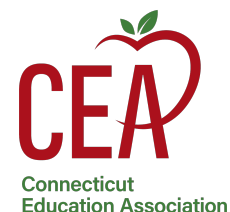


Legal Bulletin



DCF AMENDMENTS

Bulletin Number: 2024-01

After considerable discussion and collaboration with key stakeholders, CEA was vital in advocating for the passage of Public Act 24-41, which went into effect on July 1, 2024. This legislation amends several mandated reporter statutes, as well as the “Educational Employer Verification” form as outlined below.

I. PRELIMINARY INQUIRY:

Conn. Gen. Stat. §17a-101a(a)(1) states:

Any mandated reporter, as described in section 17a-101, who in the ordinary course of such person’s employment or profession ***has reasonable cause to suspect or believe*** that any child under the age of eighteen years* (A) has been abused or neglected, as described in Section 46b-120, (B) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (C) is placed at imminent risk of serious harm.... [shall report or cause to be reported any suspected abuse or neglect.]

*Age does not matter if the allegations are sexual.

Conn. Gen. Stat. §17a-101a(d) provides that a mandated reporter’s ***suspicion or belief*** may be based on factors including, but not limited to: Observations, allegations, facts or statements by a child or victim. None of these factors require certainty or probable cause. Moreover, current practice prohibits a mandated reporter from conducting their own inquiry to determine whether allegations of abuse or neglect rise to the level of “reasonable cause to suspect or believe that abuse has occurred.”

Public Act 24-41 amends the statute with the following provision:

Nothing in this section shall preclude a mandated reporter from conducting a **preliminary inquiry** to determine if reasonable cause exists for such mandated reporter to make a report pursuant to subsection (a) of this section.

II. GOOD FAITH LANGUAGE:

CEA tracked a 96% unsubstantiation rate for members we represented since Conn. Gen. Stat. §17a-101a(d) was broadened in 2015 making a failure to report a Class E Felony. That data clearly suggests that mandated reporters are over reporting cases to the DCF. Previously, Conn. Gen. Stat. §17a-101e (b) provided immunity for teachers who in good faith made a report, even if the report was unsubstantiated. It also provided immunity to teachers who in “**good faith**” did not make a report. That protection for not reporting was removed from the statute in 2018. Public Act 24-41 now restores that “good faith” language as stated below:

(b) Any person, institution, or agency that (1) **makes or does not make, in good faith**, a report pursuant to sections 17a-101a to 17a-101d, inclusive, as amended by this act and 17a-103.....shall be immune from liability, civil or criminal which might otherwise arise from or be related to the actions taken pursuant to this subsection and shall have the same immunity with respect to any judicial proceeding which results from such reports or actions, provided such person did not perpetrate or cause such abuse or neglect...

III. EDUCATIONAL EMPLOYER VERIFICATION FORM:

Conn. Gen. Stats. §10-222c requires local or regional board of education to obtain certain data from both current and former employers before it offers an applicant a position involving contact with children. The data sought involves information concerning certification status, investigations and substantiations of abuse, neglect or sexual misconduct, which information is collected on a form known as the “Educational Employer Verification” form.

Currently, in most instances when a teacher is substantiated by the DCF, they are immediately asked to resign. If CEA Member Legal Services continues to represent the substantiated member, after they are forced to resign and subsequently obtains a reversal on appeal, the former employing school district has refused to acknowledge that favorable outcome on the form, in effect rendering an appeal moot. As a result, the teacher has little chance of ever teaching again.

However, Public Act 24-41 amends the form to include the disposition of an appeal as follows.

A) the dates of employment of the applicant, and (B) a statement as to whether the employer has knowledge that the applicant (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated, **unless such substantiation has been reversed as**

a result of an appeal conducted pursuant to section 17a-101k; (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct, **unless such substantiation has been reversed as a result of an appeal conducted pursuant to section 17a-101k;** or (iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct, **unless such substantiation has been reversed as a result of an appeal conducted pursuant to section 17a-101k.**

Based on the changes to the form, as codified now in statute, upon notification that the substantiation has been reversed, the district should be completing the form based on the outcome of an appeal if one was in fact taken.

IV. CONCLUSION:

With these amendments, teachers will no longer have to blindly report everything just to avoid potential criminal prosecution for a failure to report. Teachers will now have some discretion that has always been contemplated by the mandated reporting statute. Both the ability to conduct a “preliminary inquiry,” along with immunity for not reporting allegations in “good faith” will go a long way to; a) reduce the number of DCF cases in general, b) minimize the number of teachers who will suffer the angst experienced through this process, c) reduce the number of families who face unnecessary DCF involvement, and d) mitigate the amount of disruption in the classroom.