

Another Reason to Report Suspected Abuse or Neglect to DCF: Lawrence V. Weiner

Education Law Notes

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We have repeatedly cautioned that those employees who are required by law to make reports to the Department of Children and Families [“DCF”] of suspected child abuse and neglect should always err on the side of caution and, even when in doubt, make a report. A recent decision by the Connecticut Appellate Court confirms that there is little downside to making a report (as opposed to the ample, adverse consequences of failing to make such a report).

In *Lawrence v. Weiner*, 154 Conn. App. 592 (2015), a teacher of an automotive repair class at a state technical high school experienced “an emergency situation in which he needed to use the restroom” while teaching a class. Consistent with school policy, the teacher had another staff member supervise his students during his absence from the classroom. While the teacher was in the restroom, however, a student was injured in his classroom while using a piece of machinery.

Later that day, the school's assistant principal made a report to DCF in light of suspicion that the teacher committed “physical neglect.” The teacher’s employment was eventually terminated. The teacher then brought a multi-count lawsuit in the Connecticut Superior Court against the assistant principal, alleging, among other things, claims of defamation, “false accusations,” infliction of emotional distress, and recklessness. In support of his lawsuit, the teacher noted that the assistant principal failed to: 1) disclose in the report to DCF that the teacher was in the restroom at the time of the accident, and that another staff member was supervising the students in his absence; and 2) wait for an investigation into the student's injury to be completed before making his report to DCF.

The assistant principal moved to dismiss the lawsuit, asserting that he was immune from liability due to the DCF reporting statute -- which itself protects individuals from liability for making good faith reports of suspected abuse or neglect to DCF, *General Statutes §17a-101e(b)* – as well as to the statutory immunity for state employees for any negligent actions performed within the scope of their employment. *General Statutes §4-165*. The Superior Court dismissed the lawsuit, and the Appellate Court upheld this dismissal.

The Appellate Court noted that there was nothing in the complaint that would indicate that the assistant principal knowingly made a false report of suspected neglect to DCF, or that prior to making the report he knew that another staff member was responsible for the injury. The Court rejected the teacher’s contention

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that the assistant principal should have first completed his own internal investigation, which took two days, before contacting DCF. To the contrary, the Appellate Court noted that a report to DCF must be made “as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm.” *General Statutes §17a-101b(a)*. Consequently, the Court reasoned that if the assistant principal had waited two days before contacting DCF so that he could complete his own investigation, he would have violated the statutory reporting mandate and potentially subjected himself to criminal prosecution. *General Statutes §17a-101a(b)*.

So What Is The Lesson?

On the one hand, if you are a statutorily mandated reporter and thus required to report suspected abuse or neglect to DCF, and if you make such a report, you are protected from liability as long as the report was made “in good faith.” One’s suspicion of abuse or neglect does not ultimately have to be accurate, but merely must be genuine. On the other hand, if you fail to make such a mandated report, you could face: 1) discipline, including possible termination from employment; 2) ineligibility for unemployment compensation benefits; <http://schoollaw.pullcomblog.com/archives/the-obligation-to-make-reports-to-dcf-and-unemployment-compensation-another-penalty-for-failing-to-notify-dcf/>; 3) possible liability via a lawsuit by any victims; and 4) potential criminal prosecution.

The scales, then, tip decidedly towards making a report. It is clear that once you have suspicion of abuse or neglect, you have to promptly make a report to DCF; you cannot await the outcome of any internal investigation. While school districts may have an independent obligation to investigate suspected abuse in light of child abuse statutes and various anti-discrimination/anti-harassment statutes, those mandates do not justify a failure to make a report to DCF (or even a delay in making such a report). After a report is made, then the school district can decide how its own investigation will interact with the DCF investigation.

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