

ID #	BRD-043
Rev	02
Date	11/08/2018
Reso	18-76

Policy Regarding Interaction with Youth

1.0 PURPOSE

The Authority’s Policy Regarding Interaction with Youth applies to the Authority’s programs, events, activities or operations (collectively referred to as “programs” below) involving minors (persons under 18 years of age). This policy is established to: (1) provide Authority employees and adult volunteers with guidance on how to interact or work with youth under these circumstances; and (2) address risk management issues so that all programs, events, activities involving youth are safely, effectively and consistently implemented through the effective training of employees and volunteers. This Policy includes four major components: General Provisions applicable to all employee and adult volunteer interaction with youth at the Authority, Authority Sponsored Youth Programs for education, interpretation and other activities, Youth Volunteers, and Organized Youth Volunteer Groups participating as volunteers.

2.0 GENERAL PROVISIONS

Duties of Program Manager

The Authority’s Field Operations Manager is designated as the Program Manager for implementation of all youth programs and will oversee all programs involving minors. The Program Manager duties will include, but not be limited to:

- Performing and overseeing the screening of Authority employees and adult volunteers participating in youth programs.
- Overseeing training of Authority employees and adult volunteers participating in youth programs.
- Ensuring there is an Authority Mandated Reporter present at every youth program function.
- Managing the planning, coordination and implementation of events.
- Preparing reports as necessary to protect youth and minimize risk to the Authority.
- Ensuring that all Authority Mandated Reporters (discussed below) and their supervisors are provided with a copy of the Mandated Reporter policy.
- Ensuring that written and online resources used by the Authority regarding Mandated Reporter duties contain the most current information.
- Overseeing employee training.

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- Taking any measures, as deemed necessary, to ensure that Authority employees are not impeded in performing their Mandated Reporter responsibilities.

Supervision of Youth

Any employee or adult volunteer who supervises or has sole control over minors, or interacts with minors not accompanied by a parent or legal guardian as part of any Authority program, must undergo a criminal history background check, including fingerprinting. This includes employees of the Authority as well as volunteer adults who work with minors. Employees and volunteers that come in contact with minors must agree that their name will be searched in the Department of Justice (“DOJ”) National Sex Offender Public Website (NSOPW) (<http://www.nsopw.gov>) and the Megan’s Law website (<http://www.meganslaw.ca.gov/>), submit fingerprints, and complete a criminal background check and questionnaire pursuant to California Penal Code § 11105.3, California Public Resources Code § 5164 and California Education Code § 10911.5.

Authority employees have an additional role as Mandated Reporters, which is described in more detail below.

Mandated Reporters under the Child Abuse and Neglect Reporting Act

It is the policy of the Authority to establish and designate staff as Mandated Reporters pursuant to the Child Abuse and Neglect Reporting Act. (Penal Code §§ 11164-11174.3.)

Definitions

Mandated Reporter: An employee of the Authority whose duties require direct contact and supervision of children. (Penal Code § 11165.7(a)(8).)

Reasonable Suspicion: Activity or observation that 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 or her training and experience, to suspect child abuse or neglect. Reasonable Suspicion does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. Any reasonable suspicion is sufficient. The pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. (Penal Code § 11166(a)(1).) Reasonable Suspicion can be based on credible information, including information from other individuals.

Duty to Report

When a Mandated Reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the Mandated Reporter knows or has a reasonable suspicion has been the victim of child abuse or neglect, they are mandated to make a report. (Penal Code § 11166(a).) Child abuse or neglect includes physical injury or death

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inflicted by other than accidental means upon a child by another person, sexual abuse, general or severe neglect, the willful harming or injuring of a child or endangering a child, or the unlawful corporal punishment of a child. Child abuse or neglect is further defined as follows:

Physical Abuse: Physical injury inflicted by other than accidental means on a child, or intentionally injuring a child. (Penal Code § 11165.6.) Physical abuse is characterized by physical injury (for example, bruises, burns or broken bones) resulting from punching, beating, kicking, biting, burning, or otherwise harming a child.

Sexual Abuse: Sexual assault or exploitation refers to sexual assault or sexual exploitation of anyone under 18 as defined in Penal Code § 11165.1.

Neglect: The negligent treatment or 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 and as defined in Penal Code § 11165.2.

Willful harming or injuring or endangering a child: A situation in which 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 in which his or her person or health is endangered. (Penal Code § 11165.3.)

Unlawful corporal punishment: A situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. (Penal Code § 11165.4.)

Emotional Abuse: A situation where a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others.¹

Acts That Do Not Constitute Child Abuse

The following is not child abuse for reporting purposes:

- A mutual affray between minors.
- Injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
- A child receiving treatment by spiritual means or not receiving specified medical treatment for religious reasons is not reason alone to be considered neglect.
- The amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within control of the child/pupil.

¹ Penal Code § 1116.05. A Mandated Reporter who suspects emotional abuse may make a report.

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- The fact that a child is homeless or is classified as an unaccompanied youth, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

Method of Reporting and Information Required when Reporting

If a Mandated Reporter has a reasonable suspicion that a program participant has been or is a victim of child abuse or neglect, the Authority employee has a duty to immediately (or as soon as is practically possible) report as follows:

- The Mandated Reporter shall make an initial report by telephone to the police or sheriff's department.²
- Following the initial telephonic report, the Mandated Reporter shall prepare and send, fax, or electronically transmit a written follow up report within thirty-six (36) hours of receiving the information concerning the incident to the police or sheriff's department. The written report must be filed using Department of Justice Form SS 8572 (DOJ SS 8572), also known as the Suspected Child Abuse Report Form.³
- The Mandated Reporter may also make a direct report to a child protective agency immediately or as soon as is practically possible.⁴

Mandated Reporters shall provide the following information at the time of the initial report:

- Name, business address, and telephone number of the Mandated Reporter.
- The capacity that makes the reporter a Mandated Reporter.
- Information that gave rise to the reasonable suspicion of child abuse or neglect and the source (or sources) of that information.
- If known, the child's name, address, present location and (if applicable) school, grade and class.
- If known, the name, address, telephone number and other relevant personal information about the person or persons who might have abused or neglected the child. (Penal Code § 11167(a).)
- The Mandated Reporter shall make a report even if some of the above information is not known or is uncertain.

Confidentiality

The identity of a Mandated Reporter shall be confidential and is disclosed only among agencies receiving, investigating or prosecuting mandated reports or other appropriate agencies, or by court order. (Penal Code § 11167(d).) While Mandated Reporters are encouraged to also report suspected child abuse or neglect to the Program Manager or the Authority's General Manager, a

² Penal Code § 11166(a).

³ Penal Code § 11166(a). Form available online at: http://ag.ca.gov/childabuse/pdf/ss_8572.pdf

⁴ Santa Clara County Child Protective Services: 408-299-2071; South County--408-683-0601

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Mandated Reporter shall not be required to disclose their identity or the suspected child abuse or neglect to their employer. (Penal Code § 11166(i)(2).) A report to the Program Manager or the General Manager does not relieve the Mandated Reporter of their duty to notify law enforcement. (Penal Code § 11166(i)(3).)

Immunity

No Mandated Reporter shall be civilly or criminally liable for any report as required or authorized by the Child Abuse and Neglect Reporting Act. This immunity applies even if the Mandated Reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her professional capacity or outside the scope of his or her employment. (Penal Code § 11172(a).)

Penalty for Failure to Report

A Mandated Reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by the Child Abuse and Neglect Reporting Act is guilty of a misdemeanor punishable by up to six (6) months imprisonment in county jail, \$1,000 fine or both imprisonment and fine. If a Mandated Reporter intentionally conceals his or her failure to report an incident known by the Mandated Reporter to be abuse or severe neglect as mandated by the Child Abuse and Neglect Reporting Act, the failure to report is a continuing offense until such concealment is discovered by an agency defined in Penal Code Section 11165.9. (Penal Code § 11166(c).)

An Authority employee who is a Mandated Reporter under the Child Abuse and Neglect Reporting Act and fails to report an incident of known or reasonably suspected child abuse or neglect as required by the Child Abuse and Neglect Reporting Act hereby violates Authority policy and is subject to discipline up to and including termination.

Adult Volunteers

Authority adult volunteers are not Mandated Reporters.⁵ However, any volunteer who has a reasonable suspicion⁶ that a program participant is the victim of child abuse or neglect shall immediately report their reasonable suspicion to an Authority Mandated Reporter with a full explanation of why they believe the program participant is the victim of child abuse or neglect.

⁵ Pursuant to the Child Abuse and Neglect Reporting Act, Authority volunteers are not Mandated Reporters. California Penal Code § 11165.7(b) states, “volunteers of public or private organizations whose duties require direct contact with the supervision of children are not Mandated Reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency as specified in Section 11165.9.” Online 4-hour training offered by California Department of Social Services with Certificate available at:

<http://mandatedreporterca.com/training/generaltraining.htm>

⁶ Reasonable Suspicion: Activity or observation that 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 or her training and experience, to suspect child abuse or neglect. Reasonable suspicion does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. Penal Code § 11166(a)(1).

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Training Requirements

All Mandated Reporters are required to successfully complete Mandated Reporter training prior to participation in any Youth Programs. The training is designed to educate Mandated Reporters in the recognition and reporting of child abuse or neglect. While adult volunteers are not Mandated Reporters, the Authority requires that they successfully complete the Mandated Reporter training before any participation in any Youth Programs⁷. Training will be done by outside experts and/or on-line. Training must be retaken annually.

While no employee or adult volunteer in contact with minors should be in contact with minors if they have not taken the required Mandated Reporter training, a Mandated Reporter must comply with the duties imposed by the Child Abuse and Neglect Reporting Act regardless of whether he or she has received training.

Written Acknowledgment of Legal Responsibility to Report Abuse

All Mandated Reporters shall sign a statement on a form provided to him or her by the Authority to the effect that he or she has knowledge of the provisions of California Penal Code § 11166 of the Child Abuse and Neglect Reporting Act and will comply with such provisions. The statement shall inform the employee that he or she is a Mandated Reporter and inform the Authority employee of his or her reporting obligations under Penal Code § 11166 of the Child Abuse and Neglect Reporting Act and of his or her confidentiality rights as outlined under Penal Code § 11167(d). The Authority shall provide the employee a copy of Penal Code §§ 11165.7, 11166 and 11167 of the Child Abuse and Neglect Reporting Act. (Penal Code § 11166.5(a)(1).)

The Authority shall retain the signed statements.

3.0 AUTHORITY SPONSORED YOUTH PROGRAMS

The Authority may provide Youth Programs, which do not involve the presence of parents or legal guardians, in the form of education, interpretation, hikes, or other nature-oriented programs. Any such Youth Programs shall always include at least one Mandated Reporter, and under no circumstances shall an employee or adult volunteer lead such Youth Programs alone. At all times at least two Authority employees or an Authority employee and adult volunteer shall be present during such Youth Program events. For groups larger than twenty (20) youths, there shall be a minimum ratio of one (1) employee or adult volunteer per ten (10) youths.

An Authority employee or adult volunteer shall not be alone with a minor or engage in any one-on-one in-person or social contact with any minor participating in an Authority Youth Program. In addition, there shall be no one-on-one phone or digital interaction between Authority employees or adult volunteers and youth participating in any Authority Youth Program. This includes but is not limited to, communication in the form of online games, social media, phone calls and text messages.

⁷ Penal Code § 11165.7(f) states, “Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.”

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At all times the Authority shall be in control of such events. Under no circumstances shall the Authority cede control over the Authority's Youth Programs to another outside consultant, entity, organization or agency.

No Authority employee, including supervisors, managers, co-workers, and members of the Board, or volunteer shall assist a youth in taking his or her medications.

4.0 YOUTH VOLUNTEERS - GENERALLY

Definition of an Authority Youth Volunteer

An Authority Youth Volunteer is a minor who has obtained written consent from a parent or guardian to perform his or her services freely without compensation or financial gain to assist the Authority. (Labor Code § 1720.4).

Individual Youth Volunteers must be at least 14 years of age. Participants in Youth Volunteer Groups must be at least 13 years of age, as provided in Section 5.0 below.

Prohibited Duties

All Youth Volunteers including Youth Volunteer Groups (See Section 5.0) are prohibited from any and all work considered potentially dangerous to life or limb, including without limitation, operating motor vehicles, working on or near any machinery, operating power tools, or working with or near any hazardous chemicals. Youth volunteers may not work on any materials that may contain confidential information, such as personal information of other volunteers or Authority employees.

Social Contact with Youth Volunteers

Other than what is necessary for successfully accomplishing a Youth Volunteer's duties and responsibilities as assigned at the Authority, no employee or adult volunteer shall engage in any in-person or social contact with any Youth Volunteer. This includes, but is not limited to, phone, text or digital interaction between Authority employees or adult volunteers and a Youth Volunteer. Under no circumstances shall an Authority employee or adult volunteer engage in online games or any form of social media with a Youth Volunteer.

At no time shall any Authority employee or adult volunteer be alone in any office or room with one or more youth(s) with the door closed.

Equal Opportunity Policy for All Volunteers

The Authority is an equal opportunity employer. The Authority is committed to providing a work environment free of discrimination or harassment. In order to provide equal employment and advancement opportunities to all individuals, volunteer decisions at the Authority will be based on merit, qualifications and abilities. Except where required by law, or employment practices, decisions will not be influenced or affected by an applicant's race, color, religion, gender, national origin, age, creed, political affiliation, marital status, medical condition, disability, ancestry, sexual orientation, veteran status or any other characteristic protected by law. The Authority's anti-discrimination policy applies to all persons involved in the operation of the

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Authority and prohibits discrimination or harassment by any employee or volunteer of the Authority. While every decision to accept or not accept an application to be a Youth Volunteer will not be based on discrimination, the Authority is not under any obligation to accept each and every person who applies to be a Youth Volunteer. Decisions to accept applications will be based on a number of non-discriminatory factors including, but not limited to, the Authority's current needs, and the applicant's abilities to perform the work.

Episodic Youth Volunteers

Episodic Youth Volunteers are youth volunteers who participate in short term volunteer opportunities, such as episodic Land Steward events that are a day long or less. Episodic Youth Volunteers may participate in such volunteer events only if they are accompanied by a parent or legal guardian and sign the appropriate agreement, waiver and release for such events.

Long-Term Youth Volunteers

Long-Term Youth Volunteers, are defined as Youth Volunteers who serve more than three days. All Long-Term Youth Volunteers must fill out a Volunteer Application Form as provided by the Authority. The form requires signed permission from the Youth Volunteer's parent/legal guardian before participating in any volunteer project or activity. The Authority's Field Operations Manager shall screen all Long-Term Volunteer Applications for compliance with this Policy.

Staffing for Oversight of Youth Volunteers

The Authority's Field Operations Manager must ensure that there will be sufficient staffing to process and screen Long-Term Youth Volunteer applications, and ensure volunteer applications comply with all requisite Authority Youth Program policies. In addition, the Authority's Field Operations Manager must ensure there is adequate staffing necessary for Youth Volunteer training and supervision as necessary.

Long-Term Youth Volunteer Description

Each Long-Term Youth Volunteer or Youth Volunteer Group (See Section 5.0 below) should be given a clear and concise job assignment that describes specific responsibilities and duties. The Authority should determine beforehand the knowledge and skills required for each Youth Volunteer assignment and clearly explain the supervisory chain of command. Each Long-Term Youth Volunteer or Youth Volunteer Group should understand the performance standard expected of his or her service.

For each volunteer job or project, the Authority should include a duty statement that explains in detail what is expected of the volunteer, and what the volunteer may expect from the job or project. The duty statement shall include the following:

1. Title
2. Purpose
3. Duties/Responsibilities

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4. Skills/Qualifications Necessary
5. Time Commitment
6. Training
7. Necessary Reporting
8. Volunteer Training

The Authority should prepare guidelines and training material in accordance with the assignments for the Long-Term Youth Volunteers. The Authority should ensure that volunteers have a clear understanding of their duties and responsibilities and are adequately trained for their assignments.

Waivers of Liability

All Long-Term Youth Volunteers must have a parent or guardian fill out and sign an Authority waiver of liability/release form and the Authority must receive the waiver of liability/release form for each Youth Volunteer prior to the youth participating in a Program activity. The waiver of liability shall include a section allowing parents or guardians to give/not give permission for the Authority to post photographs of Youth Volunteers on their web page. (Civil Code § 3344.) The Authority waiver of liability/release form will be in addition to, not in lieu of, any waivers of liability through the school, after school program, training center, community-based organization, other youth program.

5.0 ORGANIZED YOUTH VOLUNTEER GROUPS

Organized Youth Volunteer Groups may provide volunteer services to the Authority. Participants in Youth Volunteer Groups must be minors 13 years of age or older. Each Youth Volunteer Group must have its own liability insurance in an amount satisfactory to the Authority and provide proof of insurance to the Authority. Each Youth Volunteer Group must also agree to assume responsibility for each member of the group. Additional medical and liability insurance may be required at the discretion of the Authority. Authority employees that have been cleared to work with youth and have completed Mandated Reporter training shall supervise organized Youth Volunteer Groups. Adult supervisors and teachers may participate in such Youth Volunteer Group activities. Youth Volunteers are prohibited from any and all work considered potentially dangerous to life or limb, including without limitation, operating motor vehicles, working on or near any machinery, operating power tools, or working with or near any hazardous chemicals.

Policy Approval History

Policy #	Revision	Date	Reso	Action
BRD-043	02	11/08/2018	18-76	Update
	01	05/09/2018	18-24	Update
	00	03/24/2016	16-16	Adoption

