

REWRITTEN

The language in this policy is amended to reflect new public acts and is reorganized for easier use. See the Update Memo for a more detailed explanation of the changes. Footnotes will be removed when the update is processed.

October 2013

5:90

General Personnel

Abused and Neglected Child Reporting ¹

Any ^{Cooperate} District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 ^{to} through 21, an abused or neglected individual with a disability², shall: (1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline 800/25-ABUSE or 217/524-2606, and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office. ³ The employee shall also promptly notify the Director ^{or} Building Principal that a report has been made. ⁴

↓
or Coordinator

↓
Executive

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. The Abused and Neglected Child Reporting Act (ANCRA) 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) office 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)). 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 ¶n 10 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) 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.

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 5/21B-75 and 20 ILCS 1305/1-17(k)(1)).

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.*

² 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 Ill. Dept. of Human Services Act, 20 ILCS 1305/1-17(b) 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 discussions in ¶ns 1 & 10, 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.~~"

³ 325 ILCS5/7. For a board that wants to include what a DCFS report should contain, an optional sentence follows:

The report shall include, if known:

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.

⁴ 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.

Option A. – For elementary districts.

Option B. – Add items to include in a DCFS report.

5:90

Page 1 of 4

^{Cooperative}
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 Director, ^{Executive} or Building Principal, shall also be promptly notified of the discovery and that a report has been made.

5 ^{Cooperative} Any District employee who observes any act of hazing that does bodily harm to a student must report that act to the Building Principal, ^{Investigative} Director, 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, ^{Executive Director} or Building Principal, ^{or Coordinator} Hazing is defined as any intentional, knowing, or reckless act directed to or required of a student for the purpose of 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. 6

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

The ^{Executive} Director or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect. 7 ^{Cooperative}

All ^{Cooperative} District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCFS. The ^{Executive Director} Superintendent or designee shall ensure that the signed forms are retained.
2. Complete mandated reporter training as required by law within one year of initial employment and at least every 5 years after that date. 8

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

5 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.

6 720 ILCS 5/12C-50.1(b), added by P.A. 98-393, creates a duty for *school officials* to report hazing. The term *school official* includes all school employees and volunteer coaches (*Id.*). 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.*). 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. 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 720 ILCS 5/12C-50.

7 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."

8 The Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/4, amended by P.A. 98-408, also requires staff members, within one year of employment, to complete training from a provider or agency with expertise in recognizing and reporting child abuse. This training must be completed again at least every 5 years. This ANCRA training requirement addresses only new employees to a district. It is silent about how to manage individuals who were employed by a district before 7-1-2014.

Executive
The Director 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 abuse and providing appropriate follow-up and care for abused students as they return to the classroom setting. ⁹

Executive
Special Director Responsibilities

The Director 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. ¹⁰ *Cooperative*

Executive
The Director 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. ¹¹ 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. ¹² *Executive Director*

Cooperative
Special 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, direct or cause the Board

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 7 above.

⁹ *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65, repealed upon submission of the Report at: www.isbe.state.il.us/reports/erins-law-final0512.pdf.

¹⁰ The Abused and Neglected Child Reporting Act (ANCRA), 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) to make a report under the Ill. Dept. of Human Services (DHS) Act (20 ILCS 1305/).

The DHS Act, 20 ILCS 1305/1-17, 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 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*.

OPTION C. -
Cook County
districts

¹¹ 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.

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

Executive

to direct the Director or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. 13

LEGAL REF.: 105 ILCS 5/10-21.9.
20 ILCS 1305/1-1 et seq.
20 ILCS 2435/.
325 ILCS 5/.
720 ILCS 5/12C-50.1.

CROSS REF.: 2:20 (Powers and Duties of the School Board), 5:20 (Workplace Harassment Prohibited), 5:100 (Staff Development Program), 5:120 (Ethics and Conduct), 5:150 (Personnel Records), 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)

ADOPTED:

Compare to current District policy 5:90 or consider adding the policy to your manual if it is not now included

Don't know it.

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

13 325 ILCS 5/4. 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.