuring a safe and healthful environment to all individuals with a developmental disability who are provided services or supports by a service provider or a long-term health care facility.

¹ Many of these terms are further defined in Welfare & Institutions Code (WIC) sections 15610-15610.67. For example, "physical abuse" is defined in WIC section 15610.63.

² Penal Code section 11165.7 identifies those individuals who are mandated reporters under the child reporting law.

³ Many of these terms are further defined in the child reporting law (for example, "child abuse or neglect" is defined in Penal Code section 11165.6.

7. Responsibility for Enforcement of Policy

TCRC management has general oversight of this policy. The oversight and implementation of this policy is delegated to TCRC's executive director or his/her designee.

8. The Policy

- A. Duty to Comply with Reporting Laws. All service providers and long-term health care facilities shall ensure all of their employees and contractors who are mandated reporters strictly comply with the reporting laws at all times. Under AB 40, any Community Care Licensed facility is required to immediately report by telephone to local law enforcement any issues involving serious bodily harm to a dependent adult and no later than two hours of obtaining knowledge. Additional reporting requirements for Long Term Care Facilities can be found in the regulations of AB 40. All of TCRC's employees who are mandated reporters shall also strictly comply with the reporting laws at all times. A mandated reporter must (unless exempt under law) report all person-served abuse to the applicable governmental authorities immediately, or as soon as practicably possible, after his or her discovery or reasonable belief of person-served abuse.
- B. Service Provider/Health Care Facility Compliance Policies. Each service provider and long-term health care facility shall ensure maximum compliance with the reporting laws by developing its own written compliance policy for its respective employees and contractors (provider compliance policy) within 120 days after the effective date of this policy. Each provider compliance policy shall incorporate all of the following information:
1. The types and signs of person-served abuse.
 2. The responsibility to protect people served from abuse.
 3. The process for reporting abuse to applicable authorities under the reporting laws.
 4. Identification of the entities entitled to receive reports of person served abuse under the reporting laws.
 5. A requirement that this policy be provided to all employees upon hire.
 6. A requirement that this policy be reviewed annually by all employees.
 7. The consequences of failing to follow the reporting laws and this policy.
- C. Delivery of Provider Compliance Policy to TCRC. All service providers and long-term health care facilities shall provide their provider compliance policies to TCRC upon request.
- D. Taking Action to Ensure Person-served Health and Safety. If TCRC, a service provider, or a long-term health care facility becomes aware of person served abuse, such entity shall take immediate action, to the extent permitted by law, to ensure the health and safety of the affected person served and all other persons receiving services and supports from TCRC, such service provider or long-term health care facility. This obligation is in addition to a mandated reporter's obligation to report person served abuse under the reporting laws.

9. **Procedures**

- A. TCRC's Annual Notice. TCRC shall notify its employees, service providers and long-term health care facilities of this policy on an annual basis.
- B. TCRC's Posting of this Policy on its Website. TCRC shall promptly post and maintain this policy on its website.
- C. Vendor's Distribution of Policies to its Employees and Contractors. Each service provider and long-term health care facility shall:
 - 1. Provide a copy of this policy and its own provider compliance policy to each of its respective employees and contractors upon hire/engagement, as well as annually thereafter.
 - 2. Retain documentation of its compliance with this requirement (such as signed and dated receipts from its employees). Each service provider or long-term health care facility shall provide such compliance documentation to TCRC upon request.
- D. Incorporation of this Policy into Vendor Contracts or Agreements. This policy shall be incorporated by reference into all TCRC agreements or contracts and amendments that are entered into after the effective date of this policy with TCRC's service providers and long-term health care facilities.

10. **How to Report Adult Abuse Under the Adult Reporting Law**

Prior to reporting, the Service Provider or employee shall report his/her concerns regarding the abuse or neglect to the Service Coordinator of the person-served. The reporting to the Service Coordinator is solely to maintain effective communication and does not remove the responsibility for the observer to report the suspected abuse or neglect to the appropriate agency. If the Service Coordinator is unavailable, a report must be made to the Manager of the Service Coordinator or On-Duty Service Coordinator. The Service Provider will also complete a Special Incident Report (SIR) and send to the Service Coordinator of the person-served.

- A. Reporting Generally. When a mandated reporter is required to report adult abuse, the mandated reporter shall immediately, or as soon as practicably possible, submit such report to the county adult protective services agency (APS) or the local law enforcement agency. The mandated reporter shall submit either:
 - 1. A confidential Internet report (as noted in Section 10.B below), or
 - 2. Both a telephonic and written report (as noted in Sections 10.C and 10.D below).
- B. Telephonic Report. To report suspected adult abuse to APS via telephone, the mandated reporter should call the office of APS in the county where the person-served is located. Within two working days after the mandated reporter submits a telephonic report, the mandated reporter shall submit the written report described in Section 10.C below.
- C. Written Report. To report suspected adult abuse to APS in writing, the mandated reporter should file a report on California Department of Social Services (DPSS) Form SOC 341

(entitled, “Report of Suspected Dependent Adult/Elder Abuse”). The form can be found on the following website:

<http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf>.

- D. Special Rules for a Person-served in a Long-Term Care Facility. If adult abuse occurs in a long-term care facility (as defined by the reporting law), the mandated reporter shall submit both a telephonic report and a written report (on DSS Form SOC 341) to the local ombudsman or the local law enforcement agency. Further, if a person-served has suffered physical abuse in a long-term care facility, then the mandated reporter shall also report such abuse to the entities described in WIC sections 15630(b)(1)(A)(i) or (ii), as applicable.
- E. Contents of Report. A telephonic report or Internet report of adult abuse shall include, if known:
1. The name of the person making the report.
 2. The name and age of the person served.
 3. The present location of the person served.
 4. The names and addresses of family members or any other adult responsible for the person’s care.
 5. The nature and extent of the person's condition.
 6. The date of the incident, and any other information, including information that led that person to suspect adult abuse, as requested by the agency receiving the report.
- F. Review the Law in Full to Understand Your Responsibilities. This policy only highlights a portion of the adult reporting law. All service providers, long term health care facility providers, and mandated reporters are encouraged to read the adult reporting law in full. A copy of the adult reporting law can be downloaded from the Internet at <http://www.leginfo.ca.gov/calaw.html> by checking the box next to “Welfare and Institutions” and looking for the appropriate section numbers.
- G. Additional Resources. The California Office of the Attorney General has published two videos and a related training document, entitled, “Your Legal Duty...Reporting Elder and Dependent Adult Abuse,” which contain additional information. The videos are available on the internet at: <http://oag.ca.gov/bmfea>. The training document is located at: http://oag.ca.gov/sites/all/files/pdfs/bmfea/yld_text.pdf.

11. **How to Report Child Abuse Under the Child Reporting Law**

Prior to reporting, the Service Provider or employee shall report his/her concerns regarding the abuse or neglect to the Service Coordinator of the person-served by completing a Special Incident Report (SIR) and send to the Service Coordinator of the person-served. The reporting to the Service Coordinator is solely to maintain effective communication and does not remove the responsibility for the observer to report the suspected abuse or neglect to the appropriate agency. If the Service Coordinator is unavailable, a report must be made to the Manager of the Service Coordinator or On-Duty Service Coordinator.

- A. Recipient of Report. Mandated reporters shall make reports of suspected child abuse to:

1. Any police department or sheriff's department (not including a school district police or security department),
 2. A county probation department, if designated by the county to receive mandated reports, or
 3. The county Social Services Department.
- B. Telephonic Report. The mandated reporter shall make an initial report of child abuse by telephone to the applicable agency immediately or as soon as is practicably possible to the local emergency response child abuse reporting line.
- C. Written Report. The mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report (on CDSS Form SS 8572) within 36 hours of receiving the information concerning the incident. The report form, entitled "Suspected Child Abuse Report," can be found at:
http://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf.
- D. Contents of Report. Reports of suspected child abuse shall include:
1. The name, business address, and telephone number of the mandated reporter.
 2. The capacity that makes the person a mandated reporter.
 3. The information that gave rise to the reasonable suspicion of child abuse 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:

4. The child's name.
5. The child's address, present location, and, if applicable, school, grade, and class.
6. The names, addresses, and telephone numbers of the child's parents or guardians.
7. 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.

- E. Review the Law in Full to Understand Your Responsibilities. This policy only highlights a portion of the child abuse reporting law. All service providers, long term health care facility providers, and mandated reporters are encouraged to read the child abuse reporting law in full. A copy of the Child Abuse Law and Neglect Reporting Act can be downloaded from the Internet at <http://www.leginfo.ca.gov/calaw.html> by checking the box next to "Penal Code" and looking for the appropriate section numbers.
- F. Additional Resources. The CDSS publishes a booklet entitled, "The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters," which contains additional information and is available on the internet.

12. Consequence of Failure to Comply

- A. TCRC's Intention to Enforce. TCRC expects all service providers and long-term health care facilities to comply with this policy and the reporting laws. To the extent they fail to do so, TCRC will utilize all remedies available to it in statute and regulations to protect the health and safety of the people it serves.
- B. Breach of Contract. The failure of a service provider or a long-term health care facility to strictly comply with this policy or either of the reporting laws shall constitute a material breach of its contract with TCRC, and shall give TCRC the right and option to terminate such contract.
- C. Statutory Penalties For Failure to Report Adult Abuse (WIC section 15630(h)) A mandated reporter's failure to report, or impeding or inhibiting a report of, adult abuse, in violation of the adult reporting law, 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, adult abuse, in violation of the adult reporting law (if 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.
- D. Statutory Penalties for Failure to Report Child Abuse (Penal Code sections 11166(c) and 11166.01(b)). Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse as required by the child abuse reporting law 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. Any mandated reporter who willfully fails to report child abuse in violation of the child abuse reporting law (where that abuse or neglect results in death or great bodily injury to the child) 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.
- E. Statutory Penalties for Impeding a Report of Child Abuse (Penal Code section 11166.01. Any supervisor or administrator who impedes or inhibits the reporting duties of a mandated reporter concerning child abuse shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. However, such punishment shall be increased to up to one year in a county jail, or by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment, where that abuse or neglect results in death or great bodily injury to the child.

13. Inconsistencies

If any inconsistency exists between this policy and the reporting laws, the provisions in the reporting laws shall prevail.