

## MANDATED REPORTING FOR SUSPECTED CHILD, ELDER, OR DEPENDENT ADULT ABUSE OR NEGLECT

*This guidance document is intended to instruct investigators on mandated reporting requirements related to their human subjects research. Should you need additional assistance please contact OPHS at 510-642-7461 or [ophs@berkeley.edu](mailto:ophs@berkeley.edu).*

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### **A. Scope**

A mandated reporter is someone legally required to report what they learn or observe to a designated official who has the responsibility, alone or in consultation with others, to recommend or initiate an investigation of possible child, elder, or other dependent abuse and neglect. Each state has laws requiring certain people to report concerns of abuse and neglect. UC Berkeley (UCB) researchers engaged in human subjects research are responsible for any mandated reporting requirements related to their professions or roles (as explained below), and must notify the Committee for Protection of Human Subjects (CPHS) of any such reporting that occurs relevant to their CPHS protocols.

### **B. Important Concepts**

#### **Child Abuse and Neglect:**

The State of California Department of Social Services provides a list of professional titles of those who are mandated to report known or suspected instances of child abuse or neglect (<http://mandatedreporter.ca.com/who/who.htm>) to the county child welfare department or local law enforcement agency. Mandated reporters must follow specific procedures to make referrals to child protective services. California Penal Code §152.3 states that any person who reasonably believes that he or she has observed the murder, rape, abuse, or sexual assault of a child under 14 years old must notify a law enforcement official.

In addition, based on the Child Abuse and Neglect Reporting Act (CANRA), the [University of California Office of the President \(UCOP\) Policy on Reporting Child Abuse and Neglect](#), effective March 17, 2015, states that any UC mandated reporter personnel, including any employees or administrators whose duties bring them in contact with minors on a regular basis, are mandated by the University to report child abuse or neglect if it should occur at a University of California facility or if it is perpetrated by University personnel. This does not apply to minors enrolled in regularly scheduled classes per UC Berkeley policy Activities Involving Minors.

### **Elder Abuse and Dependent Adult Abuse or Neglect:**

California law requires specific professionals and care providers to report incidents that reasonably appear to constitute elder or dependent adult abuse. The reports are generally made to the local Adult Protective Services (APS) agency or to local law enforcement. A listing of mandated reporters can be found at <http://rainn.org/public-policy/legal-resources/california/mandatory-reporting-elderly>.

### **C. Protocol and Informed Consent Considerations**

Researchers are charged to protect the privacy of participants and confidentiality of their data per federal regulations as follows: “when appropriate, there [must be] adequate provisions to protect the privacy of subjects and to maintain the confidentiality of the data” [45 CFR 46.111(a)(7) and 21 CFR 56.111(a)(7)]. However, this is superseded by the law that mandated reporters must report suspected abuse or neglect.

For those mandated to report due to their profession, role, license, employment, etc., language needs to be inserted into the informed consent documents to inform subjects about limitations to confidentiality. Please see language below:

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| <p><b>Informed consent/assent/parent permission template language for studies including research personnel who are mandated reporters under the State of California</b><br/> <b>Department of Social Services</b></p> |
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| <p>“We will keep your (your child’s) study data as confidential as possible, with the exception of certain information that we must report for legal or ethical reasons, such as suspected child abuse or neglect or suspected elder abuse or neglect.”</p> |
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For studies that involve research with children where research personnel include any employees or administrators whose duties bring them in contact with minors on a regular basis, language needs to be inserted into the informed consent documents to inform subjects about limitations to confidentiality. Please see language below:

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| <p><b>Informed consent/assent/parent permission template language for studies involving children where research personnel include any employees or administrators whose duties bring them in contact with minors on a regular basis as under CANRA</b></p> |
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| <p>“We will keep your child’s (your) study data as confidential as possible, with the exception of certain information that we must report for legal or ethical reasons, such as child abuse or neglect if it should occur at a University of California facility or if it is perpetrated by University personnel.”</p> |
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Whenever mandating reporting has occurred within the context of a CPHS protocol, researchers must submit an event report to CPHS describing the situation so that CPHS can consider whether the incident was an unanticipated problem involving risk to subjects or others.

**D. State of California Reporting Requirements References**

- Child Abuse and Neglect Reporting Act (Sections [11164-11174.3](#))
- Elder Abuse and Dependent Adult Civil Protection Act (Sections [15600-15601](#); [15610-15610.65](#); [15630-15632](#); [15633-15637](#))
- California Penal Code (11160; 11161.2) [Mandatory Reporting of Domestic Violence and Sexual Assault Statutes](#)
- The [University of California Office of the President Policy on Reporting Child Abuse and Neglect](#)
- The University of California at Berkeley [Activities Involving Minors](#) policy