

# Legally Speaking

## In This Issue

Purchasing Rules & Contract Provisions—Part I Background & Parental Rights	1,2
Child Protection—Reporting and Investigations	1,2 4
Public Records—Part 1	3



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## Purchasing Rules & Contract Provisions—Part I

By David Koperski, School Board Attorney

This article will discuss recent updates to purchasing rules in the District. Whenever a purchase is made, a legal contract is entered into between the parties. Sometimes that contract is a specific written contract, and sometimes it is simply a purchase order governed by the District's general terms and conditions. In the next issue of *Legally Speaking*, we will discuss some common provisions that should be included in contracts that anyone signs to buy goods or services for our schools or the District generally.

Recently, the School Board approved changes to Policy 6320, entitled "Procurement and Contracting." The changes included numerous updates to law and practice, but also clarified which District personnel have the authority to approve and sign contracts. First, all contracts that expend more than \$50,000 must be approved by the School Board at a School Board meeting.

*(continued on page 2)*



## 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.

## Child Protection—Reporting and Investigations of Abuse or Neglect Allegations

By Laurie Dart, Staff Attorney; Donna Sicilian, Executive Director, Student Services and Vicki Koller, Managing Officer, Social Work Services

This article is an update and refresher on a few key issues regarding the process to report suspicion of child abuse or neglect, as well as the process for authorities to investigate the report. The following are frequent questions that come up regarding reporting:

### What needs to be reported?

Anyone who has reasonable cause to suspect that a child is being abused or neglected must report their suspicion to Florida's Department of Children & Families (DCF). Abuse is defined broadly under the statute and means "any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's

*(continued on page 2)*

### ***Purchasing Rules & Contract Provisions***

*(Continued from page 1)*

Most of these purchases result from formal competitive solicitation processes, such as a Request for Proposal or an Invitation to Bid where various vendors submit their bids in an attempt to win the business. Second, for contracts from \$10,000.01 to \$50,000, only the Superintendent or an administrator with a title of executive director or higher (this does not include school principals) can approve and sign. Next, school principals and department directors may approve and execute contracts for \$10,000 or less. Lastly, the Director of Purchasing can approve certain renewals, extensions, and contracts that have already been approved by other governmental agencies. Please ensure that these rules are followed, especially at the school and departmental level where smaller purchases (i.e., \$1,000-\$20,000) occur on a regular basis.

Relatedly, in the last couple of years, the District has instituted a vetting process for contracts involving technology purchases. Any time that a school or department seeks to buy hardware, software, or other technology-related goods or services, it must first be put through the IT Governance purchasing process. This includes a review by staff in our TIS Department, Purchasing Department, and Legal Department. One of the purposes of this process is to ensure that existing District technology cannot already perform the tasks of the proposed new technology. Several proposals have been rejected for this reason, saving the District time and money by

avoiding duplicative products. If your school or department is seeking to buy technology that is not already on an approved list, please review and follow the IT Governance purchasing process. You can learn more about this process here: <https://www.pcsb.org/Page/37655>.

If there is ever any doubt about the existence of signature authority, please contact our office. In fact, we highly recommend a legal review of all contracts entered into by any District personnel and you may ask for such a review by using the Request for Legal Services (PCS Form 1-3109) here: <https://www.pcsb.org/Page/484>.

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### ***Child Protection—Reporting***

*(Continued from page 1)*

physical, mental, or emotional health to be significantly impaired.” The definition includes an omission or failure to protect a child from harm. The term “neglect” means “that the parent or other person responsible for the child’s welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so.” Obvious signs of abuse include physical injuries or unexplained bruises or scars. Less obvious signs may include a child acting out, more withdrawn or other changes in their personality. District training materials to help identify signs of abuse or neglect can be found on the School Social Work Sharepoint site.

### **Who Needs to Report Suspected Child Abuse or Neglect?**

We frequently hear District personnel and other professionals state that they are “mandatory reporters” of suspected child abuse or neglect. In fact, all adults are mandatory reporters. While reporting suspected child abuse or neglect is legally required by all adults, the statute states that people employed in certain occupations (e.g., health care professionals, school officials and social workers) must provide their name to the abuse hotline counselor. People who are not employed in the designated occupations do not have to give their name and can report their suspicion anonymously. The statute, Section 39.201 Fla. Stat., was amended in 2003 by Senate Bill 1442 to clarify that reports of suspected child abuse are mandatory for any person, but only certain reporters need to provide their name. Notwithstanding the fact that the law was clarified over twenty years ago, the term “mandatory reporter” is still frequently used, incorrectly suggesting that some adults do not have an obligation to report child abuse.

### **Where do I Report Suspected Child Abuse or Neglect?**

A report can be made by telephone at 1-800-962-2873 (1-800-96ABUSE) or on the new online reporting portal accessed at <https://reportabuse.myflfamilies.com>. DCF advises that the on-line portal should not be used for situations requiring immediate attention.

*(continued on page 4)*

## Public Records—Part I

By Sara Waechter, Assistant School Board Attorney

Issues regarding public records and their release remain prevalent and sometimes challenging for government agencies in our state, including our District. In Florida, public records are governed by a provision of the state's constitution and a statute entitled the Public Records Act. These laws will be the topic of this article and a follow-up article in the next issue of *Legally Speaking* that will address some of the common exceptions from the public records rules. The Public Records Act is one of the laws informally known as Florida's "Sunshine Laws." The Sunshine Laws relate to the ability of the public to access the workings of the various governments in the state – in other words, they shine some light on public business. The other Sunshine Law is the open meetings law, which requires that meetings of governmental boards, the various boards such as our School Board, be advertised and open to the public.

The Public Records Act generally provides that "public records" held by a "public agency" must be accessible to anyone who asks, unless an exception exists somewhere else in the law precluding the record's release. While this general concept seems simple enough, let us start with some definitions so we are clear about the terms we will be using. First, as it is the primary topic of this article, we should define "public record." The law defines this as "all documents...or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." The Florida Supreme Court has expounded upon this definition by stating that public records must "be used to perpetuate, communicate or formalize knowledge." So, the vast majority of records we create or receive at work are public records, but not all are. The key question is whether the record was made or received as part of the official business of the District. For example, you may receive a birthday card at work from a friend, and you may even put it in your locker or your desk drawer, but it is not a public record – rather, it is a personal record not related to your work at the district.

This definition is expansive and includes any format of a record, including electronic and digital records, in addition to hard copy paper records. Of course, to be covered by the Public Records Act, a record must first exist. So, for example, an oral conversation between you and a coworker about

work is not subject to the law because no record was created.

The second important term to define is "public agency." The District is clearly a public agency, but the law also states that certain outside entities or people with whom we do business may also be subject to the Public Records Act. We include a provision in our contracts with these outside contractors to ensure they understand and follow these rules.

As noted above, the primary obligation we have under the law is to allow the public access to the public records of the district. This access is accomplished through a public records request, or "PRR." In the District, PRRs made by the media are processed by the Office of Strategic Communications and PRRs made by any other person or group are processed by the School Board Attorney's Office. Certain rules apply, such as our ability to charge a fee for the staff time needed to collect, and redact when needed, the records if the time will exceed fifteen minutes. Lastly, we are obligated to immediately acknowledge the request and then respond fully within a reasonable amount of time, which will depend upon the breadth of the request.

The School Board has adopted Policy 8310, Public Records Examination and Inspection, that further describes the rules relating to the processing of PRRs. You may view that policy on the district's website by clicking the "District Bylaws and Policies" link under the "About Us" tab on the homepage.

One issue that arises when responding to PRRs is whether an exception applies that requires us to redact certain portions of the record before releasing it or prevents the record from being released entirely. Part II of this series in the next issue of *Legally Speaking* will discuss the redaction process and common exceptions to releasing public records.

Another obligation we have under the law is to retain public records in accordance with district and state rules. Generally, the length of time we must retain public records depends upon the substance, and not the format, of the record. The District's Records Management Department administers these rules.

As we perform our differing responsibilities in the district, we should remain aware of the basic rules regarding public records. Should you receive a request for public records and have questions, please contact the Legal Department.

**Child Protection—Reporting***(Continued from page 2)*

The name of the person making the report or other identifying information, is confidential and cannot be released by DCF except in limited circumstance. School officials who are required to give their name when making a report and make such report in their official capacity, may request a written summary of the outcome of the investigation. The statute provides that DCF should mail a notice to the reporter within 10 days after completing the child protective investigation.

**Consequences of Not Reporting or Making a False Report**

There are criminal consequences for failing to make a report when required to do so. Specifically, a person who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect, or who knowingly and willfully prevents another person from doing so, commits a third-degree felony. It is not sufficient to simply report the suspicion to a supervisor. The statute specifically states that a person “is not relieved of such obligation by notifying his or her supervisor.”

It is also a third-degree felony for making a false report or telling another person to make a false report. However, the statute provides that anyone who is “acting in good faith is immune from any liability.”

**How Are Reports Investigated**

In Pinellas County, the Sheriff’s Office previously conducted all child protection investigations

when reports of child abuse or neglect were made to DCF. That changed during the 2023 legislative session when House Bill 7061 repealed Section 39.3065 Fla. Stat., which was the provision delegating child protection investigations to the Sheriffs of certain counties. Now, all investigations are conducted throughout the state by DCF child protection investigators.

If the initial interview by the child protective investigator or law enforcement is conducted at school, a school staff member may be present only if the investigator believes that their presence (i) would enhance the success of the interview; and (ii) the child requests or consents to the presence of the school staff member at the interview.

**What to do if a Child Protection Investigator Comes to My School**

Below are steps to follow if a CPI investigator comes to your school:

1. Front office staff will ensure that the investigator signs in including their name and case number.
2. Front office staff should immediately notify an administrator.
3. Administrator should ask the CPI investigator if the case is institutional abuse, i.e. is the suspected abuser a school employee?
4. Administrator should ask which law enforcement agency(ies) is/are involved?
5. Administrator should ask whether their presence during the interview would be helpful. The CPI investigator and Law Enforcement Officer make the final decision whether school staff are present during the interview or not.
6. If the interview relates to institutional abuse, you may notify the family of the student to be interviewed unless CPI advises differently. If it is not institutional abuse, the family is not to be contacted by school staff. CPI will contact the family as part of their investigation.
7. If it is institutional abuse, the administrator should contact the Office of Professional Standards immediately to ensure they are aware.

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***The School Board Attorney  
and Staff Attorney Offices  
would like to wish you and  
your families a Safe and  
Happy Summer!***