

REPORTING EMPLOYEE MATTERS TO DPI FOR LICENSE/EMPLOYMENT INVESTIGATIONS

Policy 522.6

Sample Policy 1

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{This sample policy addresses school district obligations to report to DPI specific criminal charges, convictions, and other misconduct related to licensed and non-licensed employees. The sample reflects the reporting criteria and procedures defined under section 115.31 of the state statutes.}

EMPLOYEE HANDBOOK RECOMMENDATION RELATED TO THIS POLICY: *The WASB recommends that school district employee handbooks include an obligation for all district employees to report certain pending criminal charges and criminal convictions to the school district. The relevant employee internal reporting obligation should include at least all of the charges and convictions that the district has an obligation to report to the DPI under section 115.31 of the state statutes (as further covered, below, within this sample policy). However, the handbook language may also address the reporting of additional legal/law enforcement matters. Adding an express employee internal reporting obligation to this policy would also be an option, but employees are less likely to be aware of such an expectation if it is only established in this policy—which is mainly directed at responsibilities of the district administrator (or, when applicable, the school board president).} WCSD Already does this*

Definitions

1. In this policy “**administrator**” means the chief administrative officer of the District (i.e., the District Administrator, unless another administrator is temporarily serving in that capacity due to a vacancy or leave of absence affecting the District Administrator’s position). If the chief administrative officer is the subject of a report under this policy, then “administrator” means the presiding officer of the School Board (i.e., the Board President, unless the office of Board President is vacant or an appointee is discharging the duties of the President due to a temporary absence or disability).
2. “**Immoral conduct**” means conduct or behavior that is contrary to commonly accepted moral or ethical standards and that endangers the health, safety, welfare, or education of any student. “Immoral conduct” includes both of the following statutory examples:
 - a. The intentional use of the District’s equipment to download, view, solicit, seek, display, or distribute pornographic material.
 - b. As further described in state law, assisting a school employee, contractor, or agent obtain a new job in a school or with a local educational agency if the individual knows or has a reasonable suspicion to believe that the school employee, contractor, or agent committed a sex offense (as defined in state law), and the victim was a minor or a student.

Situations in Which Reporting is Required: DPI-Licensed Employees

1. Reporting Criteria for Licensed Employees. State law requires the applicable administrator (as defined above) to report to the state superintendent the name of any DPI-licensed person employed by the District if any of the following occurs:

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- a. The person is **charged** with any of the following:
 - i. Any felony with a maximum term of imprisonment of at least 5 years.
 - ii. Any crime in which the victim was a child.
 - iii. Any crime defined under Chapter 948 of the Wisconsin Statutes, which is titled "Crimes Against Children." This includes any crime among the offenses listed in section 948.015.
- b. The person is **convicted** of any of the crimes covered in the list immediately above (i.e., with respect to reporting charges) **or** 4th degree sexual assault as defined under section 940.225 of the Wisconsin Statutes. (Note: 4th degree sexual assault generally refers to having sexual contact with a person without the consent of that person, whether such contact is direct or through clothing.)
- c. The person is dismissed or his or her contract is not renewed by the District based in whole or in part on evidence that the person engaged in **immoral conduct**.
- d. The person resigns and the administrator has a reasonable suspicion that the resignation relates to the person having engaged in **immoral conduct**.

2. Duty to Notify Employee when Administrator Requests Resignation. If an administrator requests a **licensed employee** to resign and the administrator has a reasonable suspicion that the employee engaged in immoral conduct, then the administrator must inform the employee of the administrator's duty to submit a report to the state superintendent.

Situations in Which Reporting is Required: Non-Licensed Employees

State law requires the administrator to report to the state superintendent the name of any **non-licensed** person employed by the District if the person is **convicted** of any crime for which convictions must be reported for licensed employees, as identified in the previous section (i.e., any of the crimes covered under subsection 1.a., above, as well as 4th degree sexual assault).

Reporting Procedures; Deadline for Reporting

With respect to the reports required under section 115.31 of the state statutes and this policy:

1. The applicable administrator **must** make the report to DPI within **15 calendar days** after the administrator becomes aware of the applicable charge, conviction, dismissal, nonrenewal, or resignation.
 - a. The administrator may use the License Review Referral (Form PI-1620), available on the DPI website, when submitting the report.

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- b. When a report to the state superintendent under this policy involves a **DPI-licensed employee**, the administrator's report **shall** include (1) a complete copy of the employee's personnel file, and (2) all records related to any investigation of the employee that was conducted by or on behalf of the District.
2. In all cases, the applicable administrator must send a copy of any report that is made to the state superintendent under this policy **to the employee** who is the subject of the report.

Clarifications of the Scope/Purpose of this Policy

1. **Intent to reflect statutory requirements.** This policy attempts to identify and summarize the reporting obligations created by section 115.31 of the state statutes. This policy is not intended to be interpreted or applied in a manner that (1) creates any new/independent source of liability for the District; or (2) diminishes the limited immunity from civil liability that is provided under section 115.31.
2. **Out-of-state and federal offenses.** Although section 115.31 can be ambiguous on the issue, to the extent the statute requires the reporting of any federal or out-of-state charge(s) or conviction(s), the administrator shall make such reports to the state superintendent. The Board encourages the administrator to make good-faith reports when the specific application of the statute is ambiguous and cannot be clearly resolved on a timely basis.
3. **The administrator remains responsible for other reporting obligations.** This policy does not address separate and additional external reporting obligations that may apply to matters that are also required to be reported to the DPI under section 115.31 and this policy. In all cases, administrators and other District employees remain responsible for meeting those separate and additional external reporting obligations, including but not limited to reporting related to child abuse, threats of school violence, etc.

Legal References:

Wisconsin Statutes

[Section 115.31](#)

[reporting to DPI when school district employees have been charged with or convicted of certain crimes or have engaged in immoral conduct; related DPI investigations and licensing actions]

[Section 118.07\(4p\)](#)

[prohibited employment assistance to persons who are known or who are suspected to have engaged in sexual misconduct]

[Section 301.45\(1d\)\(b\)](#)

[the definition of "sex offense" that is applied in one part of the statutory definition of "immoral conduct" within section 115.31]

[Section 939.12](#)

[statutory definition of a "crime"]

[Section 939.50](#)

[statutory classifications of felonies and potential penalties]

[Section 939.51](#)

[statutory classifications of misdemeanors and potential penalties]

[Section 939.60](#)

[statutory definition of a "felony" and "misdemeanor"]

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[Chapter 948](#)

[Section 948.015](#)

[statutory chapter titled "Crimes Against Children"]
[list of additional offenses against children that are defined in various state statutes outside of Ch. 948, some which are subject to the reporting obligation under section 115.31 (i.e., to the extent the offense is considered a "crime")]

[Section 940.225\(3m\)](#)

[definition of fourth degree sexual assault; see also the definition of "sexual contact" within section 940.225(5)]

Wisconsin Administrative Code

[Subch. XI of Ch. PI 34](#)

[professional misconduct; DPI investigations and license actions]

Federal Law

[20 U.S.C. §7801\(30\)](#)

[definition of local education agency under the Elementary and Secondary Education Act]

Cross References:

[Insert appropriate cross references to the policy as applicable to your district.]

WCSD Policy 522

WASB Policy 522.6 Sample policy 1

Adoption Date: