

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

July 6, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Abused an Neglected Child Reporting-5:90

Changes to this policy are significant. There is language added regarding a hotline, informational items, forms that must be kept, electronic formats, and cyber issues with abuse. There is also a requirement that the superintendent notify the state regarding a certificate holder if abuse is founded. Regular staff development must be provided to staff and the BOE is included in the list of mandated reporters.

We ask that you use this as your first reading period and then put this on the next BOE meeting agenda for a second reading and approval.

General Personnel

Abused and Neglected Child Reporting ¹

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child shall immediately report such a case to the Illinois Department of Children and Family Services on its Child Abuse Hotline 800/25-ABUSE or 217/524-2606. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made. All District employees shall sign the *Acknowledgement of Mandated Reporter Status* form provided by the Illinois Department of Child and Family Services (DCFS) and the Superintendent or designee shall ensure that the signed forms are retained. ²

Any District employee who discovers child pornography on electronic and information technology equipment shall immediately report it to local law enforcement, the National Center for Missing and Exploited Children's CyberTipline 800/843-5678, or online at www.cybertipline.com. The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. ³

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content.

² The Abused and Neglected Child Reporting Act requires school personnel to make an immediate report to DCFS; it states that they "may also notify the person in charge of [the] school," (325 ILCS 5/4). The sample policy makes the report to the superintendent or building principal mandatory in order to keep the administration informed. Of course, the administration may not force the staff member to change or modify his or her report (325 ILCS 5/4).

Abuse and neglect are defined in 325 ILCS 5/3. Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the child's welfare. Neglect may be generally understood as abandoning a child or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's welfare.

Reports should include, when known, the child's name and address, parents or other custodian, and condition including any evidence of previous injuries or disabilities, plus any other helpful information. Any person required by law to report child abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching certificate may be suspended for willful failure to report suspected child abuse or neglect as required by law (105 ILCS 5/21-23, amended by P.A. 96-431).

School personnel are granted broad immunities against civil and criminal claims when they file a child abuse or neglect report in good faith, even if it proves groundless. Such immunities are not available, however, to the individual who knowingly files a false report.

³ The Reporting Act requires an electronic and information technology equipment worker or the worker's employer to report a discovery of child pornography depicted on an item of electronic and information technology equipment (325 ILCS 5/4.5, added by P.A. 95-944). Consult the board attorney to determine whether any district employees fit the definition of an *electronic and information technology worker*, i.e., are "persons who in the scope and course of their employment or business install, repair, or otherwise service electronic and information technology equipment for a fee."

The paragraph exceeds the newly added requirements by requiring *all* district employees to report a discovery of child pornography on electronic and information technology equipment. This furthers the National Center for Missing and Exploited Children's public policy goal of "empowering the public to take immediate and direct action to enforce a zero tolerance policy regarding child sexual exploitation."

Similar to school personnel who are mandated reporters, electronic and information technology equipment workers and their employers have broad immunities from criminal, civil, or administrative liabilities when they report a discovery of child pornography as required under 325 ILCS 5/4.5, except for willful or wanton misconduct (e.g. knowingly filing a false report). Failure to report a discovery of child pornography is a business offense subject to a fine of \$1001.

District employees who are not information and technology equipment workers who, in good faith, make a report also receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purpose of any proceedings, civil or criminal, good faith of the person making the report is presumed. Id.

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. ⁴

The Superintendent shall notify the State Superintendent and the regional superintendent in writing when he or she has reasonable cause to believe that a certificate holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child. The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the certificate holder. ⁵

The Superintendent or designee shall provide staff development opportunities for school personnel working with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect. ⁶

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. ⁷

LEGAL REF.: 105 ILCS 5/10-21.9.
325 ILCS 5/.

CROSS REF.: 2:20 (Powers and Duties of the School Board), 5:20 (Workplace Harassment Prohibited), 5:100 (Staff Development Program), 5:150 (Personnel Records), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁴ 325 ILCS 5/4, amended by P.A. 95-908, requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. For more information, see policy 5:150, *Personnel Records*.

⁵ 105 ILCS 5/10-21.9(e-5), amended by P.A. 96-431, requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

⁶ While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12 authorizes boards "[t]o provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting and prevention of child abuse and neglect." The drill during such training should be: "If in question, report." Of course, a board could extend the training opportunity or make participation mandatory, depending on any applicable collective bargaining agreement, by replacing this sentence with:

Option 1: The Superintendent or designee shall provide staff development opportunities for all school personnel working with students, in the detection, reporting, and prevention of child abuse and neglect.

Option 2: All District employees working with students shall participate in a meeting that specifically addresses and reviews the reporting requirements of the Abused and Neglected Child Reporting Act.

⁷ 325 ILCS 5/4, amended by P.A. 95-461. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

General Personnel

Abused and Neglected Child Reporting

A District employee who has reasonable cause to suspect that a student may be an abused or neglected child shall report such a case to the Illinois Department of Children and Family Services. The employee shall notify the Superintendent or Building Principal that a report has been made. Any employee hired after July 1, 1986, shall sign a statement to the effect that the employee has knowledge and understanding of the reporting requirements of the Act.

LEGAL REF.: 325 ILCS 5/1 and 5/4 et seq.

CROSS REF.: 7:150 (Agency and Police Interviews)

ADOPTED: May 20, 2002