
ASCIP

RISK ALERT!

Date: *May 1, 2012*

Attention: *ASCIP Members*

Subject: *ELDER ABUSE & DEPENDENT ADULT CIVIL PROTECTION ACT*

Many of our Districts have Adult Educational/Adult Transitional programs wherein developmentally disabled adults participate in classroom activities as teacher aides or in some capacity which may assist them in performing meaningful and fulfilling duties while they develop skills that may further their abilities to care for themselves and enable them to become productive members of society. Examples of developmental disability include mental retardation, cerebral palsy, epilepsy, and autism.

The California Welfare and Institutions Code includes mandatory reporting provisions similar to the Child Abuse and Neglect Reporting Act. These reporting provisions apply to any administrator or employee, including members of the support staff and maintenance staff, of a “care custodian”. A “care custodian” includes any secondary schools that serve 18 to 22 year old dependent adults and postsecondary educational institutions that serve dependent adults or elders. Vocational rehabilitation facilities and work activity centers also are considered “care custodians” as are elementary schools that have adult transition students that begin working there.

Under the law, any employee of a “care custodian” is considered a “mandated reporter”. This means that any “mandated reporter” who fails to report suspected abuse may be guilty of a misdemeanor or even a felony. Both are subject to monetary fines and/or jail time.

If any circumstances give rise to an objective basis for suspecting that abuse occurred, reporting is mandatory. The duty to investigate and the authority to determine whether abuse actually did occur are vested in outside agencies.

Finally, similar to the Child Abuse provisions, Section 15659 of the Welfare and Institutions Code requires signed statements by all employees of “care custodians” acknowledging their reporting requirements. This requirement could be problematic because a failure to do so could be grounds for a negligent training cause of action if no such statements were ever signed by the employees of this program. It is unlikely that Child Abuse reporting statement, which most schools do comply with, would suffice because those statements do not mention any reporting requirements for dependent adults.

If you have any questions or need assistance in obtaining resources or statement development, please call the Risk Management Staff at ASCIP!