

DCF School Investigations Under P.A. 11-93

Changes to mandated
reporting, notification and
investigation

PURPOSE OF TRAINING

- ✦ Provide information on mandating reporting
- ✦ To keep you up to date with your roles, responsibilities and changes in the law and possible preventive measures you can take to protect yourselves as well as the children and families you serve
- ✦ To hear concerns, answer questions, and develop ways to work together to better protect children.

Reason for changes

The sections of the Connecticut General Statutes dealing with mandated reporting, school employee background checks and school investigations were amended by Public Act 11-93 to address a number of issues raised in a report on investigations of child abuse and neglect in public schools prepared by the Office of the Child Advocate and the Office of the Attorney General

Identified Problems

Among the problems identified in the report were:

- ❑ Lack of training for mandated reporters
- ❑ Uncertainty as to who is a mandated reporter in the schools
- ❑ Lack of mandated reporter policies in schools
- ❑ Lack of clarity regarding prosecution of mandated reporters who fail to report or delay reporting

Problems (cont.)

- ❑ Lack of clarity regarding how abuse/neglect is investigated
- ❑ Need to notify districts and SDE about the results of a DCF investigation
- ❑ Poor information sharing among school districts, SDE and DCF
- ❑ Inconsistent use of background checks

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The public act addressed all of these issues

- ❑ DCF and districts must train all mandated reporters and provide refresher training every three years
- ❑ Definition of school employee expanded
- ❑ DCF, SDE and CABE (CT Assoc. of Boards of Education) developed model mandated reporter policy
- ❑ DCF must notify Chief State's Attorney of failed or delayed reporting by mandated reporter

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- ❑ Schools must give priority to DCF and law enforcement in investigations of child abuse/neglect in the schools
- ❑ DCF to notify SDE and districts when school employee is found to have caused child abuse or neglect
- ❑ Schools must share information with DCF investigators, including information in school employee's personnel file
- ❑ Districts must obtain criminal and DCF background checks for all employees

Mandated Reporters

The public act changed the list of mandated reporters by defining “school employees” in broader terms using the definition found in C.G.S. §53a-65.

School employees (CGS §53a-65)

"A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary, middle or high school or working in a public or private elementary, middle or high school; or (B) *any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.*"

Certified School Employees

- School employees who require certificates generally fall into the following categories:
 - Teachers and Substitute Teachers
 - Coaches
 - Pupil services personnel
 - Administrators
 - Vocational educators

Certified School Employees (cont)

Pupil Services Personnel

- ▣ Speech and Language Pathologist
- ▣ School Social Worker
- ▣ School Counselor
- ▣ School Psychologist

Certified School Employees (cont.)

■ Administrators

- Reading and Language Arts Consultant
- School Business Administration
- Department Chairperson
- Intermediate Administration or Supervision
- Superintendent of Schools

■ Vocational Education

- Occupational Subjects in Vocational-Technical Schools
- Trade-Related Subjects in Vocational-Technical Schools
- Practical Nurse Education in Vocational-Technical Schools
- Health Occupations in Vocational-Technical Schools
- Agriculture Education - Aquaculture
- Health Occupations
- Trade and Industrial Occupations in Comprehensive High Schools
- Marketing Education
- Cooperative Work Education

Certified School Employees (cont.)

- ❑ Some school employees, such as school nurses and occupational therapists, are not certified by the state Board of Education, but are licensed by the Department of Public Health
- ❑ In those cases notice is not provided to CSDE, but following an investigation, notice of the results shall be sent to DPH. Consult your area office attorney

Information that must be provided by a reporter of child abuse or neglect

The public act requires additional information from the reporter of neglect and abuse:

- ❑ The names and addresses of the child and his parents or other person responsible for his care;
- ❑ The age of the child;
- ❑ The gender of the child;
- ❑ The nature and extent of the child's injury or injuries, maltreatment or neglect;
- ❑ The approximate date and time the injury or injuries, maltreatment or neglect occurred;
- ❑ Information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his siblings;

Information that must be provided (cont)

- * The circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter;
- * The name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect;
- * *The reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect;*
- * *Any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child;*
- * Whatever action, if any, was taken to treat, provide shelter or otherwise assist the child

(Italics = new language)

Protection of Reporter's Identity

The act modified the provision protecting the identity of the reporter of child abuse or neglect.

The former provision required the reporter's written consent in order to disclose his/her name.

The new statute makes the reporter's name discloseable unless he/she requests anonymity.

Unchanged are the circumstances under which DCF may disclose the identity of the reporter (for example, state's attorney, police, AAG, etc.)

Failure to Report

- ✱ Any mandated reporter who fails to make a report or *fails to report within 12 hours* of the suspected child abuse/neglect or imminent risk of serious harm:
 - a. shall be fined between \$500-2500
 - b. attend educational training program
- ❖ **School Employees** - Any Mandated Reporter that is a School Employee (as defined in section 53a-65 that fails to report OR fails to report within the 12 hour timeframe may be subject to an investigation by the Department of Children and Families and the penalties stated above.

Failure to Report

The public act also clarifies DCF's responsibility to follow up on failure or delayed reporting by requiring the department to notify the Chief State's Attorney's Office when it believes that a mandated reporter has not complied with the law

NOTE: §10 of PA 12-82 now requires the Chief State's Attorney to also investigate an allegation that someone made a false report of child abuse/neglect

Reports and Investigations

PA 11-93 clarifies responsibility for

- ▣ notification of receipt of reports
- ▣ conducting an investigation and
- ▣ information sharing in the course of and following the completion of an investigation

Reports

Whenever DCF receives a report of abuse or neglect from a mandated reporter concerning an employee of a school or facility caring for children the Careline shall notify

- ❑ The principal, headmaster, executive director or other person in charge of the institution, facility or school, or the person's designee (unless the person who would be notified is the alleged perpetrator of the abuse or neglect)
- ❑ The employing superintendent of schools if the alleged perpetrator is employed by a public school. The superintendent shall then notify the parents or other caretaker of the child that a report has been made.
- ❑ The Commissioner of Education or designee if the report concerns a school employee holding a certificate, authorization or permit issued by the State Board of Education.
- ❑ The head of the state agency that licenses the facility if the person is an employee of a facility that cares for children, such as DPH and DDS

Reports

- Whenever a person who is not a mandated reporter makes a report of suspected child abuse or neglect and the report concerns a school employee as defined in CGS §53a-65 who holds a certificate, authorization, or permit issued by the state board of education DCF shall send a copy of the report to the Commissioner of Education

Reports

- ❑ If the alleged perpetrator is a school employee holding a certificate, authorization or permit issued by the state Board of Education then DCF must notify the Commissioner of Education upon receipt of the report.
- ❑ If the alleged perpetrator is any school employee as defined in §53a-65, not just one holding a certificate, authorization or permit, then DCF must notify the Commissioner of Education *only if* DCF accepts the report and commences an investigation.

Reports

- ❑ The Careline will notify CSDE upon receipt of reports involving school employees holding a certificate that are not accepted
- ❑ All other notices required by these statutes shall be made by the investigating area office or the special investigations unit

Investigations

- ❑ Boards of education must permit and give priority to any investigation conducted by DCF or an appropriate law enforcement agency that a child has been abused or neglected.
- ❑ Boards may conduct their own investigation of the allegations and take disciplinary action, but can only do so if DCF or the investigating law enforcement agency notifies them that its investigation will not interfere with the DCF or law enforcement investigation

Investigations, access to records

- ❑ If the alleged perpetrator is a teacher (certified professional employees below the rank of superintendent employed by a board of education in a position requiring a certificate issued by the State Board of Education) the employing board of education must provide any records requested by the department that are maintained or kept on file by the board.

Investigations, access to records

The records include, but are not limited to

- supervisory records
- reports of competence, personal character and efficiency maintained in the teacher's personnel file as part of the teacher's performance evaluation and
- records of the personal misconduct of the teacher
- this access does not require a release from the employee

Investigations, access to records

- The person reporting the alleged child abuse or neglect shall provide the investigator with all information related to the investigation that is in the possession or control of that person, except as expressly prohibited by state or federal law
- Generally, the prohibited information will be that which is confidential under HIPAA (Health Insurance Portability and Accountability Act) and FERPA (Federal Educational Rights and Privacy Act).
- ***Consult with your area office attorney if there are any questions concerning access to records***

Practice notes: FERPA

There is no exception in FERPA for child abuse and neglect investigations, therefore access to student records will require a release from the student's parent or guardian.

There is a health and safety exception that may permit disclosure if the school believes there is a threat to the health or safety of a student as a result of the abuse/neglect and believes that disclosure is necessary to address that threat.

However, DCF cannot compel disclosure under this exception

Practice Notes: FERPA

Class lists:

There is an exception to FERPA that permits public access to directory information.

Directory information is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

- this includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status

Practice Notes: FERPA

FERPA permits the release of directory information but does not require it

- ❑ If the school has provided notice to its parents that this information has been designated as directory information and will be released to third parties then investigators may have access to it unless a parent specifically objected in advance or the school has a policy of not releasing it to third parties
- ❑ Even if someone objected or if the school will not release it, it is likely that the victim's parents or others may have a class list that he/she will give an investigator: **ASK!**

Completion of the Investigation

- ▣ When DCF completes its investigation of child abuse or neglect in a school or institutional setting it shall provide notice to the alleged perpetrator of the decision to substantiate or not in accordance with existing law and policy.

Completion of the Investigation, additional notifications

If the alleged perpetrator is a school employee as defined in section 53a-65

- ❑ Who has been entrusted with the care of a child
- ❑ Who holds a certificate, permit or authorization issued by the State Board of Education, and
- ❑ Against whom the department has substantiated either abuse or neglect

Then the department must notify the employing superintendent and the CSDE within five working days of the substantiation.

Completion of the Investigation, additional notifications

- ❑ The notice to the superintendent and the CSDE shall be made whether or not the person has been recommended for placement on the DCF Central Registry
- ❑ The notice shall be provided whether or not the child was a student in the employing school district

Completion of the Investigation, additional notifications

If the alleged perpetrator is a school employee as defined in section 53a-65 who **has not** been entrusted with the care of a child and

- ❑ Who holds a certificate, permit or authorization issued by the State Board of Education, and
- ❑ Against whom the department has substantiated either abuse or neglect and
- ❑ Has been recommended for placement on the Central Registry,

Then the department must notify the employing superintendent and the CSDE within five working days of the substantiation.

Completion of the Investigation, additional notifications

- ❑ This would generally apply to school employees who are substantiated for neglect or abuse of their own child or who were acting in a capacity other than as a person entrusted at the time of the abuse
- ❑ In such cases the notice and records are provided only if the person is recommended for placement on the Central Registry

Completion of the Investigation, additional notifications

- ❑ If the school employee is not one listed in §53a-65 or is listed but does not hold a certificate and is substantiated
- ❑ then notice to the superintendent can only be provided if the person has signed a release

Notice of Unsubstantiated Reports

- ❑ Notice of an unsubstantiated report can only be give to the employee's school or district with the permission of the employee
- ❑ Notice of an unsubstantiated report can be provided to CSDE if the employee holds a certificate, permit or authorization from the SBOE.

Completion of the Investigation, additional notifications

- ❑ Investigators should discuss the notice requirements with the alleged perpetrator during the investigation
- ❑ The alleged perpetrator should be asked to sign a release that will permit DCF to notify the school and school district that the investigation is unsubstantiated

Background checks

- ❑ On and after July 1, 2011 any person applying for a position in a public school that requires a certificate, authorization or permit issued by the State Board of Education shall submit to a records check of the DCF child abuse and neglect central registry before the person can be hired.
- ❑ On and after July 1, 2012 applicants for any position in a public school must submit to the DCF central registry check, whether or not a certificate, authorization or permit is needed for the position

Background checks

- ❑ DCF central registry checks shall also be required for any person applying for or seeking renewal of a certificate, authorization or permit issued by the state Board of Education
- ❑ If the person is listed on the registry then the application shall be denied or the certificate, authorization or permit revoked.

Mandated Reporter Training

- ❑ All school employees hired by school boards on or after July 1, 2011, must complete a mandated reporter training program developed by DCF.
- ❑ All school employees must complete a refresher program no later than three years after completing the initial training and at least once every three years after that

Mandated Reporter Training

- Employees hired before July 1, 2011 must complete the refresher training program by July 1, 2012, and must retake it once every three years after that

Conclusion

- ❑ This is a new law and the schools may not be on board
- ❑ If an investigator runs into a problem accessing records bring it to the attention of the area office attorney