



STATE OF CONNECTICUT  
STATE BOARD OF EDUCATION



Human Services Committee  
February 10, 2011

TESTIMONY OF

GEORGE A. COLEMAN, ACTING COMMISSIONER OF EDUCATION

ON

HOUSE BILL 5431

AN ACT CONCERNING NOTICE BY THE COMMISSIONER OF CHILDREN AND  
FAMILIES TO THE COMMISSIONER OF EDUCATION CONCERNING  
ALLEGATIONS OF ABUSE AND NEGLECT BY A SCHOOL EMPLOYEE

The State Department of Education (CSDE) supports the intent behind H.B. No. 5431, *AAC Notice by the Commissioner of Children and Families to the Commissioner of Education Concerning Allegations of Abuse and Neglect by a School Employee*, to require the Department of Children and Families (DCF) to notify the CSDE when DCF substantiates an allegation that a school employee has abused or neglected a child.

The bill codifies one of the recommendations from a report of the Attorney General and Child Advocate entitled "*Protecting Our Children: Improving Protections for Children When Allegations are Made that School System Personnel Abused and/or Neglected Children*" dated July 8, 2010 concerning investigations of reports of child abuse and neglect in schools. The full report is available via the Office of the Attorney General's website at - <http://www.ct.gov/ag/lib/ag/health/defedureport070810.pdf>.

CSDE suggests that the Committee consider the recommendations in the above report, along with additional recommendations presented by both DCF and SDE in response to the report of the Attorney General and Child Advocate. Please find attached the response from CSDE.



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To: The Honorable M. Jodi Rell, Governor  
Thomas P. Sheridan, Senate Clerk, Connecticut General Assembly  
Garey E. Coleman, House Clerk, Connecticut General Assembly

From: Mark K. McQuillan, Commissioner  
State Department of Education 

Date: January 3, 2011

Subject: Response to AG/OCA Report Concerning Abuse/Neglect in Schools

The following is a written response prepared by the State Department of Education (SDE) to the report entitled "Protecting Our Children: Improving Protections for Children when Allegations are made that School System Personnel Abused and/or Neglected Children," issued by the Office of the Child Advocate and the Office of the Attorney General on July 8, 2010. The report makes thirteen specific recommendations, some of which apply to SDE and some of which apply to the Department of Children and Families (DCF).

Recommendation #1:

The provisions of Connecticut General Statutes 10-221d should be amended to require the SDE to check the DCF Child Abuse and Neglect Registry prior to issuing or renewing a certification.

*SDE Response:*

The SDE agrees that the registry should be checked as recommended and that Connecticut General Statutes (C.G.S.) Section 10-221d should be amended. SDE receives thousands of certification applications and renewals each year and does not have the staff capacity to check the registry for every application it receives. SDE recommends that C.G.S. Section 10-221d be amended by inserting the language below at the end of the section. This proposed revision mirrors the language currently in statute which provides for the process of conducting criminal background checks in subsections (e) of (f) of C.G.S. Section 10-221d.

**Sec. 10-221d. Criminal history records checks of school personnel. Fingerprinting. Termination or dismissal.**

(e) The State Board of Education shall submit, periodically, a database of applicants for an initial issuance of certificate, authorization or permit pursuant to sections 10-144o to 10-149, inclusive, to the State Police Bureau of Identification. The State Police Bureau of Identification shall conduct a state criminal history records check against such database and notify the State Board of Education of any such applicant who has a criminal conviction. The State Board of

Education shall not issue a certificate, authorization or permit until it receives and evaluates the results of such check and may deny an application in accordance with the provisions of subsection (j) of section 10-145b.

(f) The State Board of Education shall submit, periodically, a database of all persons who hold certificates, authorizations or permits to the State Police Bureau of Identification. The State Police Bureau of Identification shall conduct a state criminal history records check against such database and shall notify the State Board of Education of any such person who has a criminal conviction. The State Board of Education may revoke the certificate, authorization or permit of such person in accordance with the provisions of subsection (j) of section 10-145b.

(g) The State Board of Education shall submit, periodically, a database of all persons who hold certificates, authorizations or permits to the Department of Children and Families. The Department of Children and Families shall conduct a records check against such database and shall disclose any pertinent records, as defined in section 17a-28, regarding such persons to the State Board of Education. Where appropriate, the State Board of Education may revoke the certificate, authorization or permit of such person in accordance with the provisions of subsection (j) of section 10-145b.

Recommendation #2:

- (a) The provisions of Conn. Gen. Stat. 17a-28(f) should be amended to give school districts the same access to the DCF Child Abuse & Neglect Registry that the State Department of Education has in connection with background checks for hiring. Waivers from prospective employees should not be required for school district access to the Registry.
- (b) The provisions of Conn. Gen. Stat. 10-221d should be amended to require school districts to check the DCF Child Abuse & Neglect Registry prior to hiring any employee.

*SDE Response:*

- a) DCF addressed recommendation 2(a) in its response and has submitted a legislative proposal amending C.G.S. Section 17a-28(f) for consideration during the 2011 session of the General Assembly. SDE supports this change.
- b) As to recommendation 2(b), SDE supports this change and recommends the following change to subsection (a) of C.G.S. Section 10-221d.

**Sec. 10-221d. Criminal history records checks of school personnel. Fingerprinting.  
Termination or dismissal.**

(a) On and after July 1, 1994, each local and regional board of education shall (1) require each applicant for a position in a public school to state whether such person has ever been convicted of a crime or whether criminal charges are pending against such person at the time of such person's application, (2) require, subject to the provisions of subsection (d) of this section, each person hired by the board after July 1, 1994, to submit to state and national criminal history records checks within thirty days from the date of employment and may require, subject to the provisions of subsection (d) of this section, any person hired prior to said date to submit to state and national criminal history records checks, [and] (3) require each worker (A) placed within a school under a public assistance employment program, or (B) employed by a provider of supplemental services pursuant to the No Child Left Behind Act, P.L. 107-110, who performs a service involving direct student contact to submit to state and national criminal history records checks within thirty days from the date such worker begins to perform such service, and (4) require each application for a position in a public school to submit to a records check by the Department of Children and Families, pursuant to 17a-101k. The criminal history records checks required by this subsection shall be conducted in accordance with section 29-17a. If the local or regional board of education receives notice of a conviction of a crime which has not previously been disclosed by such person to the board, the board may (i) terminate the contract of a certified employee, in accordance with the provisions of section 10-151, and (ii) dismiss a noncertified employee provided such employee is notified of the reason for such dismissal, is provided the opportunity to file with the board, in writing, any proper answer to such criminal conviction and a copy of the notice of such criminal conviction, the answer and the dismissal order are made a part of the records of the board. In addition, if the local or regional board of education receives notice of a conviction of a crime by a person holding a certificate, authorization or permit issued by the State Board of Education or employed by a provider of supplemental services, the local or regional board of education shall send such notice to the State Board of Education. The supervisory agent of a private school may require any applicant for a position in such school or any employee of such school to submit to state and national criminal history records checks in accordance with the procedures described in this subsection.

**Recommendation #3:**

(a) The Department of Children and Families and the State Department of Education should be required to jointly publish a model mandated reporting policy for school districts and to revise such model policy as frequently as necessary to incorporate changes to applicable law. Such model policy should at a minimum specify: 1) who is a mandate reporter; 2) what must be reported; 3) the required time frame for both verbal and written mandated reports; and 4) that retaliation against mandated reports is prohibited.

- (b) School districts should be required to review mandated reporting policies annually and to update them as necessary. Such policies should at a minimum specify 1) who is a mandate reporter; 2) what must be reported; 3) the required time frame for both verbal and written mandated reports; and 4) that retaliation against mandated reports is prohibited.
- (c) The provision of Conn. Gen. Stat. 17a-101 should be amended to make all school employees, and any individual who performs any service under a contract with a school district, mandated reporters.

*SDE Response:*

- a) DCF is reviewing an existing memorandum of agreement and guidelines for school districts jointly issued by DCF and SDE and SDE is willing to offer assistance in this effort as well as distribute the guidelines to superintendents once complete.
- b) SDE would support a legislative change to require a biennial review of a school district's mandated reporting policy, pursuant to recommendation 3(b).
- c) SDE supports DCF's legislative proposal which addresses recommendation 3(c).

Recommendation #4:

- a) The provisions of Conn. Gen. Stat. 17a-101 should be amended to require DCF to provide mandated reported training to all new school district employees and contractors on an annual basis. All school districts should be required to mandate that all new employees and contractors attend such training and to adequately document that all such employees and contractors have received such training.
- b) School districts should be required to 1) distribute accurate information annually to all school staff regarding mandated reporter obligations; and 2) to provide refresher training every 3 years. Such training should be provided by DCF or by a trainer certified by DCF in accordance with such certificate. School districts should be required to adequately document that all employees and contractors have received such information and training.
- c) The provisions of Conn. Gen. Stat. 10-220a(a) should be amended to incorporate mandated reporter training into the mandatory in-service training requirements for certified educators.

*SDE Response:*

SDE defers to DCF regarding its capacity to accomplish these recommendations.

Recommendation #5:

- a) To ensure that all suspicious of abuse and neglect are reported to DCF, school districts should be required to maintain documentation of all allegations that school district employees or contractors have abused or neglected children. That documentation should be kept in a central location, and include a record of all DCF Hotline reports and notes of internal investigations regarding such allegations. Such documentation should be subject to State Department of Education review for quality assurance purposes.

*SDE Response:*

SDE agrees that districts should maintain documentation of all allegations of abuse and neglect. However, the SDE has concerns about requiring it's staff to review these documents for quality assurance purposes. SDE staff is not qualified to assess such documentation for confidentiality reasons and does not have the staff to conduct site visits. SDE recommends that DCF be tasked with the responsibility to conduct the reviews for quality assurance purposes.

Recommendation #6:

- a) DCF should utilize LINK—the computer system DCF uses to track and administer all reports to the DCF Hotline—to create a system for tracking delayed reporting, investigations of such delays, and school district responses to such delays.
- b) DCF should promulgate policies for investigating failures to make timely mandated reports, including considering referrals to law enforcement agencies and guidance on when DCF itself should impose mandated reporter training.
- c) The provisions of Conn. Gen. Stat. 17a-101a should be amended to broaden the range of possible remedies intended to promote compliance with mandated reporting by empowering DCF to impose civil penalties for failure to make timely mandate reports.

*SDE Response:*

- a) SDE defers to DCF as to this recommendation.
- b) SDE defers to DCF as to this recommendation.
- c) As to 6(c), SDE suggests that additional remedies should be adopted to promote compliance with the reporting requirements of superintendents in C.G.S. Sections 17a-101i and 10-221d(a), such as imposing civil penalties.

Recommendation #7:

- a) The provisions of Conn. Gen. Stat. 17a-101c should be amended in the following respects: (1) to require DCF to notify the State Department of Education, or other state licensing authority, of all allegations of abuse or neglect lodged against an individual licensed by SDE, or such other agency; and (2) to require such notice regarding all DCF Hotline reports concerning suspected abuse or neglect in a school, rather than just reports made by mandated reporters.
- b) Conn. Gen. Stat. 17a-101b(d) should be amended to clearly define “person in charge” of a school.

*SDE Response:*

SDE supports these recommendations as well as DCF’s proposed legislative changes.

Recommendation #8:

- a) Connecticut law should be modified to require school districts to provide information in the possession of the school to DCF immediately upon request by DCF.

*SDE Response:*

SDE supports recommendation 8 and the legislative proposal put forth by DCF to address this issue. However, SDE recommends that considerations be made to 1) clarify the type of information that the district must provide and whether there are any exceptions; 2) establish a process to ensure confidentiality; and 3) ensure immunity for school officials if confidentiality rules are broken for good cause.

Recommendation #9:

- a) Mandated reporting laws should be strictly adhered to.
- b) The moment that a mandated reporter in a school district has reasonable cause to believe that a child has been abused or neglected the mandated reporter should make the DCF hotline report.
- c) In those situations where DCF accepts the report for investigation, and/or a law enforcement investigation is under way, the school district should defer to the priority of the DCF/law enforcement investigation in order to avoid interfering with that investigation.

- d) Regardless of the result of the DCF/law enforcement investigation the school district should conduct a proper human resources investigation when it will no longer impede the DCF/law enforcement investigation.

*SDE Response:*

SDE defers to DCF as to recommendation 9.

Recommendation #10:

- a) DCF should conduct regularly scheduled random quality assurance file reviews of school related investigations by DCF and provide appropriate remediation where necessary.
- b) DCF should assess how it can better support investigators when important leads are identified during the course of a DCF investigation and time to complete the investigation is running short.

*SDE Response:*

SDE defers to DCF as to recommendation 10.

Recommendation #11:

- a) After a DCF or law enforcement investigation, school districts should conduct their own investigation of allegations of improper conduct for the purpose of determining whether there is a violation of teacher or administrator codes of professional conduct, whether there is a violation of school district policy, whether disciplinary action is warranted, and whether it is appropriate to request revocation of certification through the State Department of Education.

*SDE Response:*

SDE supports this recommendation and suggests that DCF and SDE work together to establish a model protocol to conduct such a review.

Recommendation #12:

- a) Conn. Gen. Stat. 17a-101i should be amended to require DCF, rather than school district superintendents, to directly notify SDE of substantiated allegations regarding a certified school employee. DCF should still be required to notify the school district

- superintendents in order for school districts to take appropriate human resources action.
- b) Conn. Gen. Stat. 17a-101i should be amended to require DCF to notify SDE when neglect, not just abuse as under current law, is substantiated and to permit DCF to share with SDE records related to investigations resulting in substantiations for abuse or neglect.
  - c) Conn. Gen. Stat. 17a-101i should be amended to require notice to SDE when neglect or abuse allegations are substantiated, regardless of whether the individual is placed on the DCF Child Abuse & Neglect Registry, if the individual is substantiated as “person entrusted with the care of a child,” meaning a person given access to a child by a person responsible for the health, welfare or care of a child for the purpose of providing education, child care, counseling, spiritual guidance, coaching, training, instruction, tutoring or mentoring of such child.
  - d) Conn. Gen. Stat. 17a-101i should be amended to clarify that school districts must provide notice to SDE upon substantiation by DCF of an allegation of abuse or neglect, even if the individual resigns his or her current position.
  - e) DCF and SDE should coordinate an appropriate review which includes the databases of both agencies to ensure that SDE is made aware of all certified educators for which DCF has substantiated allegations of abuse and neglect.

*SDE Response:*

- a) SDE supports this recommendation and DCF’s legislative proposal to address it. However, the Department further recommends that C.G.S. Section 17a-101i be amended to require districts to notify SDE of any substantiated allegation regarding certified subcontractors, as well as certified employees.
- b) SDE supports this recommendation and DCF’s legislative proposal to address it.
- c) SDE supports this recommendation and DCF’s legislative proposal to address it. However, the Department further recommends that C.G.S. Section 17a-101i be amended to require that DCF notify SDE when substantiated allegations are appealed.
- d) SDE supports this recommendation and DCF’s legislative proposal to address it.
- e) SDE will work with DCF to adopt this recommendation including reviewing confidentiality laws that may currently prohibit this from occurring.

Recommendation #13:

- a) The State Department of Education should be prepared to initiate proceedings to revoke certification where warranted regardless of whether or not a school district requests revocation of an educator’s certification.

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*SDE Response:*

SDE supports this recommendation and will work to implement it under the authority granted to it under C.G.S. Section 10-145b(m).

cc: The Honorable Dan Malloy, Governor Elect