

Legally Speaking

VOLUME XX Issue I

Fall 2019

In This Issue

Child Abuse and Neglect Reporting and Other Requirements	1,2
Guardians (SSO's)	1,4
Parental Disagreements on Educational Decisions	3,4
School Purchasing/Contracting Procedure	4



Vision

100% Student Success

Mission

Educate and prepare each student for college, career and life.

School Board Members

Carol J. Cook
Chairperson
Eileen Long
Vice Chairperson

Lisa N. Cane
Nicole M. Carr
Bill Dudley
Rene Flowers
Joanne Lentino

Michael A. Grego, Ed.D.
Superintendent

www.pcsb.org

The School Board of Pinellas County, Florida, prohibits any and all forms of discrimination and harassment based on race, color, sex, religion, national origin, marital status, age, sexual orientation or disability in any of its programs, services or activities.

Child Abuse and Neglect Reporting and Other Requirements

By David Koperski, School Board Attorney

For over a decade, the district's Vision has officially been "100% Student Success." However, it is difficult, if not impossible, for a student to reach their full potential in school if they are experiencing abuse or neglect. This article will discuss the rules and recommended practices regarding child abuse and neglect reporting by district employees.

Before reviewing some of the rules we all need to abide, we need to understand what we are talking about. The law defines child abuse as "any willful act or threatened act that results in any physical, mental or sexual injury or harm that causes or is likely to cause the child's physical, mental or emotional health to be significantly impaired." Abuse includes acts or omissions, so that not taking some action to prevent likely harm could rise to the level of abuse. Separately, child neglect is defined as the "failure to provide



Legal Department Mission Statement

The mission of the School Board Attorney and Staff Attorney Offices is to provide the highest quality legal services to the Pinellas County School Board, the Superintendent and the District by ensuring timely and accurate legal advice and effective representation on all legal matters.

(Continued on page 2)

Guardians (SSO's)

By Heather Wallace, Assistant School Board Attorney

In response to the tragedy at Marjory Stoneman Douglas High School, the Florida legislature added a requirement in Florida Statutes Chapter 1006 that every district school board partner with one or more law enforcement agencies or security agencies to establish one or more safe-school officers at each school within the district, including charter schools. In Pinellas County, the District has met this requirement through a combination of three different types of safe school officers, School Resource Officers (SROs), Pinellas Schools Police Officers, and Guardians (What we call School Security Officers, or SSO's)

Section 1006.12, Florida Statutes, created the Coach Aaron Feis Guardian

(Continued on page 4)

Child Abuse Reporting and Other Requirements

(Continued from page 1)

adequate food, clothing, shelter, health care or needed supervision. "Lastly, when discussing child abuse and neglect, "child" is defined by law to mean any unmarried person under 18 years of age.

***Reports are always
made by calling the
Florida Abuse Hotline
at 1-800-96ABUSE
(1-800-962-2873)***

Pursuant to Florida law, any person who knows, or has "reasonable cause to suspect" that child abuse or neglect has occurred has an obligation to report it. Failing to report or making a knowingly false report could lead to a criminal charge. If you have a good faith belief that abuse or neglect is present, the obligation to report rests with you, and you cannot simply tell a supervisor or ask someone else to make the report – you need to make the report yourself, and do so without any delay. However, you should always notify your supervisor that the call has been made. While everyone is required to report, only certain individuals in positions of trust are required to provide their names to the state when they make the report. These individuals include all school-based personnel, nurses, social workers, day-care workers, law enforcement officers, and many others.

Reports are always made by calling the Florida Abuse Hotline at 1-800-96ABUSE (1800-962-2873) which is operated by the Florida Department of Children and Families (DCF). Persons required to

report must provide their names to the hotline staff, but otherwise the fact that you called the hotline is confidential to everyone other than DCF staff needing to know it, law enforcement who may investigate it, and the state attorney in the event of a criminal prosecution for child abuse or neglect. However, persons who make reports to the hotline "in good faith" enjoy immunity and cannot be sued civilly by any party, or charged criminally for falsely reporting.

In some instances, you may struggle with whether to report or not report a suspicion of abuse or neglect. The definitions of each term have already been provided above, but they may not necessarily answer your questions about whether abuse or neglect is present. The district provides training regarding child abuse and neglect reporting that explores more details, but you



should certainly look at physical, mental, and emotional signs of possible abuse and neglect. These signs could certainly include unexplained bruises or scars, unusual fearfulness, frequent injuries, malnutrition, and a student who is acting more withdrawn than usual. You may also engage the student in general welfare questions that may lead to more specific questions, depending upon the responses. Ultimately, you will need to exercise

your own professional judgment in deciding whether you have a "reasonable cause to suspect" child abuse or neglect. However, again, if you do call, your identity will remain confidential to everyone outside of DCF staff, law enforcement, and the state attorney if criminal charges are filed against the person engaging in the abuse or neglect; further, you will enjoy immunity from any civil or criminal litigation based upon your good faith call, meaning that no party could sue you even if abuse or neglect was not, in fact, present.

In addition to the legal requirement to report suspected child abuse and neglect, Florida law also requires that all public schools display a poster, in English and Spanish, in a prominent place that includes the abuse hotline number and other information regarding abuse and neglect reporting. All district schools have already received such posters, but if your administrator needs replacements, they may contact our office at 588-6220 for assistance.

For more information regarding child abuse and neglect reporting, you can review the district's "Child Abuse Reporting Procedures" pamphlet. You can access that document on the eLearn site for the Social Work Department, or simply ask your school's social worker for a copy. In our next issue of *Legally Speaking*, we will review the rules regarding how to handle a school visit by a child protective investigator, who may want to review student records and/or speak with a child without parental consent. ■

Parental Disagreements on Educational Decisions

By Laurie Dart, Staff Attorney

It has been over four years since we wrote an article reviewing the process to follow when school personnel find themselves in the middle of a parental dispute involving an educational decision regarding their child. *See, Legally Speaking, Volume XVI, Issue 1 (Fall 2015)*. Because these issues occur at schools daily, this article will re-visit the common scenarios presented as well as the application of the School Board policy.

The general rule is that parents have the authority to make decisions on behalf of their minor child. Only when they disagree or give conflicting direction on a major educational decision (such as early release, medication, ESE consents, and the like) does School Board Policy 5500.01K come into play (found on page 29 of the Code of Student Conduct). It states:

In the event that the school receives conflicting direction from divorced or separated parents (including parents who were never married) concerning a student, the school may rely on the direction of the parent identified by the following criteria, which are listed in order of priority:

First, the parent who is designated in a parenting plan or other Florida court order as having either educational decision-making authority or sole parental responsibility over the student; or

Second, if both parents are designated as educational decision-makers with shared parental responsibility, the parent who resides at the address specified in the parenting plan or other Florida court order as the address to be used for school assignment purposes; or

Third, if no such parenting plan or order exists or no such address is specified, the parent who resides at the address used by the district for student assignment purposes, whether or not the student is attending their zoned school; or

Fourth, if the address on file with the district is not valid or otherwise relevant, the school may rely upon the direction of the parent who enrolled the student.

Prior to the adoption of School Board Policy 5500.01K, the parent with whom a student resided more than fifty percent of the time, was considered the parent having authority to make educational decisions. The reason this policy was amended is that Florida law changed in 2008. Terms such as “custodial parent,” “primary residential parent” and “visitation” were deleted and replaced with the terms “parenting plan” and “timesharing” intended to recognize that both parents have rights and responsibilities in raising a child regardless where the child lives. Section IV of the form Parenting Plan approved by the Florida Supreme Court (Form 12.995) contains three options regarding “Parental Responsibility and Decision Making.” The first option is “Shared Parental Responsibility” and states that par-

ents are to jointly make all decisions. The second option is “Shared Parental Responsibility with Decision Making Authority” and states that parents should agree on major decisions but in the event they cannot, one of the parents is designated to make certain decisions including educational decisions. The third option designates one of the parents as having “Sole Parental Responsibility.” See,

<https://www.flcourts.org/content/download/403367/3458536/995a.pdf>

If you are presented with a Florida Parenting Plan and option two or three is checked, then under School Board Policy, you can rely on the parent designated in the court order as having decision making authority. Often, however, it will not be that easy.

In cases where the court order provides for “Shared Parental Responsibility” and the parents do not in fact agree, or where it is a court order from a different state, a Florida court order other than the form described above, or if there is no court order, then the protocol listed in the Policy should be followed. A couple of common examples will illustrate: a mother directs the school to release her third grader to R Club after school and the father disagrees stating that the child should ride the bus home. The couple were never married and there is no court order. The father’s address is the address in FOCUS used for student assignment, so the policy would direct you to defer to the father’s direction. Another example involves parents with Shared Parental Responsibility who disagree on the student’s continued enrollment in the magnet program at your school. There is no current address designated on the Parenting Plan or in FOCUS as both parents have moved since their divorce

(Continued on page 4)

Parental Disagreements on Educational Decisions
 (Continued from page 3)

several years ago. In this case, you would default to the parent who enrolled the student.

While the protocol established by the policy may seem arbitrary and unfair to many parents, it is a useful mechanism to help schools resolve the conflict when they are caught in the middle of parental disagreements. Feel free to call the legal department to help you sort out questions that come up on this topic. ■

School Purchasing/Contracting Procedure

By Heather Wallace, Assistant School Board Attorney

Florida law requires that any purchases that exceed \$50,000 must be approved by the School Board. This requirement also applies to multiple purchases with the same vendor that, in the aggregate, will exceed \$50,000. In order to assure that purchases with the same vendor, added together, do not exceed \$50,000, schools and department should ensure that all contracts are forwarded to the Purchasing Department prior to signature. This allows that department to ensure that any purchases that must be approved by the School Board are scheduled for Board approval. The Purchasing Department will also provide any contracts to the Board Attorneys office for review and approval prior to signature. ■

Guardians (SSO's)
 (Continued from page 1)

Program in honor of a coach at MSDHS who gave his life in order to save others. Guardians are employees of the school district, who undergo a background check, psychological examination and training that is administered by the Pinellas County Sheriff's Office. The length and type of training is prescribed by statute. Additional training is also provided by the District in areas such as confidentiality of student records and other issues important to being in a school. Although they receive this training and are allowed to carry a weapon on campus, guardians are not law enforcement officers and are not allowed to engage in any law enforcement functions other than in an active shooter situation. They do not have arrest powers and are not authorized to participate in student discipline. Further, they are not permitted to serve as the person with law enforcement experience on the school threat assessment team. They are tasked with keeping campuses safe from intrusion and, as such, must remain vigilant in patrolling the campus. ■

The School Board Attorney and Staff Attorney Offices would like to wish you and your families a safe and Happy Holiday Season



**PINELLAS COUNTY
 SCHOOL BOARD
 ATTORNEYS OFFICE**

301 Fourth St. SW
 PO Box 2942
 Largo, FL 33779-2942
 Phone: 727-588-6220
 Fax: 727-588-6514

Legal Staff Members

- David Koperski, School Board Attorney
- Heather Wallace, Assistant School Board Attorney
- Laurie A. Dart, Staff Attorney
- Kerry Michelotti, Legal Assistant
- Barbara Anson, Legal Assistant
- Sandra Barringer, Legal Clerk - Newsletter Publisher

barringers@pcsb.org

