Exceptional Children's Foundation

Policy: ZERO TOLERANCE OF ABUSE OR NEGLECT POLICY

Established: February 2018

Exceptional Children's Foundation has a "Zero Tolerance" Policy regarding client/student abuse or neglect. Any observed, reported or suspected instance of client/student mistreatment will result in an immediate investigation and action to prevent further occurrence. Anyone who receives a report of actual or suspected mistreatment of any client or student or observes mistreatment must immediately report that to the Regional Center and/or the referring school district, as applicable; and to the Office of Adult Protective Services for adults, to the Department of Children and Family Services for minors, and to the Long Term Care Ombudsman for those clients in long-term care facilities; or to law enforcement. Abuse or mistreatment should be reported to the above applicable agencies as soon as reasonably possible. An employee may seek guidance from his/her supervisor or program administrator; however, consultation with a supervisor/administrator does not fulfill one's mandate to report as described in this document. Such consultation is meant to provide the employee with guidance in making the report. Supervisors/Administrators are prohibited from discouraging an employee from making a report consistent with the guidelines provided in this document.

Observed, suspected or reported mistreatment of any client or student means the following or anything like the following:

- Hitting, slapping, punching, pushing, pulling, biting or anything that causes fear, pain, or discomfort to a client or student; this may include client/student to client/student interaction;
- Unreasonable physical constraint. (Reasonable actions taken to protect a client/student or others from a client's/student's behaviors, taken in compliance with recognized and accepted behavior protocols, are not considered abuse, but they can become abusive if the intervention is more than is required to protect the client/student and those around him/her.);
- Sexual abuse, which includes sexual touching of any kind and inappropriate, suggestive and/or offensive sexual talk to or around a client or student;
- Name calling, demeaning, tormenting, threatening, mean teasing, yelling, harassing, or any other similar treatment;
- Disciplining by withholding food, water or preferred activities or causing pain, discomfort or trauma, even if in a purported behavior modification plan;
- Failure to exercise a reasonable degree of care, including but not limited to, a failure to assist in personal hygiene and the provision of food, water, clothing, or shelter, or failure to provide medical care for physical and/or mental health needs, or to protect the client or student from health and safety hazards.

- Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
  (1) For punishment;
  (2) For a period beyond that for which the medication was ordered pursuant to the instructions of the physician/surgeon licensed in the State of California, who is providing medical care to the client or student at the time the instructions are given;
  (3) For any purpose not authorized by the physician/surgeon.
- Failure to exercise the degree of care that a reasonable person would exercise in the position of having the care and custody of an elder or dependent adult or child;
- Wrongfully taking anything from a client or student, including but not limited to, possessions, money, or anticipated income;
- Denying client/student rights, except in accordance with the requirements of section 50530-50540 of Title 17 and/or Title 22 of the California Code of Regulations.

This policy applies to all employees of Exceptional Children's Foundation, including administrators, managers, supervisors, interns (paid or unpaid), independent contractors, and volunteers.

If you observe or suspect client/student abuse, or if it is reported to you, you must:

- Immediately do what is reasonable and necessary to stop the abuse and to protect the health and safety of all clients/students and others who could be harmed by it;
- If applicable, immediately, or as soon as is reasonably possible, report it to the Regional Center and/or the referring school district by telephone; and in writing within 24 hours;
- Immediately, or as soon as reasonably possible, report it to Adult Protective Services, Department of Children and Family Services or the Long Term Care Ombudsman as applicable; or immediately, or as soon as reasonably possible, report it to law enforcement; **and**
- Report it to your supervisor and/or the perpetrator's supervisor as appropriate.

The laws relating to reporting are complex and demanding. Failure to properly report can result in both a fine and imprisonment. This policy does not purport to contain all of the reporting requirements. You are referred to:

- Welfare and Institutions Code section 15630 (Mandated reporters; known or suspected abuse; telephone or internet reports; failure to report; impeding or inhibiting report; penalties; and 15633 and 15633.5 for confidentiality) *for adults*;
- Welfare and Institutions Code section 15658 (written abuse form; confidential Internet reporting tool; contents; timing) *for adults in long term care facilities*; and
- Penal Code 11166 (report of child abuse or neglect; mandatory reporters; reasonable suspicion defined; form of report; criminal liability for failure to report; investigations; other reporters; joint reports; retaliation prohibited; report by county probation or welfare department, or law enforcement agency, to investigatory agency and district attorney) *for child abuse*.

Copies of these and related statutes can be found at http://leginfo.ca.gov/calaw.html.

- For child abuse and neglect issues, you can look up Penal Code §§11164 – 11174.3 – The Child Abuse and Neglect Reporting Act ("CANRA") at http://leginfo.ca.gov/calaw.html, checking the box by "Penal Code" and click on "Search".
- For adult abuse and neglect issues, check the box for "Welfare and Institutions Code" and click on "Search" and look for the sections including and around 15630, 15633 and 15633.5.
- The California Department of Social Services has training modules and a wealth of information on child abuse and neglect reporting at http://mandatedreporterca.com/.

Additional adult reporting information and resources can be found at the website for the California Office of the Attorney General ("OAG") (oag.ca.gov/), which has two videos and a training document entitled "Your Legal Duty…Reporting Elder and Dependent Adult Abuse, at http://oag.ca.gov/sites/all/files/pdfs/bmfea/yld_text.pdf. OAG has also published two training videos at http://oag.ca.gov/bmfea and published a "Citizen's Guide for Preventing and Reporting Elder Abuse" at http://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/citizensgude.pdf. This Guide contains contact information for reporting entities throughout the State of California. You can find an Ombudsman directory at 800-231-4024 and online at www.aging.ca.gov/programs/ombudsman_contacts.asp.

ECF will use all available remedies in statute and regulation to protect the health and safety of clients and students. In keeping with ECF's Separation During Investigation policy (section 15.18 of ECF's personnel policy manual), the employee will be physically separated from the client/student during the investigation process.

ECF will ensure that all of its agents and employees are fully informed upon hire and annually thereafter regarding this Zero Tolerance of Abuse or Neglect Policy and mandatory abuse and neglect reporting laws. Each employee and agent must be knowledgeable of:

- Their responsibility to protect clients/students from abuse and neglect;
- The signs of abuse and neglect;
- The process for reporting suspected abuse or neglect; and
- The consequences of failing to follow the law and failing to enforce the Zero Tolerance Policy.