

## 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 disability<sup>2</sup>, shall: (1) immediately report or cause a report to be made to the Illinois Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873)(within Illinois); 1-217-524-2606 (outside of Illinois); or 1-800-358-5117 (TTY), and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.<sup>3</sup> Any District employee who believes a student is in immediate danger of harm, shall first call

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<sup>1</sup> State or federal law controls this policy's content. The Abused and Neglected Child Reporting Act (ANCRA): (325 ILCS 5/) requires school education personnel to immediately report or cause a report to be made to DCFS when they have reasonable cause to believe a child known to them in their professional or official capacities may be abused or neglected; education personnel includes school personnel (including administrators and certified and non-certified school employees) and educational advocates assigned to a child in accordance with the School Code, 325 ILCS 5/4(a)(4), added by P.A. 101-564, eff. 1-1-20; ANCRA states that such personnel "may also notify the person in charge of [the] school[.]" 325 ILCS 5/4(e). 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) office of the Inspector General's statewide 24 hour toll-free telephone number at 1-800-843-6154 (within Illinois); 1-866-324-5553 (TTY/Nextalk); or 711 (Illinois Relay). 325 ILCS 5/4.4a and 20 ILCS 1305/1-17(b). 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 1<sup>28</sup> below) and the immunity for such disclosures, the sample policy directs the initial phone call involving a disabled adult student to DCFS.

Abuse and neglect are defined in 325 ILCS 5/3 and, for disabled adult students in 20 ILCS 1305/1-17(b). 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.

Any person required by law to report abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching license may be suspended for willful or negligent failure to report suspected child abuse or neglect as required by law. 105 ILCS 5/21B-75, amended by P.A. 101-531, and 20 ILCS 1305/1-17(k)(1). 20 ILCS 1305/1-17(k)(1) allows mandated reporters for disabled adults four hours to report after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

District employees who make a report in good faith 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.

Every two years, each district within an Illinois county served by an accredited Children's Advocacy Center (CAC) must review its sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531. See sample policy 7:20, Harassment of Students Prohibited.

<sup>2</sup> State child and disabled adult protection laws define the same class of individuals differently, but with the same goal: to protect a disabled adult student, not living in a DCFS licensed facility, who is still finishing school with an Individual Education Plan (IEP). The Dept. of Human Services Act (DHS Act) 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. 20 ILCS 1305/1-17(b). This statutory definition is the basis for this sample policy's language. For purposes of the discussions in f/ns 1 and 1<sup>98</sup>, the term "adult student with a disability" is shortened to disabled adult student.

For elementary districts, delete the following phrase from the first sentence: "or, for a student aged 18 through 21, an abused or neglected individual with a disability, ."

<sup>3</sup> 325 ILCS 5/7, amended by P.A. 101-583, eff. 1-1-20. For a board that wants to include what a DCFS report should contain, an optional sentence follows:

The report shall include, if known:

911. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made.<sup>4</sup> The Superintendent or Building Principal shall immediately coordinate any necessary notifications to the student's parent(s)/guardian(s) with DCFS, the applicable school resource officer (SRO), and/or local law enforcement. <sup>5</sup> Negligent failure to report occurs when a District employee personally observes an instance of suspected child abuse or neglect and reasonably believes, in his or her professional or official capacity, that the instance constitutes an act of child abuse or neglect under the Abused and Neglected Child Reporting Act (ANCRA) and he or she, without willful intent, fails to immediately report or cause a report to be made of the suspected abuse or neglect to DCFS. <sup>6</sup>

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 1-800-THE-LOST (1-800-843-5678) or online at [www.report.cybertip.org](http://www.report.cybertip.org) or [www.missingkids.org-www.cybertipline.com](http://www.missingkids.org-www.cybertipline.com). The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. <sup>7</sup>

Any District employee who observes any act of hazing that does bodily harm to a student must report that act to the Building Principal, Superintendent, or designee who will investigate and take appropriate action. If the hazing results in death or great bodily harm, the employee must first make the report to law enforcement and then to the Superintendent or Building Principal. Hazing is defined as any intentional, knowing, or reckless act directed to or required of a student for the purpose of

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1. The name and address of the child, parent/guardian names, or other persons having custody;
2. The child's age;
3. The child's condition, including any evidence of previous injuries or disabilities; and
4. Any other information that the reporter believes may be helpful to DCFS for its investigation.

<sup>4</sup> The sample policy makes the report to the superintendent or building principal mandatory to keep the administration informed. The administration may not force the staff member to change or modify his or her report.

<sup>5</sup> Optional. The sample policy makes coordination with DCFS, the SRO, and local law enforcement a step in the process of reporting, so the local agencies and school district are better able to prevent and manage the risks school officials and parents/guardians face when a DCFS report has been made, e.g., situations where parents/guardians, upon learning a DCFS report has been made involving their child(ren), commit an act of self-harm in response to the information.

For school districts in DuPage County, the DuPage County State's Attorney (SAO), Regional Office of Education (ROE), Police Dept. (PD), and DCFS have created a *Model Policy Reporting Abuse and Neglect for School Officials in DuPage County*, at: [www.dupageroe.org/wp-content/uploads/Mandated\\_Reporting.pdf](http://www.dupageroe.org/wp-content/uploads/Mandated_Reporting.pdf). Consult the board attorney about this reporting policy – its intent is for school officials to immediately inform the SAO that a report to DCFS has been made to allow the SAO to investigate and prevent evidence spoliation. Note: The DuPage SAO, ROE, and PD lack authority under ANCRA over school officials to enforce compliance with this “model reporting policy;” only DCFS has the authority under ANCRA to enforce penalties under ANCRA, not the “model reporting policy.” The DuPage SAO, ROE, and PD did not consult school officials in the creation of its “model reporting policy.”

<sup>6</sup> 105 ILCS 5/10-23.12(c) (all district employees), added by P.A. 101-531; 105 ILCS 5/21B-75(b) (teachers), amended by P.A. 101-531.

<sup>7</sup> ANCRA 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(b). 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 State 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(b), 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. 325 ILCS 5/4.5(e).

being initiated into, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team whose members are or include other students. 8

Abused and Neglected Child Reporting Act (ANCRA), School Code, and Erin's Law Training

The Superintendent or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect. 9

All District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCFS. The Superintendent or designee shall ensure that the signed forms are retained.
2. Complete mandated reporter training as required by law within ~~one year~~three months of initial employment and at least every ~~five~~three years after that date. 10

The Superintendent will encourage all District educators to complete continuing professional development that addresses the traits and identifiers that may be evident in students who are victims of child sexual abuse, including recognizing and reporting child sexual abuse and providing appropriate follow-up and care for abused students as they return to the classroom setting. 11 12

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8 720 ILCS 5/12C-50.1(b) creates a duty for school officials to report hazing. The term *school official* includes all school employees and volunteer coaches. ~~Id.~~720 ILCS 5/12C-50.1(a). The duty to report hazing is triggered only when the district employee was fulfilling his or her responsibilities as a school official and observed hazing which results in bodily harm. ~~Id.~~720 ILCS 5/12C-50.1(b). A report must be made to *supervising educational authorities*, which is not defined in the Act. Id. Common sense, however, would require the individual witnessing hazing to report it to the building principal or superintendent. Failure to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1(c). Failure to report hazing that resulted in death or great bodily harm is a Class A misdemeanor. Id. 7:190-AP1, *Student Handbook - Hazing Prohibited*, uses the same definition of *hazing*; this definition is based on 720 ILCS 5/12C-50.

9 While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12(a), amended by P.A.s 100-413 (~~eff. 1-1-18~~) and 100-468 (~~eff. 6-1-18~~), 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.”

10 ANCRA) also requires staff members, within ~~one year~~three months of employment, to complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. 325 ILCS 5/4(j), amended by P.A. 101-564, eff. 1-1-20. This training must be completed again at least every ~~five~~three years. Id. This is initial ANCRA three-month training requirement applies to the first time staff engage in their professional or official capacity. Id. While the law allows an extension to six months, it is unclear when such an extension is permissible. Consult the board attorney for guidance, addresses only new employees to a district. It is silent about how to manage individuals who were employed by a district before 7-1-14. As a best practice, to ensure compliance with the requirement in 105 ILCS 5/22-85(c) (final citation pending), added by P.A. 101-531, that mandated reporters annually review ISBE materials regarding notification of DCFS (see f/n 15, below), and to ease the administrative burden to track employee training schedules, a district may consider requiring annual training for all employees.

To reduce liability and align with best practices, ANCRA training for existing district employees appears prudent; however, consult the board attorney about:

1. Whether mandating existing employees to participate in ANCRA training is an item on which collective bargaining may be required. Any policy that impacts upon wages hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.
2. How to comply with both the new ANCRA training requirements and whether compliance with them would also satisfy the School Code’s more limited district-provided training requirement discussed in f/n 89 above.

11 *Erin's Law Taskforce Final Report (Report)* at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf). 105 ILCS 5/22-65 was repealed by P.A. 99-30 (eff. 7-10-15) upon submission of the Report.

12 105 ILCS 5/10-23.12(b), amended by P.A.s 100-413 (~~eff. 1-1-18~~) and 100-468 (~~eff. 6-1-18~~), permits DCFS to cooperate with school officials to distribute informational ANCRA materials in school buildings. The following optional sentence provides that information: “The Superintendent or designee will display DCFS-issued materials that list the DCFS toll-free telephone number and methods for making a report under ANCRA in a clearly visible location in each school building.”

### Alleged Incidents of Sexual Abuse: Investigations 13

An alleged incident of sexual abuse is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A, that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity. 14

If a District employee reports an alleged incident of sexual abuse to DCFS<sup>15</sup> and DCFS accepts the report for investigation, DCFS will refer the matter to the local Children's Advocacy Center (CAC).<sup>16</sup> The Superintendent or designee will implement procedures to coordinate with the CAC.

DCFS and/or the appropriate law enforcement agency will inform the District when its investigation is complete or has been suspended, as well as the outcome of its investigation.<sup>17</sup> The existence of a DCFS and/or law enforcement investigation will not preclude the District from conducting its own parallel investigation into the alleged incident of sexual abuse in accordance with policy 7:20. *Harassment of Students Prohibited.*

### Special Superintendent Responsibilities

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. 18

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**13** Delete this subhead if your school district is not within a county served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531, governs the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC. For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). The law is silent about investigations in counties without CACs.

**14** Though 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531, defines *alleged incident of sexual abuse*, its definition is circular, using the term *sexual abuse* without defining what that means. To provide boards with clarity, the definition of *sexual abuse* used in the Ill. Criminal Code of 2012 is used.

**15** 105 ILCS 5/22-85(c) (final citation pending), added by P.A. 101-531, provides that if a mandated reporter within a school has knowledge of an alleged incident of sexual abuse, the reporter must call the DCFS hotline immediately after obtaining the minimal information necessary to make a report, including the names of the affected parties and the allegations. It further requires the Ill. State Board of Education (ISBE) to make available materials detailing the information necessary to enable notification to DCFS of an alleged incident of sexual abuse, and that all mandated reporters annually review ISBE's materials.

**16** 105 ILCS 5/22-85(d) (final citation pending), added by P.A. 101-531.

**17** 105 ILCS 5/22-85(j), (k) (final citation pending), added by P.A. 101-531.

**18** ANCRA 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. 325 ILCS 5/4(d), amended by P.A. 101-564, eff. 1-1-20. When a report involves a disabled adult student, DCFS must instruct mandated reporters making these reports to call the DHS' Office of the Inspector General's statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a) to make a report under the DHS Act.

The DHS Act (20 ILCS 1305/1-17(l)) 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), however that Act was repealed by P.A. 99-049 (eff. 7-1-13). The DHS Act does not outline 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 the law 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*.

The Superintendent shall notify the State Superintendent and the Regional Superintendent in writing when he or she has reasonable cause to believe that a license holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child.<sup>19</sup> The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the license holder. <sup>20</sup>

#### Special School Board Member Responsibilities

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~~ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ~~the Act~~ANCRA's requirements concerning the reporting of child abuse. <sup>21</sup>

If the Board determines that any District employee, other than an employee licensed under 105 ILCS 5/21B, has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by ANCRA, the Board may dismiss that employee immediately. <sup>22</sup>

LEGAL REF.: 105 ILCS 5/10-21.9.  
20 ILCS 1305/1-1 et seq., Department of Human Services Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/12C-50.1, Criminal Code of 2012.

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Terminations and Suspensions), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

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<sup>19</sup> Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Educational Service Center."

<sup>20</sup> 105 ILCS 5/10-21.9(e-5), amended by P.A. 101-531, requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

<sup>21</sup> 325 ILCS 5/4 id., amended by P.A. 101-564, eff. 1-1-20. 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.

<sup>22</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531. See f/n 6, above, and f/n 3 in policy 2:20, *Powers and Duties of the School Board; Indemnification*.