

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 or, for a student aged 18 through 21, an abused or neglected individual with a disability², shall immediately: (1) report or cause a report to be made to the Illinois Department of Children and Family Services on its Child Abuse Hotline 800/25-ABUSE or 217/524-2606, and (2) follow any additional directions given by the Illinois Department of Children and Family Services to complete a report. 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. ³

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

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

² P.A. 96-1446 amended two statutes and defines the same class of individuals differently throughout, but with the same goal: to protect disabled adult students who are still in school with Individual Education Plans (IEPs) that do not live in DCFS licensed facilities. The Ill. Dept. of Human Services Act, 20 ILCS 1305/1-17(b), amended by P.A. 96-1446 defines "adult student with a disability" as an adult student, age 18 through 21, inclusive (through the day before the student's 22nd birthday), with an IEP other than a resident of a facility licensed by DCFS. This statutory definition is the basis for this sample policy's language. For purposes of the following discussions in f/ns 3 & 5 below, the term "adult student with a disability" is shortened to *disabled adult student*.

For elementary districts, delete the first sentence and insert the following sentence:

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child shall immediately report or cause a report to be made to the Illinois Department of Children and Family Services on its Child Abuse Hotline 800/25-ABUSE or 217/524-2606.

³ The Abused and Neglected Child Reporting Act requires school personnel to make an immediate report or cause a report to be made to DCFS; it states that they "may also notify the person in charge of [the] school," (325 ILCS 5/4). If the report involves a *disabled adult student*, employees should expect DCFS to instruct them to call the Ill. Dept. of Human Services Office (DHS) of the Inspector General's statewide 24 hour toll-free telephone number at 1-800-843-6154 (325 ILCS 5/4.4a and 20 ILCS 1305/1-17(b), both amended by P.A. 96-1446). Reports involving a disabled adult student may be made directly to DHS; however, for simplicity, and to preserve a superintendent's duty to disclose certain reports involving an employee or former district employee (see discussion in f/n 5 below) and the immunity for such disclosures, the sample policy directs the initial phone call involving a disabled adult student to DCFS. 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 and, for disabled adult students in 20 ILCS 1305/1-17(b), amended by P.A. 96-1446 and 20 ILCS 2435/15. Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child or disabled adult student 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 or disabled adult student's welfare. Neglect may be generally understood as abandoning a child or disabled adult student or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's or disabled adult student's welfare.

Reports should include, when known, the child's or disabled adult student'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 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 and 20 ILCS 1305/1-17(k)(1), amended by P.A. 96-1446).

School personnel are granted broad immunities against civil and criminal claims when they file a report of abuse or neglect in good faith, even if it proves groundless. Such immunities are not available, however, to the individual who knowingly files a false report. Knowingly transmitting a false report to DCFS is a Class 4 felony (325 ILCS 5/4, 7 and 7.6, amended by P.A. 97-189).

Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. ⁴

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. ⁵

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. ⁶ 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. ⁷

⁴ 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). 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.*

⁵ The Abused and Neglected Child Reporting Act, 325 ILCS 5/4, 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. When a report involves a disabled adult student, DCFS must instruct mandated reporters making these reports to call the Ill. Dept. Human Services' Office of the Inspector General's statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a, amended by P.A. 96-1446) to make a report under the Ill. Dept. of Human Services (DHS) Act (20 ILCS 1305/).

The DHS Act, 20 ILCS 1305/1-17, amended by P.A. 96-1446, then requires a determination of whether a report involving a disabled adult student should be investigated under it or the Abuse of Adults with Disabilities Intervention Act, 20 ILCS 2435. Neither the DHS Act nor the Abuse of Adults with Disabilities Intervention Act outlines a duty for the 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 DHS involving an adult student with a disability.

Given the public policy behind the recent amendments to 325 ILCS 5/4, a reasonable interpretation of P.A. 96-1446 is that the superintendent's duty to disclose now involves DHS reports concerning adult students with disabilities. However, with no mechanism requiring DHS to report back to the superintendent a *non-substantiated report* (DHS version of a DCFS *unfounded* report), a superintendent's duty to disclose cannot end. Consult the board attorney about managing the duty to disclose reports that involve disabled adult students when DCFS redirects the reporter to DHS. For more information, see policy 5:150, *Personnel Records*.

⁶ Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Educational Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

⁷ 105 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.