

## VOLUNTEER COMPLIANCE POLICY FREQUENTLY ASKED QUESTIONS – Rev. 1-18-22

As stated in the Policy Regarding Volunteer Compliance with California Assembly Bill 506 of 2021, the State of California recently enacted California Assembly Bill 506 of 2021 (AB-506) (formally referred to as California Business and Professions Code Section 18975) which implements new background check and training standards for California Youth Service Organizations such as your Council. AB 506 will supplement the Boy Scouts of America's existing obligations in order to provide a safe environment for the youth we serve and to prevent child abuse and neglect. The following FAQs provide additional guidance on compliance with AB-506.

### **1. Who is required to obtain a background check?**

All Administrators, Employees and Regular Volunteers are required to undergo a background check.

### **2. Who is a considered an Administrator?**

An Administrator is an individual holding an executive position at a Council who owes a fiduciary duty to the organization, whether or not the individual's role is paid or unpaid, such as a board member. A member of an advisory committee is not, solely by virtue of that role, an Administrator. At this time, Council board members may complete the 2 hour training course.

### **3. Who is considered a Regular Volunteer?**

a. A "Regular Volunteer" is any individual 18 years of age or older who volunteers his or her time and has direct contact with, or supervision of, minors for more than 16 hours per month or 32 hours per year.

b. A volunteer providing administrative support who is not an Administrator, as defined in FAQ No. 2, qualifies as a Regular Volunteer if he or she has direct contact with, or supervision of, minors for more than 16 hours per month or 32 hours per year.

c. A BSA Regular Volunteer includes:

i. All Registered Adult Volunteers, including volunteers for Cub Scouts, Scouts BSA, Sea Scouts, Venturing and Exploring, Order of the Arrow and Merit Badge Counselors Council Board Members and District Members.

ii. Volunteer Camp staff, whether paid or unpaid.

iii. Explorer Advisors and Associate Explorer Advisors.

iv. Individuals/parents/guardians who volunteer at: (a) a camporee or a camping event; or (b) recurring activities and/or events where the individuals are in charge of children other than their own.

v. Individuals/parents/guardians responsible for transporting scouts to Council or unit events, other than their own children. If your unit organizes carpooling to an outing, activity, and/or meeting, the

drivers and adult passenger(s) (for two-deep leadership requirements) are considered Regular Volunteers.

1. Carpooling is considered “organized by the unit” if the unit leaders (1) identify or arrange the drivers and participants in the carpool; and (2) provide any type of direction or control over the transportation, even if such direction or control is limited.

2. Carpooling organized by individuals/parents/guardians on their own initiative does not make those individuals Regular Volunteers even if the unit is aware that the individuals/parents/guardians are setting up transportation to a meeting or an event.

vi. Individuals/parents/guardians who anticipate supervising scouts on an ongoing basis, regardless of the total hours spent. The Council wants to ensure that any ongoing supervisory activities do not exceed the hours minimum established by AB-506.

vii. Any volunteer designated as a Regular Volunteer by a Council or unit committee.

d. The following individuals are not normally considered a Regular Volunteer:

i. Individuals/parents/guardians who are merely attending events as spectators or guests, including fundraisers, ceremonies, or meetings.

ii. Individuals/parents/guardians who organize amongst themselves to carpool without unit oversight or involvement.

iii. Eagle Boards of Review community volunteers who are not otherwise supervising scouts.

iv. Scouts who are participants in BSA activities and therefore not volunteers, even if over 18. If such an individual will or may assume a supervisory role, though, please contact your unit committee or the Council for further guidance.

v. Individuals/parents/guardians providing minimal assistance at an event, such as assisting with clean-up after a meeting on an infrequent basis.

vi. Council volunteers not classified as Administrators who do not satisfy the definition of a Regular Volunteer.

e. If you are unsure whether you qualify as a Regular Volunteer, please check with your Council.

**4. I am a parent and/or guardian of a Lion Cub Scout. Am I considered a Regular Volunteer subject to complying with AB-506?**

No. Each Lion Den generally meets twice per month for approximately 45 minutes, meaning that you will not meet the hours requirement of a Regular Volunteer. However, in the event you take on a leadership or supervisory role or volunteer at events outside of the monthly meetings, that additional participation may qualify you as a Regular Volunteer. If you are unsure about your status, please contact your Council.

**5. I am a parent and/or guardian of a Cub Scout. Am I considered a Regular volunteer subject to complying with AB-506?**

Generally, in Cub Scouts, the parents and/or guardians plan, conduct, and carry-out all Scouting related activities and the parents are not considered Regular Volunteers. If you are attending scouting related activities with your child as their parent and/or guardian, then compliance with AB-506 is not required absent further direction.

**6. I am attending a camping trip with my child. Am I subject to AB 506?**

Cub Scouts: If you are attending an overnight camping trip with your Cub Scout unit then compliance with AB-506 is not required absent further direction.

Scouts BSA and Venturing: If you are attending an overnight Scouts BSA or Venturing camping event, even with your child, absent further direction, you will be required to comply with AB-506.

**7. An out-of -state troop is planning a visit to California. Is the troop subject to AB 506?**

AB-506 applies to all California youth service organizations. Out-of-state troops who visit California are not subject to AB-506. While those troops are not subject to AB-506, visiting troops must be in compliance with both BSA policies and the laws of their own state. Failure to comply with BSA policies and/or the laws of their own state may restrict an out-of-state troops ability to visit California.

Any Administrator, Employee, or Regular Volunteer of a California BSA troop who supervises an out-of-state troop must be in compliance with AB-506.

**8. How does AB-506 affect non-BSA youth groups based in California who want to use BSA facilities?**

As a youth group based in California, the non-BSA California youth group may be subject to AB 506. In the non-BSA group's application to use the BSA facilities, BSA must obtain confirmation of the youth group's compliance with AB-506, or an exemption, and ensure the non-BSA group has no supervision or control over BSA personnel.

Any Administrator, Employee, or Regular Volunteer of a BSA group who supervises any non-BSA group must be in compliance with AB-506.

**9. By completing the BSA and California Child Abuse Mandated Reporting Training, am I considered a Mandated Reporter?**

a. Mandated Reporters are individuals whose professions qualifies them as "mandated reporters" of child abuse and neglect as listed under California Penal Code Section 11165.7.

b. Mandated Reporters are obligated under California law to report all known or suspected cases of child abuse or neglect to the appropriate local law enforcement or child welfare agency.

c. Under AB-506, volunteers are not considered mandated reporters. However, AB 506 requires that volunteers complete mandated reporter training which will supplement BSA's Youth Protection Training.

d. AB-506 does not consider volunteers to be mandated reporters and therefore, they are not required, under California law, to report all known or suspected cases of child abuse or neglect. The training you receive from California may in fact state that volunteers are not mandated reporters. However, BSA does consider its volunteers to be mandated reporters for purposes of BSA policy. As such, BSA requires all of its volunteers to report all known and suspected cases of child abuse or neglect in accordance with the mandating training.

#### **10. When Do Mandated Reporters Need to File a Report?**

a. Mandated reporters are required to make a telephone report immediately, or as soon as practicably possible, to Child Protective Services or an appropriate law enforcement agency when a mandated reporter knows or has reasonable suspicion of abuse or neglect of a child by any person. A written Suspected Child Abuse Report (“SCAR”) must be completed within 36 hours of receiving information that prompted concerns. SCAR can be found on our website. The BSA Incident Report should also be filled out.

b. To obtain contact information for Child Protective Services (“CPS”) agencies for all counties, visit the California Department of Social Services website at <http://www.cdss.ca.gov>. Contacting CPS can help address the safety needs of the child, protect the child from further harm, and facilitate the provision of services to the child and their family.

#### **11. What are Examples of Suspected Child Abuse?**

a. A physical injury inflicted on a child by another person other than by accidental means.

b. The sexual abuse, assault, or exploitation of a child.

c. 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. This is whether the harm or threatened harm is from acts or omissions on the part of the responsible person.

d. The willful harming or endangerment of the person or health of a child, any cruel or inhumane corporal punishment or any injury resulting in a traumatic condition.

e. Abuse occurs when a person downloads or accesses child pornography on the internet.

#### **12. What is “Reasonable Suspicion” of Abuse?**

a. Reasonable suspicion exists when “it 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 the person’s 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/physical indication of child abuse or neglect; any reasonable suspicion is sufficient.” In the absence of clear physical indicators or verbal reports of abuse, mandated reporters may rely on direct observations of children and families or other credible information to assess when there is reasonable suspicion to make a report.

b. It is important to maintain a clear distinction between determining whether there are grounds for reasonable suspicion and the decision to investigate the allegations. Making a report to CPS does

not automatically trigger an investigation. Only a child protective agency or law enforcement agency can determine whether to conduct the investigation.

c. Reports should be made in good faith and be based on common sense. A report of child abuse is serious and may have a lifelong impact on the child and their family. Never make a false or malicious report, but also keep in mind that making a report for investigation may help prevent further harm to the child and facilitate the provision of services to support the child and family.

### **13. Is there Any Liability for Failing to Report Suspected Abuse?**

Under California law, if a person required to report fails to do so, that person may be charged with a criminal misdemeanor offense. California law provides a safe harbor for good faith reporting of suspected child abuse.

### **14. What Else Can Mandated Reporters do to Understand How to Get Through These Difficult Situations?**

In addition to working to ensure that youths are Scouting in a safe environment, mandated reporters can learn more about child abuse prevention efforts in their community, such as the California Office of Child Abuse Prevention (OCAP), Child Abuse Prevention Councils, and Family Resource Centers.

### **15. What forms do I need to submit for a background check?**

a. You will need to complete the Request for Live Scan Service Form (BCIA 8016). In addition to including your personal information, information will be provided to you by the Council in order to complete the form. Once complete, you will take the form to a Live Scan operator where your finger prints will be taken. Detailed instructions on how to fill out this form will be provided to you.

b. In addition to the Request for Live Scan Service Form, you must also review and sign a Background Check Consent Form.

### **16. What is a Background Check Consent Form?**

a. After completing the background check and fingerprinting process, the results will be sent the Custodian of Records (“COR”) at your Council. The COR is the only individual authorized to receive your results, and will review and assess them to determine if you are able to serve as an Administrator, Employee or Regular Volunteer.

b. By signing the Background Check Consent Form, you are permitting the COR to share with the BSA and other Councils whether you are authorized to participate in scouting activities. As individuals often move between Councils and troops, it is important that this limited information is shared in order to ensure compliance with AB-506 and to protect the youth served by the Councils and the BSA.

c. By signing the Background Check Consent Form, you are also allowing the COR to share more detailed results of your background check with a designated BSA employee in the event that the COR is unable to independently determine whether you may serve as an Administrator, Employee or Regular Volunteer. Absent these limited circumstances, only whether you are authorized to participate in scouting activities will be shared with the BSA.

d. Any individual with access to your background check information will maintain the confidentiality of that information as required by law.

**17. Where can I get fingerprinted?**

In California, fingerprinting must be performed by a certified fingerprint roller or qualified law enforcement personnel. The following link identifies Live Scan sites throughout California: <https://oag.ca.gov/fingerprints/locations>.

**18. How much does it cost for fingerprinting and the background check?**

Two costs are associated with the background checks – the Live Scan fee and the processing fee. The Live Scan fee varies depending on location, but generally ranges between \$20 and \$35. A \$15.00 processing fee applies to federal background checks for a non-profit organization such as the Council.

**19. Will the Council cover the costs?**

No. Generally, volunteers are expected to cover the costs of fingerprinting and the processing fees.

**20. What do I do if I can't afford the background check?**

Each individual Council may determine to bear all or any part of the costs associated with the background checks. The State of California also offers fee waivers in certain circumstances. Please check with your Council should you need financial assistance.

**21. How does the Live Scan process work?**

The Live Scan operator will verify your identity, input your information into the system, capture your fingerprints electronically, and transmit the data to the Department of Justice. Once this process is complete, you will be provided with an applicant transaction identifier (“ATI”) number. The ATI number is generated by the Live Scan device and used as a way to identify your transaction. You can check your background check status by going to <https://applicantstatus.doj.ca.gov/>. Both the ATI and your Date of Birth are required to check the status.

**22. Is there anything that I should avoid when completing the fingerprinting and background check process?**

You should avoid: (1) providing any incorrect information on the form; (2) submitting poor quality fingerprints (which the Live Scan operator should ensure against); and (3) failing to request both state and federal level background checks on the form. These mistakes may not only cause delays, but may also require you to repeat the process, which means you will be required to pay the fees again.

**23. How long does it take to receive results?**

If there are no fingerprints matching your fingerprints, the search is generally completed within 48 to 72 hours. If there is a match, the associated RAP sheet must be review by a technician, and can take much longer to complete.

**24. Where Will the Background Check Results be Sent?**

The results of the background check are sent to the COR at the Council requesting the background check.

**25. Can I Contest the Contents of My Background Check?**

You may challenge the accuracy or completeness of your FBI criminal history record. You will be afforded a reasonable amount of time to do so (or decline to do so) before being denied a benefit based on any information contained in your criminal history record, and that further guidance can be found at: <https://www.fbi.gov/about-us/cjis/background-checks>. The procedures for obtaining a change, correction or update of a person's criminal history record can be found at Title 28, Code of Federal Regulations, Section 16.34.

**26. Will Council Receive Future Notifications Regarding My Background Check?**

As part of our continuing obligation to youth protection safety, the COR at the Council will receive continuing notifications of any subsequent arrests and/or convictions. Any subsequent arrest and/or conviction may result in termination of employment and/or exclusion from participating in any Scouting activity.

**27. Do you have additional questions?**

If you have any additional questions about compliance with AB 506, please contact your unit committee or your Council.