



Building a Child Abuse Prevention Program



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SEPTEMBER 12-15, 2017
SOUTH LAKE TAHOE, CA



Rubenstein-Iceberg Ahead!

Presented by Louis A. Leone,
Leone & Alberts
Walnut Creek, Ca.

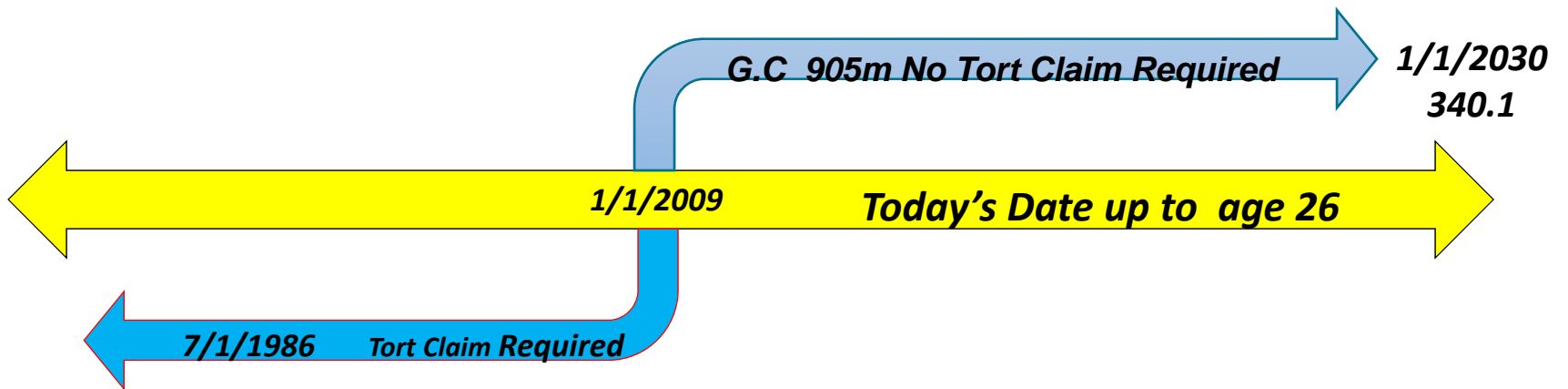


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Sexual Abuse Molestation Statutory Filing Requirements



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Rubenstein v. Doe No. 1 (2016) 245 Cal.App.4th 1037

Facts of the Case

- In the summer of 2012, Latrice Rubenstein—34 years old at the time—submitted a claim to the Brawley Union High School District (the “District”), alleging that she was repeatedly sexually molested by a track coach employed by the District between 1993 and 1994.
- She was between 15 and 16 years old when the molestation occurred. She claimed repressed memory of the abuse until early 2012. Shortly after the memories resurfaced, Rubenstein presented the District with a government tort claim for the abuse that allegedly occurred 19 years earlier.



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When Does a Claim for Molestation Usually Accrue

The Cal. Supreme Court has repeatedly stated that “a cause of action for childhood sexual molestation accrues at the time of molestation.” (See e.g., *John R. v. Oakland Unified Sch. Dist.* (1989) 48 Cal.3d 438, 443.)

Where the molestation takes place over a period of time, accrual is measured from the date of the last act of molestation.

These rules are based on the fact that a child suffers an appreciable injury at the time of the molestation and all of the elements of a civil cause of action are present at that time. (*Marsha V. v. Gardner* (1991) 231 Cal.App.3d 265, 272-73, cited with approval in *S.M. v. Los Angeles Unified Sch. Dist.* (2010) 184 Cal.App.4th 712, 720)



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The Elephant in the Room

Gov't Code § 901 says that a claim accrues under the Claims Act at the same time it would under the applicable statute of limitations as if the defendant was not a public entity; CCP § 340.1 sets the statute of limitations for molestation cases against non-public entities:

Does CCP § 340.1 alter the accrual date for purposes of the claim presentation statute for pre Jan. 1, 2009 ?



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The Supreme Court Chimes In

Shirk v. Vista Unified Sch. Dist (2007) 42 Cal.4th 201

Facts: 41-year-old plaintiff sued school district for sexual abuse by a teacher that occurred between 1978 and '79. More than twenty years later, the plaintiff encountered the teacher when attending a high school band tournament with her 15-year-old daughter. The plaintiff became "very upset" and consulted a mental health professional, who told her that she was suffering psychological injuries due to the long-ago abuse. The plaintiff then presented the district with a tort claim

- The trial court sustained the school district's demurrer without leave to amend on the ground that the plaintiff had failed to comply with the Claims Act.
- The plaintiff appealed, arguing that "her duty to present her claim to the School District, as required under the government claims statute, first arose ... when she discovered that her psychological injury was caused by the teacher's sexual abuse." The Fourth District Court of Appeal (the same court that decided Rubenstein) ignored the V.C. and *County of Los Angeles* decisions and held that CCP § 340.1 applied and rendered the claim timely. The school petitioned for review and the California Supreme Court reversed.
- The High Court held (1) that claims for molestation accrue at the time of molestation, and (2) expressly rejected the plaintiff's contention that 340.1 delayed a claimant's duty to present a government tort claim.



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The Legislature Responds

- **Gov't Code, § 905, subd. (m)** – Enacted in 2008 in direct response to the Cal. Supreme Court's decision in *Shirk* and partially overrules the decision. The statute exempts claims for childhood sexual abuse under CCP § 340.1 from the claims presentation requirements, but only for those claims “**arising out of conduct occurring on or after January 1, 2009.**” The legislative history of the statute indicates that the Legislature purposefully left the holding in *Shirk* intact with regard to pre-2009 claims, which the author of the Bill stated “should reduce the bill's financial impact on local public entities.” (Sen. Rules Com., Analysis of Sen. Bill No. 640 (2007-2008 Reg. Sess.)



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Post Shirk

K.J. v. Arcadia Unified School District (2009) 172 Cal.App.4th 1229

Facts: the plaintiff was sexually abused by high-school teacher, beginning when plaintiff was 15. The abuse lasted three years and, after she turned 18, the plaintiff informed her mother of the relationship in '06. The teacher was arrested and, in September '07, the student presented a tort claim.

- The district demurred on the ground of the Claims Act and the plaintiff argued that, she did not realized she had been victimized until July '07 because, until that point, she thought she was in love with the teacher.
- Consistent with the above authorities, the court recognized that claims for molestation generally accrue at the time of molestation and that 340.1 does not apply to public entities. However, based upon Gov't Code § 901, which provides that a claim accrues under the Claims Act at the same time a claim would accrue under the statute of limitations applicable to non-public entities, the court held that even though CCP § 340.1 doesn't apply, the statute guides the understanding of the accrual date applicable to claims against public entities. The court reached this conclusion based on the proposition that 340.1 "codifies the delayed discovery doctrine" and "guides our understanding of the accrual date applicable to the presentation of a tort claim."



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Although *K.J.* has not been expressly overruled, it has not been followed by subsequent decisions

S.M. v. Los Angeles Unified Sch. Dist. (2010) 184 Cal.App.4th 712

- 10-year-old fondled by teacher. More than a year after the abuse, the teacher was arrested after another student came forward and the girl's mother presented the school with a tort claim.
- The trial court granted summary judgment in favor of the school based on the Claims Act, implicating rejecting *K.J.* by (1) affirming that the statutory delayed discovery rule in 340.1 does not apply to claims against public entities and (2) holding that the common law rule can apply under certain circumstances, but the plaintiff could not rely on that rule because she admitted to knowing the molestation was wrong at the time it occurred.

A.M. v. Ventura Unified Sch. Dist. (2016) 3 Cal.App.5th 1252 (decided after the petition was filed in this case)

- Not a great case for public entities because it held that the extended statute of limitations in 340.1 applies to claims that a school district negligently allowed a student to sexually abuse another student, but reaffirms that “[i]n *Shirk*, our Supreme Court concluded that the delayed discovery provisions in section 340.1 did not toll the period in which to present a claim under the Government Claims Act.”



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Back to *Rubenstein*

Procedural History of the Case:

- Latrice Rubenstein was allegedly molested in 1993. She presented her claim in 2012. It was rejected as untimely. Rubenstein sought permission from the District to present a late claim, asserting that her repressed memory of the molestation rendered her claim timely under Cal. Code Civ. Proc., § 340.1 because she presented the claim within six months of her discovery of the molestation.
- The District denied the application and Rubenstein filed a petition for relief from the Government Code's claim presentation requirement in the Superior Court.
- The trial court granted the petition and allowed the case to proceed. The District then demurred to the complaint, arguing that Rubenstein failed to comply with certain procedural requirements of CCP § 340.1. The trial court sustained the demurrer on this ground without leave to amend and Rubenstein appealed.
- On appeal, the District argued that the trial court properly sustained the demurrer on the procedural grounds stated by the court, i.e., that the certificate of merit required to be presented under CCP § 340.1(h) was procedurally defective for a number of reasons. In the alternative, the District argued that the trial court lacked jurisdiction to grant the petition to file a late claim in the first instance because Rubenstein did not present the District with an application to file a late claim within a year of accrual of her claim.



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Court of Appeal's Decision

- The Forth District Court of Appeal rejected both of the District's arguments. The court first focused on the accrual issue, concluding "that the statutory delayed discovery rule of section 340.1 applied to delay the accrual date of plaintiff's action for childhood sexual abuse." The court's reasoning on this issue was limited to the following:
- The accrual date for claim filing purposes is the same as the accrual date for a corresponding civil cause of action (Gov. Code, § 901.) Code of Civil Procedure section 340.1 sets forth the limitations period for filing an action for childhood sexual abuse. (*Quarry v. Doe I* (2012) 53 Cal.4th 945 (*Quarry*).) **Thus, section 340.1 governs the accrual date for claim filing purposes.**
- In reaching this conclusion, the court did not cite County of L.A., V.C., Shirk, or S.M. Indeed, the only public entity sex case cited by the court was the K.J. decision.
- The most important aspect of the Court of Appeal's decision in Rubenstein comes from the statement that CCP § 340.1 "governs the accrual date for claim filing purposes." **This was the first time that any court had held that § 340.1 directly applies to public entities. The statement directly conflicts with the California Supreme Court's holding in *Shirk* as well as the Legislature's enactment of Government Code § 905(m).**



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Operation of Gov't Code § 905(m) before and after *Rubenstein*

- Gov't Code 905(m) exempts claims for childhood sexual abuse from the claims presentation requirements for cases arising from conduct that occurred after Jan. 1, 2009.
- Per the plain language of the statute, this means that a student that was abused prior to 1.1.09 was required to present a claim within 6 months of the last act of molestation.
- If a student was molested on or after Jan. 1, 2009, the student does not have to present a claim and can file suit in accordance with CCP 340.1, (either (1) prior to his/her 26th birthday or (2) within 3 years of discovering adult onset psyc. injury)
- Under *Rubenstein*, since the case holds that CCP 340.1 governs accrual for purposes of the Claims Act, the distinction between pre- and post-2009 molestation cases ceases to matter.
- Put simply, the Legislature, for policy reasons, created a cut off date for molestation claims against public entities when it enacted Gov't Code 905(m). *Rubenstein* nullifies that code section.



Rubenstein Supreme Court Decision

- Will add text once decision is issued



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Physical and Sexual Abuse How Do We Address it?

Ron Martin

Keenan & Associates
JPA Manager- Northern
California Regional Liability
Excess Fund

Diane Cranley

CSA Prevention Consultant
Founder and President, TAALK
Author *8 Ways to Create their
Fate*

This program is designed to educate the public on child sexual abuse prevention. It is for informational purposes only and is not meant to replace intervention or the advice of a licensed professional.



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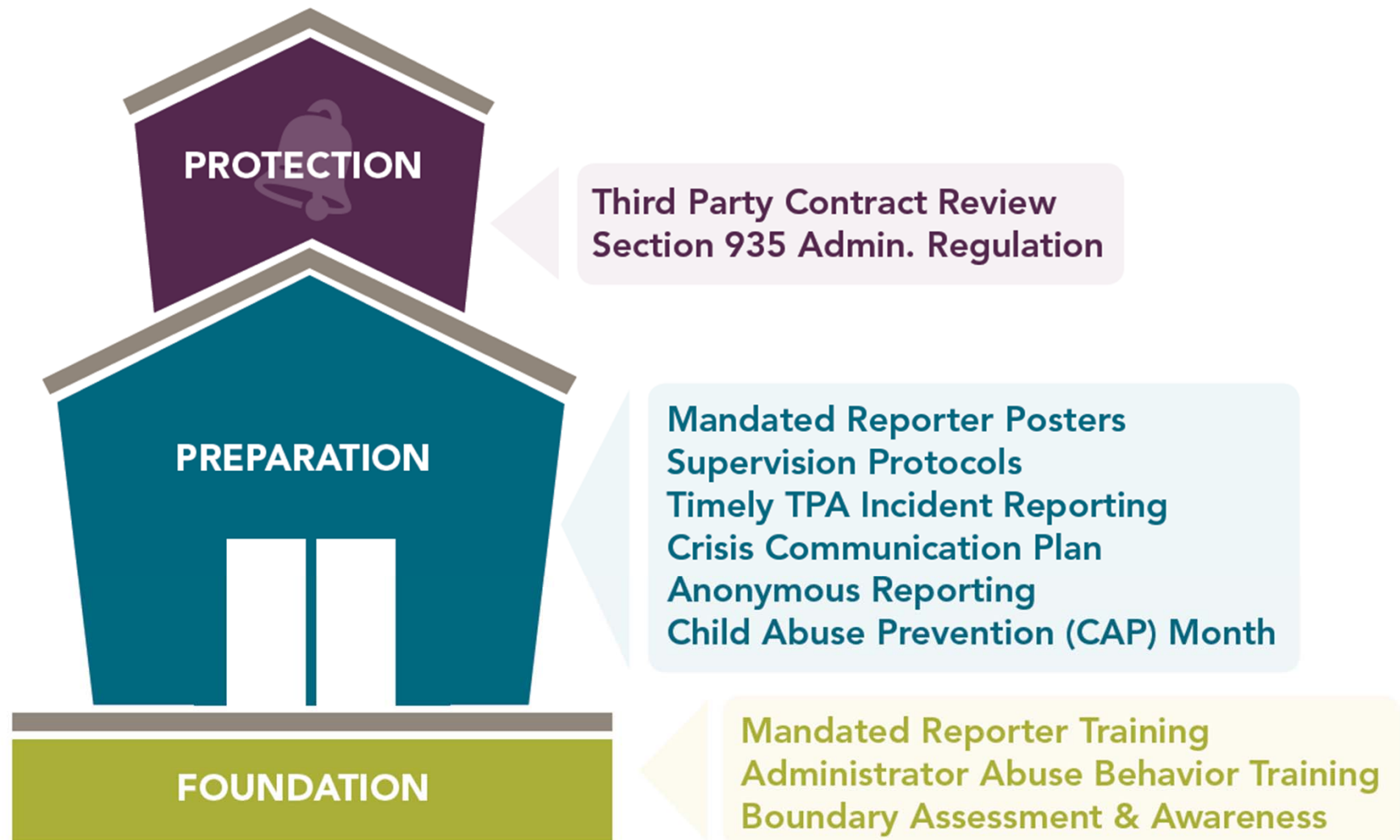
Learning Objectives

1. Understand California law and statutory exposures
2. Review tools and resources to prevent abuse
3. Legal and preventative strategies to reduce physical and sexual abuse



Is Your House in Order?

ESTABLISH A COMPREHENSIVE CHILD ABUSE PREVENTION PROGRAM



Mandated Reporter Training



Mandated Reporter Training is a legal requirement for school districts:

- All district employees must be trained within first six weeks of the start of each school year; new hires must be trained within first six weeks of hire*
- Employee failure to report is a misdemeanor and punishable by fine and potential jail time
- Districts must verify training with reports to California Department of Education and District Board of Education
- Tracking and training record retention is critical

* Noncompliance can increase district liability and public scrutiny



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2

Abuse Behavior and Recognition Training



District employees, specifically school administrators, need to be educated, trained, and provided with tools to identify behaviors, understand the thought process of the abuser, and feel empowered to take ACTION. It is critical to establish a culture that makes it difficult for child abusers to operate within schools.

**employees must feel
empowered to know when
to call and to take ACTION**



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The Problem

Child molesters need access in order to abuse and what better way to gain it than to work for or volunteer at a school?



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The Problem

- Research shows that nearly 10% of students surveyed say they were sexually abused at school – that is almost 4.5 million U.S. students.
- Another study found that only 11% of educators say they would report a colleague who they thought was sexually abusing a child.
- Kenneth Lanning and Parker Dietz even refer to youth-serving organizations as a “well populated hunting ground.”



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The Solution

Transform our schools into a place where molesters virtually will have difficulty in molesting our students therefore won't want to work.

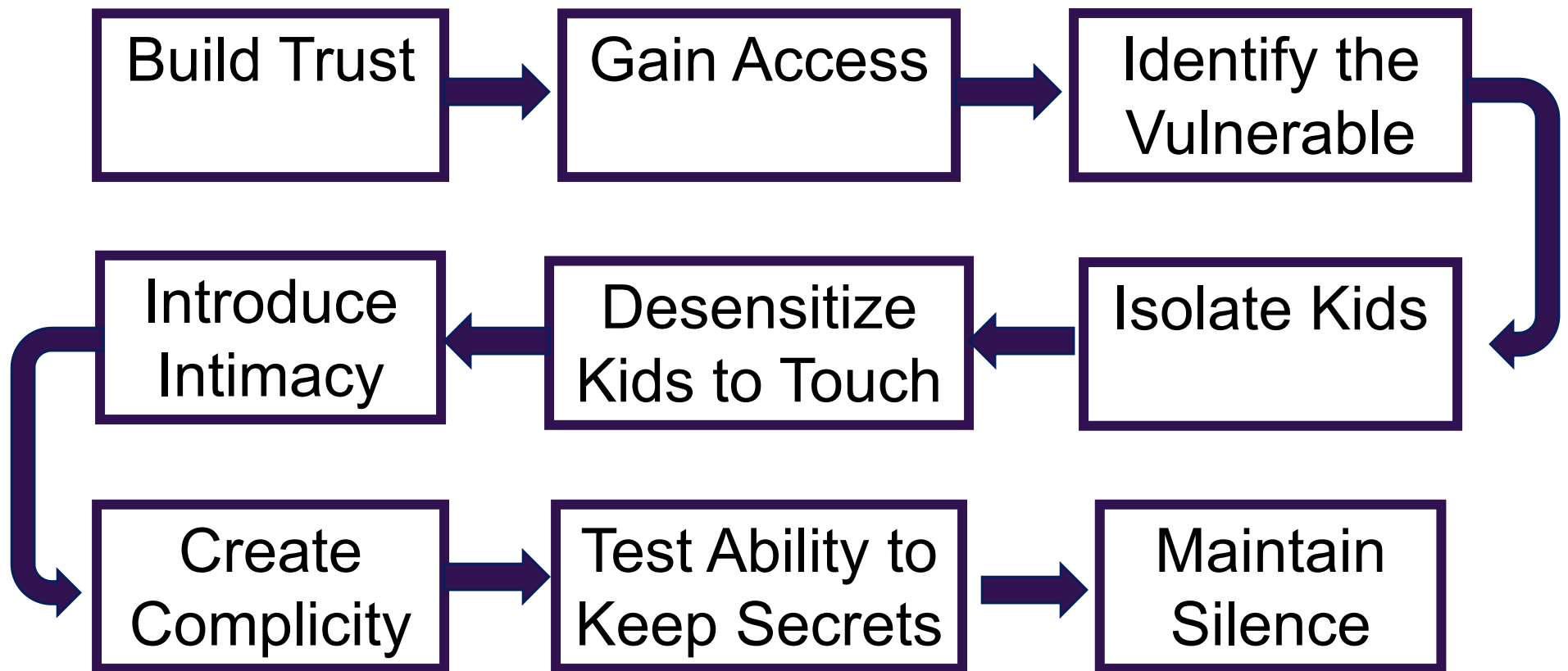
But how?



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Thoughts/Behaviors of Child Molesters



Child Sexual Abuse Prevention Suggestions

- #1 Determine Your Starting Point
- #2 Manage Access to Children
- #3 Set, Document, and Enforce Boundaries
- #4 Regularly and Actively Assess Behaviors
- #5 Create an Accountability Team
- #6 Educate and Empower Children
- #7 Pre-Establish Your Response & Take Bold Action
- #8 Provide Support and Resource Referrals



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Boundary Assessment & Awareness

3



Districts should establish, document, communicate and enforce boundaries for employee-student interaction for all aspects of the educational experience. These policies need to include before, during, and after school interactions and extra-curricular activities.



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Set and Enforce Boundaries



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Boundaries in Schools To Consider

1. Legal Boundaries
2. On-Site Boundaries
3. Off-Site Boundaries
4. Off-Hours Boundaries
5. Electronic & Social Media Boundaries
6. Child-to-Child Boundaries
7. Gift Boundaries

Organizational
Boundaries



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Boundaries in Schools

1. Legal Boundaries

Organizational boundaries are designed to intercede with known grooming behaviors

Organizational
Boundaries



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Change Process Examples

Assemble a team of key stakeholders who will:

1. Learn the informed prevention best practices
2. Assess the current state of prevention program
3. Prepare a written gap analysis
4. Develop a recommended strategic continuous improvement plan with timeline
5. Present and gain approval of strategic plan
6. Secure appropriate resources to support the plan
7. Oversee implementation of planned changes
8. Gather feedback, review, and continuously improve



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Look for Existing Policy As Possible Sources

- Workplace Sexual Harassment Plan
- Title IX Program Materials
- Employee Handbook
- Site Inspection Checklist
- Site Safety Plan
- Emergency Plan
- Parent/Student Back-to-School Package
- Human Resources Documentation
- IT – District Equipment Usage
- District existing Policies and Regulations



Existing Policy Assessment

- What prevention policies and practices exist?
- Are they board approved and formalized?
- Are they effectively and sufficiently documented?
- Are they effectively and sufficiently communicated?
- Is there a reporting and feedback mechanism?
- Is there a formal response plan?
- Are they effectively and sufficiently enforced?



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The Continuous Improvement Process

- How can each policy or practice be improved?
- Who needs to be involved to modify each of them?
- What obstacles must be overcome to improve them?
- What is the cost to improve each of them?
- Who can start the change process on each of them?



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How to Understand Current Practice

- Are policies integrated into the culture and daily work routine?
 - Create dialog with staff, parents, and students
 - Survey staff



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Prioritizing Needed Changes

- Which changes are the easiest to make?
- Which changes are the least expensive to make?
- Which changes can be done strictly within the district?
- Which changes involve the least number of people?
- Which changes would create the biggest improvement in child safety?
- Which changes would most significantly lower the district's liability?



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Where Should Revised Policies Reside?

- Workplace Sexual Harassment Plan
- Title IX Program Materials
- Employee Handbook
- Site Inspection Checklist
- Site Safety Plan
- Emergency Plan
- Parent/Student Back-to-School Package
- Human Resources Documentation
- IT – District Equipment Usage
- District Policies and Regulations



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Site Inspection Checklist

- Secure the **facility** and limit access to children
- Approved and **off-limits** locations identified
- **Video cameras** in locations that serve children with disabilities or other high-risk areas
- **Observable diapering** and bathroom monitoring
- **Windows** in doors without obstruction



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Site Safety Plan

- Child Sexual Abuse Prevention Policy
 - Legal Boundaries
 - On-Site Boundaries
 - Off-Site Boundaries
 - Off-Hours Boundaries
 - Electronic & Social Media Boundaries
 - Child-to-Child Boundaries
 - Gift Boundaries



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Emergency Plan

- Restrict and/or monitor access of **registered sex offenders (RSOs)**



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Human Resources Documentation

- Restrict and/or monitor access of **registered sex offenders** (RSOs)
- No **family members** working together
- Designate and schedule **rovers**
- Engage **parent chaperones** for off-site trips
- Provide **parental access** and supervision
- Limit **medical exams/treatment** by staff members



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Human Resources Documentation

- Written **field trip** authorization process
- **Supervision** ratio guidelines



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IT – District Equipment Usage

- Restrict and monitor **internet access**
- No sharing **phone numbers**
- No sharing **e-mail addresses** or screen names
- Set restrictive **privacy settings** and use appropriate profile pictures
- No becoming “**friends**” on Facebook “following” on Twitter
- No connections on **multimedia** sharing sites
- No connections on **video chat** applications



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4

Mandated Reporter Posters



Districts should display Mandated Reporter posters at each school site in visible locations and break rooms listing the phone numbers of the local Child Protective Services and Police.



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Mandatory Reporter Posters

Post throughout all district sites/rooms

Report Suspected Child Abuse and Neglect



Under California law, all school district employees are required to report suspected child abuse and neglect.

Any of these acts involving anyone under the age of 18 must be reported:
Sexual Abuse • Physical Abuse • Emotional Abuse • Neglect

The District employee **must** report to the appropriate authorities any **reasonable suspicion** that a child has been abused or neglected. **Responsibility** for investigating suspected abuse lies with **law enforcement** or other appropriate legal authorities. **You are not to investigate on your own.**

You must report by phone and in writing.


Police Department Phone: _____ Fax: _____
 Child Protective Services (CPS) Phone: _____ Fax: _____
 Sheriff's Department Phone: _____ Fax: _____

Immediately contact by phone your local police, Child Welfare Services (CWS) or sheriff's department and report the suspected abuse or neglect.

Within 36 hours of placing law enforcement, a written report must be sent, faxed or submitted electronically to your local Police, CPS or Sheriff's department. This report should be completed on a state form which can be downloaded at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf. The form also is available in the school principal's office and in district headquarters. The form should be filed in the same agency file as your phone report. Save the fax or electronic document with the written report.

By law, the name of the employee who makes the report is strictly confidential. It is provided only to investigators working on the case. Failure to report suspected child abuse or neglect is a crime punishable by six months in jail and a \$1,000 fine.

REPORT SUSPECTED CHILD ABUSE AND NEGLECT



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You must report by phone and in writing.

Police Department Phone: _____ Fax: _____
 Child Protective Services (CPS) Phone: _____ Fax: _____
 Sheriff's Department Phone: _____ Fax: _____

Immediately contact by phone your local police, Child Welfare Services (CWS) or sheriff's department and report the suspected abuse or neglect.

Within 36 hours of placing law enforcement, a written report must be sent, faxed or submitted electronically to your local Police, CPS or Sheriff's department. This report should be completed on a state form which can be downloaded at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf. The form also is available in the school principal's office and in district headquarters. The form should be filed in the same agency file as your phone report. Save the fax or electronic document with the written report.

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**CALIFORNIA MANDATED REPORTING
EASY STEPS...**

WHAT MUST BE REPORTED and HOW TO REPORT!

What Must Be Reported:
Any of the below acts involving anyone under the age of 18:

- Physical Abuse
- Sexual Abuse
- Emotional Abuse
- Neglect

The mandated reporter must only have *reasonable suspicion* that a child has been mistreated; no evidence or proof is required prior to making a report. The case will be further investigated by law enforcement and/or child welfare services.

How to Report:
By Phone: Immediately, or as soon as possible, make a telephone report to child welfare services and/or to a Police or Sheriff's department.

1. Child Welfare Services phone # _____
2. Police Department phone # _____
3. Sheriff's Department phone # _____

In Writing: Within 36 hours, a written report must be sent, faxed or submitted electronically. The written report should be completed on a state form called the 8572, which can be downloaded at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf

Other information:

- Safeguards for Mandated Reporters:
- The Child Abuse and Neglect Reporting Act (CANRA) states that the name of the mandated reporter is strictly confidential, although it is provided to investigative parties working on the case.
- Under state law, mandated reporters cannot be held liable in civil or criminal court when reporting as required; however, under federal law mandated reporters only have immunity for reports made in good faith.
- Failure to report:
- Failure to report concerns of child abuse or neglect is considered a misdemeanor and is punishable in California by six months in jail and/or up to a \$1,000 fine.
- For the complete law and a list of mandated reporters refer to California Penal Codes 11164-11174.3.

This document and Mandated Reporting information can be found at www.mandatedreporter.ca.gov




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Mandatory Reporting Trifold

Available to distribute to all employees at the beginning of each school year



YOU ARE A MANDATED REPORTER!

Any employee of a public (or private) school is a mandated reporter. This includes teachers, aides, custodians, coaches, administrative personnel, principals, etc. Your failure to report could result in penalties, fines and imprisonment. And most importantly, a student may continue to be abused.

WHAT ELSE DO I NEED TO KNOW?

Self Protection

The following tips can protect you and help to avoid situations that could lead to fraudulent allegations of inappropriate conduct.


Avoid contact with students involving hugging, touching, grabbing, or rubbing/massaging.

When privacy with students is necessary, leave the doors and windows open when possible.

For teachers, classroom arrangement should not have sections for privacy.

Place District Logo and Address Here

The
Child Abuse
EPIDEMIC



WHAT TO LOOK FOR

IN CHILDREN

Physical Abuse

- Aggressive or Hostile Toward Others
- Attempts to Hide Bruises or Injuries
- Frequently Absent from School
- Behavioral Problems

Sexual Abuse

- Demonstrating Sexual Acts on Other Children or Toys
- Inappropriate Sexual Knowledge for Age
- Emotional and Behavioral Problems


IN ABUSERS

Physical Abuse

- Humiliates, Berates, or Belittles
- Harsh and Rigid About Discipline
- Singles Out or Openly Rejects Child

Sexual Abuse

- Ignoring Social/Physical Boundaries
- Making Inappropriate Sexual Comments
- "Grooming"
- Has Secret Interactions With Children
- Unwanted Touching, Hugging, etc.




WHEN TO REPORT

If you suspect abuse, **REPORT** it! Proof of abuse is not required; Law enforcement will determine proof during the course of their investigation.

When one "has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she **knows** or **reasonably suspects** has been the victim of child abuse or neglect..." (P.C. 11166 a)

Report **IMMEDIATELY** (or as soon as practically possible) by phone to your local CWS Hotline -- a report must be filed within 36 hours.




HOW TO REPORT

Step 1
Contact Child Protective Services
Phone:
Fax:

Step 2
Contact Local Police Department
Phone:
Fax:

Step 3
Within 36 Hours, complete the Department of Justice "Suspected Child Abuse Report" and fax to the local authorities and Child Protective Services. This report can be found at www.oag.ca.gov/childabuse

Visit
Info
www.keene.edu
www.ksnnews.com



Do Not Tell Your Friends or Colleagues!

Immunity is provided to individuals completing a report, but you are not protected against allegations of slander or libel if you disclose your suspicions with other colleagues and friends. Mandated reporters are immune from criminal and civil liability when reporting in good faith (not if intentionally making a fraudulent report). \$50,000 for attorneys' fees is available from the state to defend oneself in a civil suit if sued for making a mandated report.



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Supervision Protocols

5



Sexual abuse claims are not isolated to adult-to-student behaviors; many claims and lawsuits involve student-to-student sexual encounters. In these cases, negligent supervision is often applied in determining liability. District employees need to be trained in appropriate supervision protocols.



6

Timely Incident Reporting to Claims Administration



After you have reported inappropriate physical conduct to the appropriate authorities, notify your Liability Claims Administrator immediately. Never wait for a claim or lawsuit before giving notification so:

- Insurance programs are on notice
- You avoid ramifications of late reporting
- Legal counsel can be consulted

REMEMBER: The earlier it's reported, the better the outcome

report immediately!



7

Crisis Communication Plan



It is highly recommended that Districts develop a Crisis Communication Plan. Districts should be prepared for high profile incidents before the fact and not after.

Key components include:

- Identification of communication team
- Defined roles and responsibilities
- Legal counsel engagement prior to public responses

Crisis Communication Plan allows for consistent themes and messaging

- From the beginning, during and after litigation
- For the public, parents and staff



Anonymous Reporting

8



Employees are required to report under the Mandated Reporter Laws but what about parents, volunteers and students? WeTip and Keenan SafeSchools Alert are valuable tools that are available to expand the safety net and enhance a District's reporting capabilities. It is highly recommended that one or both are available.

REMEMBER: The sooner the district and authorities become aware of a potential abuse-related matter, the sooner the district and authorities can act to protect children and take ACTION.





Child Abuse Prevention (CAP) Month



April is National Child Abuse Prevention Month. Districts can participate at no cost and promote Child Abuse Prevention to help raise awareness within the district and community.



Principle #9

Child Abuse Prevention Month



The prevalence of child abuse in our communities is heartbreaking. Sadly, each day many instances go unreported and countless children are subject to abuse and neglect. April was first declared Child Abuse Prevention Month by presidential proclamation in 1983. Since then, April has been a time to acknowledge the importance of families and communities working together to prevent child abuse.

Let's join forces to promote the well-being of all children by participating in the National Child Abuse Prevention month during April 2015!

WAYS TO GET INVOLVED

FLYER: We have provided [3 flyers](#) to choose from to support Child Abuse Prevention Month. Ask your sites to post it in their staff lounges and main offices, and include in your district newsletter.

GRAPHIC: Post the Graphic to your district website. The graphic will link to the Keenan Abuse Prevention Center.

Copy This Code for the Prevention Graphic:



```
<iframe
src="http://www.keenan.com/superpools/widget/apc_widget.html"
name="apcframe" frameborder="0" scrolling="no" width="175"
height="175" marginheight="0" title="Abuse Prevention Center"
widget" marginwidth="0">Abuse Prevention Center</iframe>
```

RESOLUTION: Download a sample [Resolution](#) you can take to your Board to get formally approved to show your district's support of Child Abuse Prevention Month.

BUTTONS: ReLIEF will be mailing each member Buttons for your cabinet/Board members to pin on their shirt or district lanyard to wear in support during April. Take a group photo of your cabinet/Board wearing the pins and post to Facebook or Instagram using the hashtag #reliefprotectskids

WEAR A BLUE RIBBON: Every year, on the first day of April, children are subject to abuse and neglect. April was first declared Child Abuse Prevention Month by presidential proclamation in 1983. Since then, April has been a time to acknowledge the importance of families and communities working together to prevent child abuse. Let's join forces to promote the well-being of all children by participating in the National Child Abuse Prevention month during April 2015!



For more information, please visit:

www.keenan.com

www.childsworld.ca.gov

Keenan Safe Schools Training

APRIL IS CHILD ABUSE PREVENTION MONTH

For more information, please visit:

www.keenan.com/abusepreventioncenter

www.childsworld.ca.gov/PG1319.htm

Keenan Safe Schools Training

ReLIEF

and well-being of not only the child, but also the family and the community.

WHEREAS, safe, stable, and nurturing relationships are essential for a child's healthy development; and

WHEREAS, child abuse prevention requires supporting children, youth and families (e.g. organizations, and community programs); and

WHEREAS, everyone has a stake in ensuring that every child is safe, healthy and successful; and

WHEREAS, suspected child abuse or neglect should be reported to the appropriate law enforcement authorities; and

WHEREAS, we have identified child safety and child abuse prevention as a priority for the State of California;

PASSED AND ADOPTED by the Board of Trustees of the State of California, on this _____ day of _____, 2015, by the following vote:

AYES: _____ **NOES:** _____

STATE OF CALIFORNIA

COUNTY OF _____

I, _____, Clerk of Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Governing Board at a regularly called and conducted meeting.



Third Party Contract Review

10



Did you know that third party vendor General Liability Insurance often excludes assault and abuse unless it has been requested and endorsed? Follow these recommendations to protect your district:

Require assault and abuse coverage equal to the limits in your general liability insurance requirements (not less than \$1 million per occurrence)

Require an endorsement verifying assault and abuse coverage and the district is an additional named insured; coverage and limit must be included on the certificate of insurance

Always require assault and abuse coverage for third parties.

3rd Party Contracts

- \$1 Million per occurrence minimum limits
- Certificate verifying sexual abuse molestation coverage limit
- Endorsement verifying sexual abuse molestation coverage
- Solid Indemnification language
- Vendor Insurance is primary



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SELPA CONTRACTS

- Many School Districts provide special education services thru a SELPA
 - Ensure that the SELPA contracts with vendors that provide services provide the required coverages that name you as additional insureds under the general liability policy and sexual abuse policy.



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Section 935 Administrative Regulation



The Code of Civil Procedure extends the statute of limitations for minors to file a lawsuit up to age 26 for dates of loss after January 1, 2009 and are exempt from tort claim requirement.

Districts can pass an Administrative Regulation and Board Policy which would require a tort claim be filed for abuse claims within normal claim filing requirements. Adoption of this resolution is not intended to avoid responsibility: rather it provides the district the ability to challenge the validity and timeliness of a lawsuit.

Instructions, Sample Regs, Policy and Claim Forms to be uploaded to Keenan APC

POTENTIAL BENEFITS OF A GOVERNMENT CODE SECTION 935 REGULATION & BOARD POLICY

District Name **Administrative Regulation** **Claims And Actions Against The District**

AR 3320

Business and Non-instructional Operations

Claim Presentation Requirements

California law requires that prior to filing a claim on behalf of employees, the claimant must present a claim in writing (Government Code 911 et seq.)

Time Limitations To Present Claim

1. Claims for money or damages relating to person, personal property or growing crops shall be presented not later than six months after the accrual of the cause of action.

2. Pursuant to Government Code 935, claim exceptions in Government Code 905 shall be presented not later than six months after the accrual of the cause of action. Such claims include:

(a) Claims under the Revenue and Taxation Code for the refund, rebate, exemption, credit, or adjustment of any tax, assessment, fee, or charge, or charges related thereto;

(b) Claims in connection with which a writ of habeas corpus or stop notice is required under any law relating to the claim;

(c) Claims by public employees for compensation and allowances;

(d) Claims for which the workers' compensation act (commencing with Section 3200) of the Labor Code applies;

(e) Applications or claims for any benefit under the Institutions Code or other provisions of law relating to the claim for goods, services, provisions, or other assistance; or

(f) Applications or claims for money or damages from a pension system;

District Name **Board Policy** **Claims And Actions Against The District**

BP 3320

Business and Non-instructional Operations

Claim Presentation Requirements

Any and all claims for money or damages against the District in accordance with Governing Board Policy 3320 and Administrative Regulation 3320 are a prerequisite to any claim against the District excepted by Government Code Section 905, unless the claimant expressly free the claimant from the obligation to comply with the provisions of the Government Code.

Legal References

EDUCATION CODE

35200 Liability for debts and contracts

35202 Claims against districts; applicability of Government Code of Civil Procedure

340.1 Damages suffered as a result of childhood sexual abuse

GOVERNMENT CODE

800 Cost in civil actions

935 Authority to enact local claims procedure

810-996.6 Claims and actions against public entities

53051 Information filed with secretary of state and county clerk

PENAL CODE

72 Fraudulent claims

COURT DECISIONS

City of Stockton v. Superior Court (2007) 42 Cal.4th 1171

Connelly v. County of Fresno (2006) 146 Cal.App.4th 1171

CSEA v. South Orange Community College District (2004) 115 Cal.App.4th 1171

CSEA v. Azusa Unified School District (1984) 152 Cal.App.4th 1171

State of California v. Superior Court (Bodde) (2004) 115 Cal.App.4th 1171

Tapia v. County of San Bernardino (1994) 29 Cal.App.4th 1171

CLAIM FORM

TO: District Contact
District Name
Address

1. Claims for death, or for injury to person or to personal property must be presented to the District not later than six (6) months after the occurrence (Govt. Code, Section 911.2)
2. Claims for damages to real property or for breach of contract must be presented not later than one year after the occurrence (Govt. Code, Section 911.2)
3. Please carefully read the District Name Board Policy 3320 and Administrative Regulation 3320 regarding the presentation of a claim.

Name of Claimant	DOB	Phone No.
Address	City	Zip

Name and Address where notices shall be sent: _____

State the DATE the injury or damage occurred: _____

WHERE did damage or injury occur? _____

HOW and under what circumstances did damage or injury occur? _____

WHAT particular action by the District or its employees caused the alleged damage or injury? (Include names of employees, if known) _____

WHAT sum do you claim: Include the estimated amount of any prospective loss insofar as it may be known at the time of the presentation of this claim, together with the basis of computation of the amount claimed; attach estimates or invoices, if possible. (If amount claimed exceeds \$10,000, no dollar amount shall be stated).

\$

\$

\$
Total Amount Claimed \$

If total amount claimed exceeds \$10,000, is this a Limited Civil case? Yes _____ No _____

NAMES and addresses of witnesses, doctors and hospitals: _____

DATE: _____
Signature of Claimant

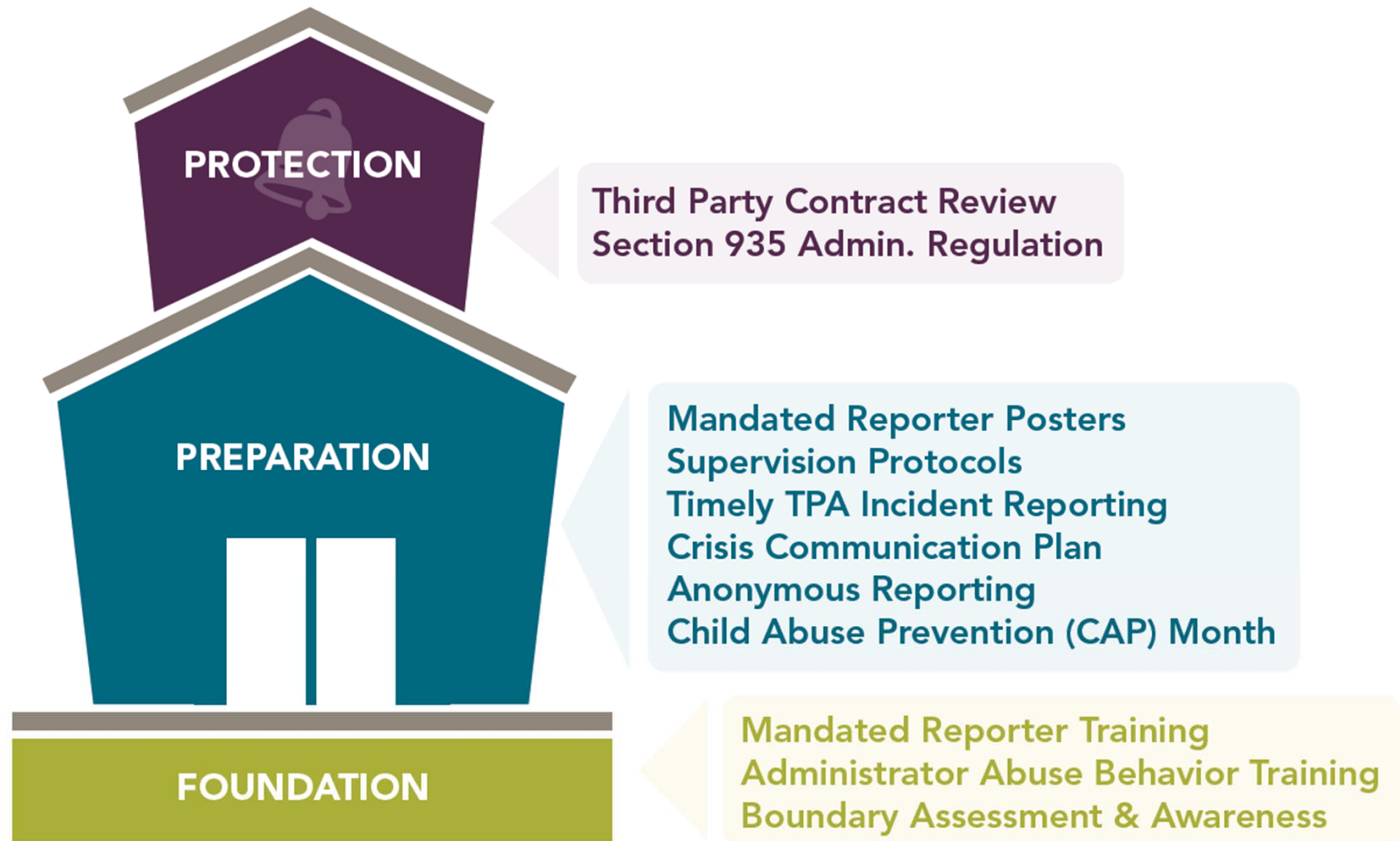
NOTICE: Section 72 of the California Penal Code provides that every person who, with intent to defraud, presents for payment to any School District any false or fraudulent claim, is guilty of a felony punishable by fine and/or imprisonment.

CONCLUDE
935 REG
AND IS
TO A VA



Is Your House in Order?

ESTABLISH A COMPREHENSIVE CHILD ABUSE PREVENTION PROGRAM



QUESTIONS?



REC  **PE**
FOR SUCCESS

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Resources

- **Suicide Prevention Hotline**

1-800-Suicide or 1-800-799-4TTY (Hearing Impaired)

- **To Report Child Sexual Abuse**

Call 911 and your local Child Protection Services Agency

- **Aren't Sure if it's Child Sexual Abuse?**

Call 1-800-4-A-Child if you need to talk through the situation

- **Inappropriate Sexual Feelings?**

Call 1-888-PREVENT or www.stopitnow.org/help

Anonymous hotline, calls are not recorded, phone numbers are not detected

- **Help for Survivors**

psychologytoday.com

taalk.org

thelamplighters.org

siawso.org

malesurvivor.org

1in6.org

- **Help for Parents of Sexually Abused Children**

mosac.net

taalk.org



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1. Diane Cranley, 8 Ways to Create their Fate: Protecting the Sexual Innocence of Children in Youth-Serving Organizations (Mustang: Tate Publishing & Enterprises, LLC)
2. Charol Shakeshaft, "Know the Warning Signs of Educator Sexual Misconduct," Kappan Magazine (February 2013)
3. Kenneth V. Lanning and Park Dietz, "Acquaintance Molestation and Youth-Serving Organizations," J Interpers Violence (May 2014) doi:10.1177/0886260514532360.
4. Carla van Dam, The Socially Skilled Child Molester: Differentiating the Guilty From the Falsely Accused (Binghamton: The Haworth Press, Inc., 2006)
5. Shanta R. Dube et al, "Long-Term Consequences of Childhood Sexual Abuse by Gender of Victim," Am J Prev Med 28, no.5 (2005) doi:10.1016/j.amepre.2005.01.015.
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10. "Child Welfare: Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel," Report to the Ranking Member, Committee on Education and the Workforce, House of Representatives, United States Government Accountability Office (2014).



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16. Carla van Dam, *Identifying Child Molesters: Preventing Child Sexual Abuse by Recognizing the Patterns of the Offender* (Binghamton: The Haworth Maltreatment and Trauma Press, 2001)
17. David Finkelhor, Heather Hammer, and Andrea J. Sedlak, *Sexually Assaulted Children: National Estimates and Characteristics*, NISMART, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (August 2008): 2.
18. David Finkelhor and Jennifer Dziuba-Leatherman, "Children as Victims of Violence: A National Survey," *Pediatrics* 94, no. 4 (October 1994): 414.
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21. Anna C. Salter, Treating Child Sex Offenders and Victims (Newbury Park: Sage Publications, 1988).
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