

July 9, 2014

As part of our commitment to provide you with a legal resource that can offer cogent day-to-day advice and clear strategies for a secure future, we offer our pledge to also be your partner in information. We recognize the need for you to be immediately responsive to the changing requirements of the law, government regulations, and community needs. As such, our office will prepare *Action Papers* in response to the ever-changing laws and regulations affecting public education. Receipt of an Action Paper is an indication that your School District may want to consider changing a practice or policy. It also may indicate that your District is required by law to initiate or discontinue a practice or policy.

## **IN RE: Child Protection Updates**

As part of an ongoing effort to strengthen Pennsylvania's child abuse protection laws, Governor Corbett signed a 10 bill package making a number of additional changes to child abuse laws. These measures broaden the range of persons who can be found guilty of child abuse and significantly lower the threshold for the degree of injury, pain or impairment needed to trigger a report of suspected child abuse. The changes have significance for School Districts and its employees, as mandated reporters now include "any person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for profit or religious or other not-for-profit organization such as camps; athletic programs; enrichment programs; troops, clubs or similar organizations. School employees and independent contractors are now included as "persons responsible for a child's welfare." The definition of child care service is now broadened to include day care services or programs offered by a school. These new child abuse reporting requirements go into effect December 31, 2014 in order to give mandated reporters and others assigned new responsibilities, the opportunity to be trained.

The new legislation includes new categories for mandated reporters, elimination of supervisory review for reporting suspected child abuse, and an obligation to file a report based upon direct or credible second-hand observation of suspected child abuse. The elimination of "chain of command" reporting and expansion of individuals required to report are viewed as comprehensive improvements to protect the Commonwealth's children.

*Action Paper*

The Child Protective Services Law was amended to broaden the definition of perpetrator and clarify acts of abuse versus failures to act. An individual residing in the same home as the child must be 14 years of age or older to be considered a perpetrator. In instances of a failure to act, the age raises to 18 as it relates to a person responsible for the child's welfare. The definition of sexual abuse is unchanged with the exception that consensual activities between two children, ages 14-18 are excluded as sexual abuse, unless the use of force or coercion is involved. Child abuse has been refined to lower the threshold from serious bodily injury which requires impairment of a physical condition or substantial pain rather than severe pain or lasting impairment. Child abuse now includes behaviors that result in children being exposed to potentially harmful medical evaluations or treatments such as fabricating, feigning or inducing a medical condition or disease.

The amendments reiterate that parents have the right to physically discipline their children in accordance with existing law. Harm or injury to a child that results from the act of another child is not considered child abuse and need not be reported unless, the child who caused the abuse is a perpetrator (14 and residing in same home) or sexual offenses were committed. No child shall be considered a perpetrator as a result of physical or mental injuries caused during the course of a dispute, fight or scuffle entered into by mutual consent. The use of force for supervision, control and safety purposes applies to persons responsible for the child's welfare and is excluded from the definition of child abuse as long as the force was necessary to:

- Quell a disturbance,
- To remove a child from a disturbance that threatened physical injury to person or damage to property;
- To prevent the child from self-inflicted physical harm;
- For self-defense or defense of another person; or
- To obtain possession of weapons, dangerous objects, controlled substances or paraphernalia on the child or within their control.

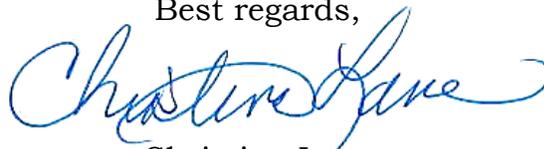
The Professional Educator Discipline Act was amended and renamed as Educator Discipline Act (effective February 16, 2014) to require the chief school administrators to file with the Department of Education the following regarding any educator who is the subject of suspected child abuse filed by the school entity under the Child Protective Services Law ("CPSL") and to file a report when the school entity knows an educator to have been named as the perpetrator of an indicated or founded report of child abuse or student abuse. The information in the required reports can also be included as a basis for disciplinary action against an educator. An educator is defined as a person who holds a certificate, who is a charter or cyber charter staff member or who

is a contracted educational service provider staff member. The one-year statute of limitations for filing misconduct complaints against educators has been eliminated.

Penalties for failure to report have increased. The immunity for making good faith reports extends to cooperating in investigations. Whistleblower protection is now extended to individuals making good faith reports in an employment setting. False reports are punishable.

Your policies will need to be reviewed and updated to comply with the changes to the Child Abuse Protection laws. Educational entities must ensure that they eliminate the reporting system of first going to a supervisor. School officials now must report to Childline and the Department of Education when an educator has been indicated or founded as a perpetrator of abuse. The attorneys of Andrews & Price, LLC can provide the requisite training to assist you in preventing, recognizing and reacting responsibly to situations of child abuse. We agree that it is a fundamental interest of all of us to protect our children and their future. Andrews & Price, LLC acknowledges this great responsibility and will assist you in this endeavor.

Best regards,



Christina Lane