

APPENDIX

The Senate Education Committee and the Senate Labor Committee
Dr. Lamont Repollet, Acting Commissioner
New Jersey Department of Education
Thursday, May 31, 2018
Committee Room 4, First Floor
12:00 p.m.

Good afternoon. Chairwoman Ruiz, Chairman Madden, members of the Senate Education and Labor Committee. Thank you for the opportunity to participate in today's joint committee hearing discussion on the reporting of child abuse in schools, teacher sexual misconduct and the process of tenure charge arbitration.

As I have said many times, as a parent and as an educator my motivation every day is making decisions that are best for kids. It is heart wrenching to know that there are individuals out there that may hurt a child. It is even more alarming that those individuals may be working or seeking employment in our schools. To say I am passionate about the safety of our students is an understatement. There is no place for impropriety or inappropriate conduct in our schools. Our teachers and administrators must always be held to a greater standard of behavior. Schools are responsible for the academic, social and emotional learning of the students in their care. We must never compromise on that charge.

The Murphy Administration's commitment to student safety has been evident from the Governor's actions in his first 100 days in office. He has invested in School Safety in this year's FY 19 budget and signed the "Pass the Trash" legislation into law on April 11, 2018.

As part of that legislation, the Department has been tasked with creating a public awareness campaign for the districts and preparing employment forms for prospective employers to use when hiring an individual for a job that requires regular contact with children. These plans and forms are in the final stages of review and will be available soon for our districts to use. The Department will use our broadcast system, social media and website to instruct candidates and districts on how to complete the new forms.

Department Oversight/Compliance

The Department plays various roles in the oversight of teacher conduct. We have several processes in place to implement the various laws associated with teacher certification, hiring, teacher conduct and certification revocation.

The Department oversees the issuance of teacher certifications. Prior to the issuance of a teacher certification, every candidate must submit to, and pass, a complete state and federal criminal history record check through NJ State Police and FBI. Certificate holders also have a continuing responsibility to report any arrests or indictments against them. Failure to do so can result in the revocation of their certificate.

The Department, through the State Board of Examiners, also maintains continued oversight over all certified teachers and school administrators throughout their career. The State Board of Examiners may immediately revoke the certificate of any teacher found guilty of a specific disqualifying criminal offenses, including child abuse, endangering the welfare of a child or sexual misconduct. The Board of Examiners may also suspend or revoke teacher certifications for unbecoming conduct, including inappropriate actions that may not rise to a criminal level. The State Board of Examiners receives information on various teacher sexual misconduct/child abuse cases from a number of sources including, criminal charges or convictions, DCP&P Institutional Abuse Investigation Unit (IAIU) Reports, out-of-state reporting, district reporting, tenure arbitration, and Department investigation reports.

Information regarding school staff sexual misconduct/child abuse can also come from news media reports, or alerts from members of the public. In addition, Chief School Administrators must report to the State Board of Examiners any teaching staff member who retires, resigns, or is terminated after allegations of unbecoming conduct.

For the 2016/17 school year, there were 3 teacher certifications revoked for child endangerment and 28 for sexual misconduct. For the same time period there were 2 certification suspensions for child endangerment and 0 for sexual misconduct.

For this school year – 2017/18 – we have only partial data, since it's ongoing. To date, there have been 4 teacher certifications revoked for child endangerment and 16 for sexual misconduct. For the same time period, there were 4 certification suspensions for child endangerment and 0 for sexual misconduct.

School districts must also remain steadfast in addressing allegations of potential teacher sexual misconduct or child abuse through swift completion of internal investigations, prompt reporting to law enforcement, the Department or DCP&P, and expeditious disciplinary action, including the pursuit of tenure charges under the Teacher Effectiveness and Accountability for Children of New Jersey Act or TEACHNJ.

Through TEACHNJ, Boards of education can file tenure charges against a staff member accused of sexual misconduct for "unbecoming conduct" or "other just cause." Tenure charges are filed with the district board of education, with a copy to the employee. Once charges are certified, they are sent to the Commissioner for a determination that the charges are sufficient, if true, to warrant dismissal or reduction in salary of the person charged. The employee has 15 days to submit a written response to the charges. If the charges are deemed sufficient, they are referred to an arbitrator for final determination.

The Department is vigilant about its obligation to protect students from any educator misconduct. We welcome this body's investigation into recent disclosures that challenge the protocols we have in place.

Thank you.



**NJPSA Testimony before a Joint Meeting of
The Senate Education and Senate Labor Committees
Reporting, Investigating and Addressing Sexual Misconduct/ Abuse in Schools
May 31, 2018**

Good morning Chairwoman Ruiz, Chairman Madden and members of the Education and Labor Committees. I appreciate the opportunity to discuss the multi-layered system of laws, inter-agency collaboration and established processes that New Jersey has in place, to address suspected sexual misconduct in our schools.

As school leaders, principals are responsible for establishing a safe and healthy school climate focused on student learning. This means that they must work with their superintendent, teachers, educational services staff, students and community to ensure that everyone within the school understands the school's code of conduct and expectations of mutual respect. An important component of both the professional code of behavior and New Jersey law is the **obligation of all school staff to report any suspected child abuse of any kind**. Principals reinforce this reporting obligation every year during mandatory staff training at the start of each school year.

The legal obligation to report suspected child abuse, including allegations of sexual misconduct by an adult, is contained in state law (N.J.S.A. 18A-36-25), in administrative code (N.J.A.C. 6A16-11) and in local board policy as mandated by these laws and regulations. Mandatory board policy applies this reporting requirement to all school district employees, volunteers and interns working with children in the district, **who must immediately report** any suspected child abuse to child welfare authorities, law enforcement and the school principal or designated school official.

If an allegation of teacher sexual misconduct arises, the principal must act immediately by notifying the Department of Children and Families (DCF)'s Division of Child Protection and Permanency (DCP and P), local law enforcement pursuant to a mandatory memorandum of agreement between education and law enforcement authorities (N.J.A.C. 6A:16-6(b)13) and the district superintendent. The principal also notifies the parents/guardians if there is no suspicion of parental abuse.

At this point, the district generally defers to the outside investigatory processes of DCP & P, the relevant law enforcement agency, or County Prosecutor's office. The district superintendent and principal fully cooperate with such investigations and make relevant documents and witnesses available upon request. Procedures governing joint investigations with law enforcement of suspected criminal activity at school are set



forth in the uniform, mandatory Memorandum of Agreement (MOA) signed by all New Jersey school districts and relevant law enforcement agencies.

It is important to note that where there is any potential harm to a student, the board of education has the authority to immediately suspend, reassign or remove a teacher accused of sexual misconduct from direct contact with students under state regulatory processes. (N.J.A.C. 6A:11-1(a) 9(i)) In our experience, this is standard practice across school districts and with good reason. Not only does such practice safeguard the impacted child and other students as a first priority, it de-escalates the situation to permit a thorough investigation.

In the event that there is a finding of criminal sexual misconduct or child abuse by DCF, the teacher will not only be dismissed outright (non-tenured) or after tenure proceedings for conduct unbecoming a teaching staff member, but the State Board of Examiners will be notified and move to permanently revoke that educator's license. These processes ensure that a teacher found guilty of such misconduct can never teach again in New Jersey's public schools. Depending upon the nature of the proven allegations, the teacher may also serve time in prison if found criminally guilty and forfeit rights to all or part of his/her pension.

There are occasions where either law enforcement, DCF or both dismiss an allegation of sexual misconduct based upon insufficient evidence. In such cases, the district is still empowered under our laws to take action to discipline or remove a teacher, if appropriate. Districts can act internally through progressive discipline procedures to withhold increments, suspend staff members or issue warnings to staff members of inappropriate behaviors that do not rise to a level warranting removal or criminal process. Additionally, the district can file tenure charges pursuant to the TEACH NJ statute, which provides for an expedited removal process through arbitration. If the district is successful, the State Board of Examiners is notified and will move to revoke that educator's license. Principals do play a role in these processes as supervisor, investigator (where appropriate) and witness in due process proceedings.

As you can see, New Jersey has developed a multi-pronged system, contained in law, regulation, board policy and inter-agency collaboration to promptly address any allegations of sexual misconduct in schools.

At this time, I would be happy to answer your questions on the law or processes in addressing allegations of abuse and sexual misconduct.

NJPSA Appendix

New Jersey's Existing Legal Framework Addressing Issues of Sexual Misconduct or Sexual Discrimination Affecting Students

Federal Requirements

Under **Federal Title IX**, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Every school district must have in place a Title IX Coordinator who is responsible for ensuring that all complaints of gender-based discrimination are promptly investigated and addressed. In addition, this person is charged with ensuring that appropriate policies and procedures are in place to ensure there is no gender-based discrimination in the school district’s policies, procedures, curriculum, instructional materials, professional development and procurement practices.

The federal **Children’s Internet Protection Act (CIPA)** applies to all public schools receiving federal funding under the E-Rate discount program. CIPA was enacted to address concerns about children’s access to obscene or harmful content over the Internet and applies to schools or libraries that receive E-Rate discounts. Schools and libraries subject to CIPA must certify that they have an Internet safety policy that includes technology protection measures. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors).

Schools subject to CIPA have two additional certification requirements:

- 1) their Internet safety policies must include monitoring the online activities of minors;
- 2) as required by the Protecting Children in the 21st Century Act, they must provide for educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, and cyberbullying awareness and response.

State Laws

Law Enforcement and Criminal Statutes

New Jersey has a strong system of criminal laws, which govern potential cases of sexual misconduct in our state. Our network of police officers, county prosecutors and the Attorney General’s Office have jurisdiction in such matters. School Districts work collaboratively on all investigations pursuant to the Memorandum of Agreement (MOA) between law enforcement and the school. New Jersey law also includes strong, specific protections for students from sexual misconduct.

New Jersey criminal statutes require school districts to **immediately report** to law enforcement whenever a school official becomes aware that a student may have been involved in criminal sexual conduct, including the distribution of sexually explicit material involving minors.

It should be noted that this requirement includes reporting of any instances of sexual conduct involving students under age 13, or students between ages 13 and 16 where the other person involved is at least 4 years older than the victim.

Detailed reporting requirements, procedures and information sharing requirements are set forth in the annually reviewed Memorandum of Agreement (MOA) between Law Enforcement and the Schools. This MOA is regularly updated by a permanent Law Enforcement and Education Working Group comprised of representatives of the NJDOE, the Attorney General's Office, law enforcement stakeholders and education stakeholders. Each year, County Prosecutors sit down with school superintendents, board representatives and often, principals to review this detailed document. Both law enforcement and local board representatives annually sign the MOA after review. Local board policies must meet the requirements of the MOA. It represents the foundational rules of engagement between schools and law enforcement to protect our students, promote school security and enforce the laws in our communities.

Department of Children and Families Collaboration

School districts are also required to immediately report any suspected incidents of child abuse or neglect, including sexual abuse, to the Division of Child Protection & Permanency, and to local law enforcement. N.J.S.A. 9:6-8.10:

Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to DCF's Child Protection and Permanency (CP&P) by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

DCP&P then conducts an independent investigation into the allegations with the cooperation of the school district.

Other Statutes Impacting Schools

Disciplinary Actions and Tenure Proceedings Under TEACH NJ, N.J.S.A. 18A:28

The TEACH NJ statute, effective in August 2012, significantly modified the structure and processes of our state tenure and employment laws for teachers and principals. The statute addresses the attainment of tenure rights, teacher and principal evaluation, and the tenure discipline and removal processes. The statutory basis for tenure charges continues to include inefficiency, incapacity and "conduct unbecoming" a teaching staff member or other just cause. Disciplinary action at the school level is governed by this statute and other relevant sections of N.J.S.A. 18A. A core focus of this statute was to maintain the due process rights of educators while expediting the removal process of staff when appropriate through arbitration.

Appropriate Screening and Hiring Protections

New Jersey law has long required a fingerprinting and criminal background check process for all school employees including bus drivers and other subcontracted employees who have direct access to children.

Just this month, the Legislature enacted a far-reaching statute, P.L. 2018, c.5, targeted at preventing the hiring of individuals suspected of child abuse or sexual misconduct involving children. The statute requires detailed background checks of all job applicants in these areas through the investigation of the applicant's work history over the past 20 years. This new statute, effective June 1, 2018, will close an existing loophole in the law.

Additional School Reporting and Data Requirements

School districts also have extensive requirements related to reporting all allegations of sexual misconduct and other forms of discrimination to the New Jersey Department of Education on a quarterly basis under New Jersey's Student Safety Data System and to publicly report on critical data related to bullying, discrimination, violence and vandalism on annual basis.

In addition, school districts are required to adopt a 3-year Comprehensive Equity Plan that includes a detailed assessment of all district operations, to ensure that the school district has in place effective policies and procedures to ensure an environment free from discrimination and conducive to learning for all students.

The **New Jersey Law Against Discrimination (NJLAD)** specifically bars discrimination based on gender, sexual orientation, gender identity or gender expression. Every public school district must have in place at least one Affirmative Action Officer. Generally speaking, the same individual serves as both Title IX Coordinator and Affirmative Action Officer.

New Jersey's Anti-Bullying Bill of Rights (ABR), which went into effect in 2011, includes specific protections for students from harassment, intimidation or bullying (HIB) based on gender, sexual orientation, gender identity or expression, or any other distinguishing characteristic. Recent case law has confirmed that sexual harassment against a student is a form of HIB.

Under the ABR, there are strict protocols in place for investigating and reporting on any allegation of HIB. Every school must have an Anti-Bullying Specialist or ABS. Investigations must be commenced within one school day and completed by the ABS within 10 school days. Extensive due process protections are available for both the alleged victim and aggressor, including the right to a hearing before the local board of education and the right to appeal decisions reached to the Commissioner.

In addition to the ABR, since 2011 New Jersey has also had in place a **dating violence law** (P.L. 2011, c.64). This statute requires every school district to adopt a policy on dating violence that

includes specific investigation and response protocols. The statute defines “dating violence” as a “pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner.”

Dating Violence

Each district board of education must adopt its own policy or one created by the Department of Education’s Task Force on incidents involving dating violence at school. The policy shall contain the minimum:

1. A statement that dating violence will not be tolerated;
2. Dating violence reporting procedures;
3. Guidelines for responding to at-school incidents of dating violence;
4. Discipline procedures specific to at-school incidents of dating violence;
5. Warning signs of dating violence;
6. Information on safe, appropriate school, family, peer, and community resources available to address dating violence

In addition, each school district is required to incorporate dating violence education that is age appropriate in the health education curriculum as part of the district/charter school’s implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education grades 7-12.

School districts are also required to **report certain incidents to law enforcement**. For example, under N.J.A.C. 6A:16-6.3(e), school districts must report to law enforcement whenever they develop reason to believe that a **bias-related act** has been or is about to be committed in which a student has been or may be the victim. Bias-related acts include any discriminatory actions that are motivated by gender, sexual orientation, race, ethnicity, disability, or religion.

Best Practices

In fulfilling these legal requirements, there are certain best practices that many school districts have engaged in. These include:

- Prioritizing the development of a positive and supportive school climate for students and staff (note that each school has in place a School Safety/Climate Team for this purpose);
- Providing professional development for affirmative action officers, anti-bullying specialists and relevant staff on investigation and questioning techniques and the law;
- Infusing instruction on the prevention of sexual harassment and discrimination, and the promotion of appropriate conflict resolution, throughout the curriculum;
- Identifying multiple individuals to serve as school level affirmative action officers and having more than one anti-bullying specialists in each school; and
- Working closely with law enforcement to ensure maximum information sharing and collaboration
- Continuously remind all school staff and volunteers of the warning signs of child abuse or at risk behavior and the requirement to report such concerns as described above.

NJPSA hopes this brief overview provides you with a greater understanding of the extensive requirements currently in place for New Jersey school districts related to addressing, responding to and preventing sexual misconduct in our public schools. Our members recognize that ensuring student safety is the most important obligation of every public school and we are committed to doing everything possible to fulfill that critical obligation.

njcoalition

against sexual assault

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Statewide 24-Hour Sexual Violence Hotline
1-800-691-7200

Joint Senate Education and Senate Labor Committee Hearing May 31, 2018

Thank you Chairwoman Ruiz and Chairman Madden for having me here today. I'm Patricia Teffenhart, the Executive Director of the New Jersey Coalition Against Sexual Assault, representing the twenty-one county-based rape crisis centers and the Rutgers University Office of Violence Prevention and Victim Assistance.

I am here today in two roles, one as a parent of a 4th grade boy and as the leader of a statewide organization that advocates for a safer Garden State.

Today, the #MeToo movement is amplifying the voice of survivors and shedding light on the ways by which power and control often contribute to the perpetration of sexual violence, as well as the long-term silencing of survivors. And it's well documented that *children* upon whom violent acts are committed endure a lifetime of trauma.

The Centers for Disease Control estimates that the lifetime financial impact of sexual violence, *per survivor*, is \$122k. This is lost wages and tuition payments, mental health services, drug and alcohol treatment, etc.

It's also estimated that sexual assault survivors are 13x more likely to attempt suicide than non-survivors.

What these points illustrate is that this is a serious crime and people who commit this act are deserving of serious consequences.

The systems, unions, and institutions, that permit sexual violence by harboring and protecting perpetrators must be held accountable.

In April, New Jersey took a serious step in the right direction by signing the "Safer Schools Bill" into law, addressing gaps in the hiring process that had historically allowed sexual predators to use legal loopholes to gain employment in new schools, inflicting pain on new families and school communities. Today, we are looking to address other measures we need to take to protect our children.

We tell young people, "If someone is hurting you, tell a trusted adult". Mustn't we do our part to ensure that *all* adults in our schools are worthy of the trust of the children and communities we serve? Protecting kids from sexual abusers is something I believe every New Jerseyan should be able to support.

Respectfully Submitted on May 31, 2018, by:
Patricia Teffenhart, MPA
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Testimony
Ed Richardson, NJEA Executive Director before
The Senate Education and Labor Committees on
The Reporting of Child Abuse in Schools

Good afternoon. I'm Ed Richardson, Executive Director of the New Jersey Education Association. Joining me here is Keith Waldman, an attorney with Selikoff & Cohen. Thank you for the opportunity to speak today at this hearing.

Nothing is more important to NJEA members than the safety and wellbeing of our students, and there is no place in New Jersey's public schools for anyone who hurts or abuses children. Our members have both a legal and a moral responsibility to protect students and to report any suspicion that a student is being abused.

When suspected abuse of a student is reported by anyone, it is the obligation of the state and the school district to act swiftly to investigate any allegations and determine whether a child has been abused. In some instances, allegations are reported to Institutional Abuse Investigations Unit (IAIU) in which school employees are the target of the investigation or are potential witnesses in a matter being investigated. If those employees are members of NJEA, it is our union's statutory responsibility to represent those members and ensure that their due process rights are protected during the course of any investigation or subsequent disciplinary action. NJEA's duty to protect the wellbeing of students and our duty to represent members are not optional, and they are not mutually exclusive. We must do both.

It bears noting that when child abuse is suspected, it is typically reported first to the school administration and IAIU. It is not usually reported first to a union official. The union more typically learns about an allegation when a member is informed by school administration that he or she is being investigated by IAIU. In those cases, NJEA fulfills its statutory responsibility to represent the member while the state and the school district fulfill their responsibility to investigate the allegations.

Both of those roles are essential. When allegations are made, they must be taken seriously, which is why thorough investigations are important. But in some instances, the allegations are false, which is why every member deserves union representation and due process.

The videos that were released a few weeks ago highlight that fact. The individuals who came into our local affiliates' offices under false pretenses made false allegations of child abuse. The scenarios they presented never occurred. We are deeply disappointed by how two of our local affiliate presidents appear to have reacted to those allegations, but we are also troubled by the dishonest and underhanded tactics used by the organization that secretly recorded them. They came with the explicit purpose of using dishonesty to harm our members. In an environment where even a small number of people are willing to lie and deceive to harm our members, it is critical that they have a union that will stand up for them and defend their legal rights.

Over please

We also recognize that, despite the dishonest tactics used to obtain and edit the videos, some of what was said on them appeared to fall far short of our values and the standards we set for our union, its leaders and its members. That is why we have commissioned an independent review, headed by the Zazzali law firm. That process will involve an exhaustive review of current practices in NJEA field offices and local affiliate offices. It will make recommendations for additional ways to ensure that NJEA's mission is accomplished, that the wellbeing of students is paramount and that members' rights are respected. Specifically, we want to ensure that every NJEA affiliate leader and every NJEA staff member understands the obligation to report suspected child abuse and knows how to make that report. Based on what we learn, we intend to provide additional direction and training, as needed, to ensure full compliance with the law.

As noted earlier, we must ensure that we are meeting our dual legal responsibility to protect children and represent members, and we take both of those responsibilities very seriously.

NJ SENATE EDUCATION AND LABOR COMMITTEES

TESTIMONY SUBMITTED BY RUSH L. RUSSELL, EXECUTIVE DIRECTOR, PREVENT CHILD ABUSE NEW JERSEY, THURSDAY, MAY 31, 2018

We appreciate interest from members of the two committees today on the topics of child sexual abuse and reporting in our schools.

A national survey asked teachers, "Would you would report an incident of physical child abuse if you suspected it?" 90% of teachers said they would report. When asked the same question, but about suspected child sexual abuse, the number was turned on its head: 87% said they would not report a case of suspected sexual abuse. Why? Because of fear for their school's reputation, fear of having to disclose their name, and fear about the taboo topic of sexual abuse.

So as we examine the issue of child sexual abuse, we need to address two factors: one, that it happens far more frequently than is ever reported and two that even when it does happen, adults in our schools are unfortunately, highly motivated to keep it a secret. We've seen it at USA Gymnastics, in other youth sports, in our universities, in the church...and it's happening in our schools.

We recognize that the vast percentage of our school's teachers, coaches and employees represent the best of our society. And we all share the highest possible commitment for our schools and our children – for students to be safe.

However, a GAO report from 2004 found that 10% of students, K-12, reported inappropriate sexual conduct from a school employee during their school years...or more than 1.5 million students each year...and more than 100,000 each year in NJ. These crimes are happening way too much and we're not doing enough to stop it.

It's important to restate the severity of harm caused by child sexual abuse. Victims face dramatically increased risks for alcohol, drug and mental health problems, school failure, future unemployment, chronic health conditions, marital problems and suicide.

The NJ Legislature has taken a courageous step forward this session by passing the "Safer Schools Bill". That bill makes it illegal to sign a nondisclosure agreement when terminating an employee for sexual misconduct. In theory, it should stop a school from hiding the fact that one of their employees has committed sexual misconduct with a student....and then keeping that information a secret and allowing that employee to get a job somewhere else and abuse more children.

While the law sets a new legal requirement, it may not change schools' motivation to hide the issue of sexual misconduct out of fear of hurting their school's reputation.

As members of these Committees considers ways to further strengthen the safety in our schools and protect students from sexual abuse, we urge the following:

1. Closely monitor implementation and compliance with the Safer Schools bill by the NJ DoE, NJSBA, NJPSA and member districts. Have schools been properly notified? Are reporting forms being developed that should be in place for the current hiring of teachers for next fall? Those that oppose this law will be urging DoE to go slow and water it down and many schools will

continue to ignore it. We urge members to ask DoE – now - about the implementation to ensure students are better protected from sexual offenders.

2. Require training and education for all school employees, all schools, public and private, and include parents and students, about child sexual abuse. Offenders are successful because they are good at hiding; they appear to be friendly, nice, and charming, to fellow teachers and students. The content should include information about tactics used by offenders to groom a possible victim, so we all can be more vigilant in watching for inappropriate behavior, before something happens. It should also include information about “personal space and privacy” which are simple guidelines to help all adults, parents and children firmly establish boundaries related to touch from anyone - a family member or stranger. If we expand education on child sexual abuse school-wide, we can overcome the environment of silence that protects offenders.
3. We also support posting information about the DCF hotline in schools. Offenders want to avoid one thing more than anything else – of being caught. Having prominently displayed information about the child abuse hotline may deter some possible offenders from acting on their thoughts. And it would also empower students to report crimes themselves and not be frightened by adults who tell them to keep their information secret. In speaking with top leaders from the CARES Institute, Dr. Martin Finkel and Esther Deblinger, who provide care and counseling to hundreds of victims of child abuse every year, they, too support the posting of the hotline number in the schools and do not find concerns about “false reporting” to be a sufficient reason to stop this from happening. This can happen immediately.

Thank you for your interest and commitment to protect our children from sexual abuse. I would be glad to answer any questions.

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May 31, 2018

Senate Education Committee

M. Teresa Ruiz, (Chair), Shirley K. Turner, (Vice-Chair), James Beach,
Michael J. Doherty, Samuel D. Thompson

Senate Labor Committee

Fred H. Madden (Chair), Joseph F. Vitale (Vice-Chair), Dawn
Marie Addiego, Anthony R. Bucco, Sandra B. Cunningham

Testimony

Donna M. Chiera, President

Enclosure

"A Framework for Addressing Allegations of Teacher Wrongdoing"

AFTNJ Testimony: Chiera, May 31, 2018

I regret that I cannot attend today's important meeting, but I wanted to make sure to contribute my thoughts in the following written testimony. As the President of AFT New Jersey, representing 30,000 educators in our schools and colleges, we have a track record of working with many of you in the legislature to make sure that children are protected, the public is served and teachers are treated fairly. We understand the need to have serious conversations in venues like these where we have opportunities to mold policy and make legislation. At the same time, we want to give you all some background on Project Veritas, as their videos were what prompted this hearing.

AFT New Jersey understands our responsibility for children's welfare. None of us would be in our profession if we didn't. We believe in justice, equity and opportunity for children, knowing full well the road toward that includes fairness for those who teach. Fairness means just that, fairness. If students are harmed, corrective action must be taken to prevent the reoccurrence of any harm. If there are patterns of abuse or neglect, those need to be exposed and remediated. At the same time, we all understand the consequences of false accusations, which is why due process is so important.

If a child is abused, we do not run away and hide from dealing with the ramifications. There needs to be healing for the student and a thorough investigation to identify wrongdoing. I belong to a union that engaged well-respected arbitration expert Kenneth Feinberg to independently develop recommendations for expedited, but fair, investigations into any allegations up to and including abuse of students. You may recall that Mr. Feinberg also served as Special Master of the U.S. government's September 11th Victim Compensation Fund.

This approach identifies objective criteria to trigger the process and protect children, while still ensuring the fairness and efficiency of due process. Our national executive board affirmed adopting these recommendations and we are proud to be educators who want to make sure the system works.

AFT New Jersey took what we learned from this process into our advocacy around changes to due process in the TEACHNJ act. Those changes were designed in part to speed up the process while ensuring its essential fairness was preserved.

As a result of that work, it takes less time to resolve cases, there are no incentives for delay, but teachers still have real due process. And sometimes that due process does indicate that a teacher has been improperly or unfairly charged. We believe that this part of the act in particular has served our state well. We have made the system more efficient, but we have also preserved fairness.

The state recently passed legislation with reporting requirements for educators accused of abusing students to stem the practice of district administration allowing

AFTNJ Testimony: Chiera, May 31, 2018

teachers with unresolved charges to potentially move on to other schools without any notification. We think this is a good start and as an educational community we need to stay aware of any shortcomings in the system. In doing so, we need to listen to the voices from the classrooms, the counseling offices, the nurses, social workers and anyone who has contact with our students in devising the best policies to help keep them safe.

Our mission at AFTNJ (<http://aftnj.org/mission>) clearly states that our priority is to "Promote the welfare of children." The dedicated teachers I worked with for decades in Perth Amboy, and serve with in the union, always have that responsibility to our students as our first priority.

Through peer-led professional development and mentoring, our union seeks to help new teachers develop approaches to managing classroom behaviors, not by force, but in ways that channel even the most difficult behavior into productive expressions fostering a healthy classroom environment. Teachers typically work to develop and refine their skills over years and decades, always remaining open to research-based as well as classroom-tested ideas and concepts to bring to their students during the next period, day or academic year.

As a union President for more than two decades, I can tell you that no one has ever brought a hypothetical instance of abuse forward to me. When we are called into a situation, typically by district management, is when an accusation of abuse is leveled and an investigation begins. In instances where there are allegations of criminal conduct, the union lawyer would only counsel a union member about what their rights are and recommend they seek a criminal defense attorney.

Union leaders should know that we have no protected status for hearing criminal admissions. We have our duty to report through the appropriate channels if children have been victimized.

Here in New Jersey, if a teacher reports wrongdoing, I have to report it. That is the law. We have a system that works when regulations are followed:

- Children are protected,
- There is due process to protect educators from untrue accusations,
- Professionals who violate the system are held accountable.

Educators are trained to be observant to any signs of abuse or neglect visited upon our children. We worry about the home lives of some of them and sometimes face challenges in determining whether an intervention is warranted. We are trained to see the signs and take a course of action to protect our students. Teachers understand that it is state law that:

“any person having reasonable cause to believe that a child has been abused or neglected by a parent or caregiver is required to immediately notify DYFS”

Any discussions I have ever had on the subject were focused on protecting the children in question. At our individual schools, we review the signs of potential physical, sexual, or emotional abuse or neglect and work together to validate or alleviate one another’s concerns about our individual students.

We educators seek to uphold the professional standards of our occupation and have nothing to gain from protecting bad teachers, and particularly not from tolerating, excusing or covering-up abusive or predatory behavior from anyone interacting with our students. When children are hurt, we share that pain. When someone in authority actually caused the pain, the hurt intensifies for all of us.

Like most teachers, I entered the profession because I wanted to help children and saw the teachers’ role as one of a caretaker, a mentor, a trusted adult figure. I believe it is relevant to acknowledge that the impetus for these hearings comes from an operation conducted by Project Veritas, a discredited political group that doctors its videos to strip away context, enters schools during the school day under false pretenses and raises alarm about fake abuse stories. The group often refuses to allow the public to see the full conversations it records rather than its deceptively edited promotional videos. Project Veritas has faced multiple lawsuits against it for its unlawful misrepresentations, infiltrations, and splicing and dicing of unlawfully obtained material to distort it.¹ Currently it is facing lawsuits in Michigan, DC, and Florida.² This is also the group that recently attempted to feed a false sexual assault story about Senate candidate Roy Moore to the Washington Post.³ The Post exposed the scam and won a Pulitzer Prize for its work.⁴ Further, investigations spurred by Project Veritas, like one recently done by the Wisconsin Department of Justice, have demonstrated the illegitimacy of Project Veritas tactics and accusations.⁵

¹ *Vera v. O’Keefe*, No. 10-cv-1422, 2012 WL 3263930 (S.D. Cal. 2012) (denying O’Keefe’s motion for summary judgment); *Conway-Russell v. O’Keefe*, No. 2:10-cv-00276 (E.D. Pa. filed Jan. 21, 2010) (dismissed after settlement on May 13, 2010); Judgment in a Criminal Case, *United States v. O’Keefe*, No. 10-cr-0081 (E.D. La. May 27, 2010).

² See, e.g., *AFT Michigan v. Project Veritas*, No. 17-cv-13292 (E.D. Mi.); *Democracy Partners v. Project Veritas Action Fund*, 285 F. Supp. 3d 109 (D.D.C. 2018) (based on a Project Veritas infiltration of Democracy Partners); *Wentz v. Project Veritas*, No. 6:17-cv-1164 (M.D. Fla. Jan. 31, 2018) (based on the splicing and dicing of a surreptitiously recorded conversation with a teachers union leader).

³ Shawn Boburg, Aaron C. Davis and Alice Crites, *A woman approached The Post with dramatic — and false — tale about Roy Moore. She appears to be part of undercover sting operation*, Washington Post, Nov. 27, 2017, available at https://www.washingtonpost.com/investigations/a-woman-approached-the-post-with-dramatic--and-false--tale-about-roy-moore-she-appears-to-be-part-of-undercover-sting-operation/2017/11/27/0c2e335a-cfb6-11e7-9d3a-bcbe2af58c3a_story.html?utm_term=.029e55d93c97

⁴ Washington Post’s 2018 Pulitzer Prizes for Roy Moore investigation, Russia reporting, available at https://www.washingtonpost.com/news/national/wp/2018/04/16/feature/washington-post-wins-pulitzer-prizes-for-roy-moore-investigation-russia-reporting/?noredirect=on&utm_term=.c9d56dd564ce.

⁵ Todd Richmond, *Wisconsin again finds secret video shows no election fraud*, Chicago Tribune, May 14, 2018, available at <http://www.chicagotribune.com/news/nationworld/midwest/ct-wisconsin-election-fraud-20180514-story.html>

Project Veritas does not engage in investigative journalism – this group created fake encounters to promulgate fake news about teachers and their representatives. I want to be clear – we must have high standards whether or not we face a real or fake encounter with educators, and however we come to learn of a union leader that does not follow our guidelines, we take swift action. Yet, we must also be cautious given the track record of trickery used by these undercover operatives that is often not detected for weeks or months, after damage is done. It is offensive, obnoxious and just plain wrong that politically-driven opportunists seek to portray our public schools teachers as abusive and our unions as enabling or sanctioning abuse.

Nevertheless, I am glad that we are having this important discussion and hope it can lead to better shared understanding of the responsibilities educators face. Within AFTNJ, we will be reviewing the reporting requirements with our locals and in our professional development to make sure that teachers are aware of what the law is and that teachers serving as union representatives do have the same legal requirements to report abuse to institutional DFYS.

A Framework for Addressing Allegations of Teacher Wrongdoing

Developed by Kenneth Feinberg and Adopted by the AFT Executive Council,
February 2011

Summary : A Procedure for Teacher Discipline

A. Objective criteria trigger the process:

- 1 Conviction of a felony or other crime involving moral turpitude.
- 2 Immediate suspension without pay where an indictment or information charging a felony or other crime involving moral turpitude is filed.
- 3 Improper use of physical force against students including excessive student discipline.
- 4 Inappropriate physical contact with students.
- 5 Sexual abuse or harassment of any individual regardless of the form of communication utilized (texting, emailing, internet networking and other forms of electronic communication.)
- 6 Continued and repeated violation of or refusal to obey rules and regulations.
- 7 Racial, gender, religious and other forms of discrimination.
- 8 Alcohol or drug abuse that makes the teacher unfit to instruct or associate with children.
- 9 Health violations that make the teacher unfit to instruct or associate with children.

B. Due Process Procedures to ensure fairness and efficiency.

- 1 Complaint made to principal who determines whether to file a complaint with superintendent.
- 2 Teacher and union get notice of complaint.
- 3 Limitations Period. One year limitations unless good cause or felony or crime of moral turpitude.
- 4 Complaint must specify facts. Teacher has right to request particularity. If particularity not supplied adequately, complaint will be dismissed.
- 5 Confidentiality. No disclosure of confidential information until 5 days after discovery is completed.

C. Preliminary Process.

- 1 Screening Process in the first 14 days used to dismiss meritless claims.
- 2 Resolution without Formal Hearing. The first 20 days after the filing of a Complaint used to resolve meritorious claims informally without the necessity of a full-blown hearing.

D. Formal Hearing after 30 days :

- 1 The teacher is entitled to be represented (implemented by union).
- 2 Hearing Examiners trained by Program Administrator. Parties will agree to a Hearing Examiner. If they can't, the Program Administrator will appoint the Examiner.
- 3 Prehearing Discovery and Exchange of Information: completed in 60 days.
- 4 Questions of Proof: School District/ Complainant must establish by preponderance of the evidence.

E. Time/Important Dates: The total time from filing of Complaint to written decision is 100 days.

- 1 Complaint filed and teacher receives Notice. Day 1.
- 2 Screening Process. Completed by day 14.
- 3 Period to attempt informal resolution. Completed by day 20.
- 4 Scheduling of Formal Hearing. Completed by day 30.
- 5 Prehearing discovery/exchange of information. Completed by day 60.
- 6 Period to schedule and complete hearing. Completed by day 90.
- 7 Issuance of written decision. Completed by day 100.

F. Teacher Status:

- 1 Continuation of pay: teacher continues to receive pay except in cases where formal charges of a felony or other crime involving moral turpitude are filed.
- 2 Suspension:

a. Suspension without pay only where an indictment or information charging a felony or other crime involving moral turpitude is filed.

b. Otherwise, no suspension without pay. The teacher may be removed from the classroom at the discretion of the superintendent. If a teacher is removed, the teacher will be provided with and expected to engage in meaningful work. Pay continues during resolution of the dispute

G. Hearing Procedures: No formal rules of evidence, witnesses may be called and cross-examined, documentary evidence may be offered if disclosed in timely manner.

H. Final Decision:

1. Written Opinion. The Hearing Examiner renders a final opinion in writing within 100 days of the filing of the Complaint

2. Sanctions. The following sanctions are available.

i. Termination

ii. Suspension

iii. Imposition of fines

iv. Imposition of conditions on employment, including remedial action designed to address the problem.

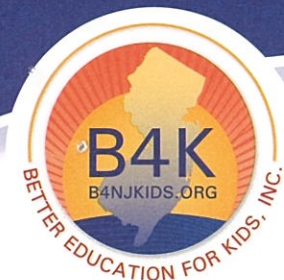
v. Referral to the state Department of Education controlling licensing for denial of statewide certification.

vi. Letter of reprimand.

3. Dismissed Charges. In the event of dismissal of the charges, the teacher is reimbursed for any back pay and notation in personnel file says charges were dismissed.

I. Appeal:

Hearing Examiner's decision is final. Availability of an appeal is left to applicable state law. The vast majority of states provide for an appeal process.



**Senate Education and Labor Committees
Teacher Misconduct Hearing
May 31, 2018**

Good afternoon Chairwoman Ruiz and Chairman Madden and members of the Senate Education and Labor Committees. My organization Better Education for Kids and our partner JerseyCAN are thankful for your leadership on this matter and we appreciate your invitation to testify.

Teaching is arguably the most important professions and in New Jersey we are fortunate to have the finest educators in the country. I come from a long line of public school teachers and have nothing but respect and admiration for our State's educators.

The behavior witnessed on the videos made public on May 3rd, is most likely outlying examples of grossly inappropriate and probably criminal behavior. It should cause all of us to review the laws regarding the requirement to report potential cases of child abuse and the current penalties for the failure to do so.

Research from the US Department of Education tells us that 10% of school-aged children are victims of sexual abuse by school personnel. Over the past year, over 30 teachers in New Jersey had their licenses revoked to sexual related incidents with students. Several more did *not* lose their license and were allowed to go back to the classroom due to technicalities during the review process. One case involving a teacher in Bergen County was found to be having inappropriate sexualized conversations with her students but was reinstated to her position with no loss of

benefits or seniority due to the weakness in the school district's execution of due process.

The union presidents of Hamilton Township and Union City were shocking in their open admission of their tactics to cover up educator abuse of students. Not only were they concealing the abuse of students, they were allowing these abusive teachers to go back into the classroom and potentially harm other students.

New Jersey law mandates that any person that suspects a child is being abused or neglected must report their concerns to the Division of Child Protection and Permanency (DCP&P), failure to do so can result in a disorderly persons violation and a \$1,000 fine.

The reporting did not occur here and beyond not reporting, it appears steps were taken to conceal the abuse. I would encourage the Committee to consider increasing the penalty for failure to report and/or conceal knowledge of suspected abuse, especially in the context of a school setting.

I would also encourage the Committee to look at strengthening the legal definitions of abuse and neglect, which would make it more clear on what actions require reporting.

The current New Jersey definitions are much more vague than the comprehensive list of that our neighboring state of Pennsylvania utilizes.

In addition, I would respectfully ask that the Legislature consider if the current training of school personnel about child abuse and their responsibility to report is sufficient.

Again, Pennsylvania has a comprehensive teacher training requirements to help school official's recognize the signs of abuse and sexual misconduct, as well as reporting requirements for suspected abuse and sexual misconduct.

The Pennsylvania statute also requires that all teacher licensure applicants complete training on alleged abuse and reporting requirements for suspected abuse.

Nevada raised the age limit from which child abuse can be claimed from 16 to 18, as older special needs students are particularly vulnerable to abuse. I have attached the Pennsylvania and Nevada statutes in the appendix of my testimony.

Given the amount of sacred trust, we place in our school personnel, breaking of that trust should come with stiffer consequences for the few who do.

In a number of states such as Florida and Illinois, failure to report suspected abuse and neglect is a felony offense.

I would also encourage the Committee to consider adding failure to report abuse as a stand-alone tenure charge, and if the charge is substantiated, arbitrators should not have the authority to overturn the local board of education's decision.

Finally, local boards of education should be mandated to submit a report to the State Board of Examiners to evaluate whether a teacher's certificate should be revoked or suspended when a claim of failure to report abuse has been verified.

Children have a fundamental right to attend a safe and healthy school. We are all here today because we want to ensure we consider every possible remedy to guard against abuse and hold those who conceal abuse accountable. We hope today is just the beginning of the conversation on the prevention of student abuse. Better Education for Kids stand ready to assist your committees in its efforts to address

this critical issue. Thank you again for allowing me to testify and I am available to answer any questions on the recommendations we have discussed today.

Alex

Appendix

1. Shakeshaft, C. (2004). Educator sexual misconduct: A synthesis of existing literature. US Department of Education, Policy and Programs Studies Service. Retrieved from <https://www2.ed.gov/rschstat/research/pubs/misconductreview/report.pdf>
2. "State Board of Examiners Legal Decisions," New Jersey Board of Examiners <http://www.state.nj.us/education/legal/examiners/2018/>
3. "Arbitrator TEACH NJ Decisions" New Jersey Department of Education

Pennsylvania Definitions of Abuse

Pennsylvania's definition (23 Pa.C.S.A. § 6303) includes a comprehensive list of actions which rise to the level of abuse. This helps a reporter better identify the conduct for which a report is required. The Pennsylvania definition of abuse includes:

1. causing bodily injury to a child through any recent act or failure to act;
2. fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act;
3. causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act;
4. causing sexual abuse or exploitation of a child through any act or failure to act;
5. creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act;
6. creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act;
7. causing serious physical neglect of a child;
8. kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child;
9. unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement;
10. forcefully shaking a child under one year of age;
11. forcefully slapping or otherwise striking a child under one year of age;
12. interfering with the breathing of a child.
13. leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known is required to register as a Tier II or Tier III sexual offender;
14. causing the death of the child through any act or failure to act; and
15. engaging a child in a severe form of trafficking in persons or sex trafficking.

Oklahoma Definition of Neglect

- i. Oklahoma's definition (10A Okl.St.Ann. § 1-1-105) offers a broad range of activity which does not necessarily rise to the level of "child abuse," but nonetheless should require DCP&P investigation. The Oklahoma definition includes:
 - 16. the failure or omission to provide any of the following:
 - a. adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education;
 - b. medical, dental, or behavioral health care;
 - c. supervision or appropriate caretakers, or
 - d. special care made necessary by the physical or mental condition of the child;
 - 17. the failure or omission to protect a child from exposure to any of the following:
 - a. the use, possession, sale, or manufacture of illegal drugs;
 - b. illegal activities; or
 - c. sexual acts or materials that are not age-appropriate;
 - 18. abandonment;
 - 19. "heinous and shocking neglect," which includes:
 - a. chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the basic needs of a child which results in harm to the child;
 - b. neglect that has resulted in a diagnosis of the child as a failure to thrive;
 - c. an act or failure to act by a parent that results in the death or near death of a child or sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or presents an imminent risk of serious harm to a child; or
 - d. any other similar aggravating circumstance.

Pennsylvania Teacher Training

- i. Pennsylvania requires teacher training to cover the recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct. (See 24 P.S. § 12-1205.6).
 - e. Sexual misconduct should include but not be limited to:
 - i. sexual or romantic invitation;

- ii. dating or soliciting dates;
 - iii. engaging in sexualized or romantic dialogue;
 - iv. making sexually suggestive comments;
 - v. self-disclosure or physical exposure of a sexual, romantic or erotic nature; and
 - vi. any sexual, indecent, romantic or erotic contact with the child or student.
- ii. All applicants for a teaching license should complete this program and submit proof of completion in order to obtain their licenses.
- iii. At a minimum, training should be provided biannually.
- iv. In order to make this additional training less onerous on local districts, one option is to include the program as part of professional development provided by the schools. This also may alleviate concerns about negotiated teacher work year and may be included as part of the already negotiated workshop days and/or orientation.
- v. The program should be eligible for credits as part of the teachers' mandatory professional development credits.
- vi. Training is already required for volunteers, but should also be offered to board of education members.

Nevada Change in Age Provision

NRS 201.540 Sexual conduct between certain employees of school or volunteers at school and pupil: Penalty; exception.

1. Except as otherwise provided in subsection 2, a person who:
 - (a) Is 21 years of age or older;
 - (b) Is or was employed by a public school or private school or is or was volunteering at a public or private school; and
 - (c) Engages in sexual conduct with a pupil who is 16 years of age or older, who has not received a high school diploma, a general educational development certificate or an equivalent document and:
 - (1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or
 - (2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,
 - È is guilty of a category C felony and shall be punished as provided in NRS 193.130.
2. The provisions of this section do not apply to a person who is married to the pupil.

3. The provisions of this section must not be construed to apply to sexual conduct between two pupils.

(Added to NRS by 1997, 2522; A 2001, 703; 2013, 2098; 2015, 1445, 2242)



New Jersey Association of School Administrators

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Testimony to the Joint Meeting of the Senate Education and Labor Committees

By: Melanie Schulz, NJASA Director of Government Relations

May 31, 2018

Senators Ruiz and Madden and Members of the Committees, my name is Melanie Schulz and I am the Director of Government Relations at the NJ Association of School Administrators. Our organization primarily represents school district superintendents.

When a staff member is accused of sexual misconduct in school or with a student, the following occurs:

1. Person with knowledge notifies the Institutional Abuse Investigation Unit (IAIU) and police immediately. This is typically a principal who received information from someone else.
2. Notify HR immediately after IAIU and police
3. Principal and HR will investigate but the police department and IAIU investigations take priority
4. Staff member suspended with pay until end investigation or arrested or there is an indictment, then suspended without pay.

The process ensures our student safety as well as due process for the accused.

In addition, there are a multitude of links and training modules to inform employees, as well as a clear path to guide individuals who may not know what to do when they are made aware of misconduct.

Mandatory professional development topics including reporting on potentially missing/abused children (new employees as part of their orientation; otherwise as determined by the district board of education)

<http://www.nj.gov/education/profdev/topics/StateRequiredPD.pdf>

NJDOE complete webpage on child abuse, neglect & missing children

<http://www.state.nj.us/education/students/safety/socservices/abuse/>

NJDOE training modules entitled "Reporting Child Abuse and Neglect, What School Personnel Need to Do"

<http://www.state.nj.us/education/students/safety/socservices/abuse/training/#modules>

FAQ on reporting child abuse and neglect

http://www.state.nj.us/education/genfo/faq/faq_missing.shtml

Section 4.19 of the Uniform MOA between School Districts and Law Enforcement addresses child abuse and neglect reporting. Must report to Child Protection & Permanency (CP&P) and the Department of Children & Families (DCF) and to the principal or designee who then informs law enforcement.

In closing, although the process for school personnel is clear and works, we would recommend that helping individuals (primarily students) know when and to whom to report an incident without fear of reprisal could be an area worth review.

Thank you.

COUNTY PROSECUTORS ASSOCIATION OF NEW JERSEY

Fredric M. Knapp, President
Morris County Prosecutor

Francis A. Koch, 1st Vice President
Sussex County Prosecutor

Angelo J. Onofri, 2nd Vice President
Mercer County Prosecutor



Esther Suarez, Secretary
Hudson County Prosecutor

Christopher Gramiccioni, Treasurer
Monmouth County Prosecutor

Camelia M. Valdes, State Delegate, NDAA
Passaic County Prosecutor

May 30, 2018

Honorable M. Teresa Ruiz, Chair
Senate Education Committee
New Jersey Legislature
State House Annex
P.O. Box 068
Trenton, NJ 08625-0068

Honorable Fred H. Madden, Jr., Chair
Senate Labor Committee
New Jersey Legislature
State House Annex
P.O. Box 068
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Dear Senators Ruiz and Madden:

On May 25, 2018 I was sent correspondence of same date concerning a hearing by your joint committees tomorrow May 31, 2018 concerning various topics. Specifically, the correspondence indicated the topics of teacher sexual misconduct; the reporting of child abuse in schools; and the process for tenure charge arbitration in the case of teacher sexual misconduct.

I was invited to testify as the President of the County Prosecutors Association of New Jersey (CPANJ). I am in the process of compiling information for presentation to your committees relative to this topic. I have also spoken with your committee aide, Erin Basiak concerning the procedure and the possible submission of a written statement in lieu of oral testimony.

As my testimony was requested as President of the CPANJ I believe that is only fair for me to circulate your request to the membership for their input which I have done. I am at this point awaiting their responses.

Accordingly, I am respectfully requesting the opportunity to submit a written statement in lieu of oral testimony, however, I do not believe that it will be ready by your hearing date tomorrow. I would anticipate that it would be ready no later than next Monday, June 4, 2018. As I have requested input from all 20 County Prosecutors.

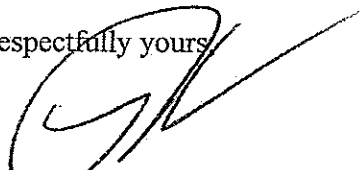
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48x

I have no hesitance in testifying at a later date once I have gotten input from my fellow Prosecutors.

Thank you again for inviting me to participate on this extremely important subject.

Respectfully yours



FREDRIC M. KNAPP
MORRIS COUNTY PROSECUTOR
PRESIDENT, CPANJ

FMK:mr
C: Liz Mahn



Testimony for Public Hearing
Senate Education and Labor Committees
May 31, 2018

Cheryl Mojta
Director of Operations
New Jersey Child Assault Prevention

Topics: Reporting child sexual abuse, primary prevention education and cyber-safety

To the Honorable Chairpersons Teresa Ruiz and Fred H. Madden and the Members of the Senate Education and Labor Committees:

On behalf of the New Jersey Child Assault Prevention (NJCAP) Project and our 21 County CAP Task Forces, I would like to address you today regarding the prevention of child sexual assault and sexual misconduct by professionals in schools and in the community at large.

The NJCAP Network was fully supportive of the S- 414 bill and we congratulate all those who ensured its passage. Now going forward, we need to surround this new legislation with prevention education and resources which will help strengthen children and families in our communities.

NJ CAP is an excellent resource on this subject, as it has been the leader in providing prevention education in the State since 1985. To date, our local network has trained over 3.5 million staff, parents and students to prevent peer assault, bullying, stranger abduction, physical assault and sexual exploitation. Our 200+ program facilitators bring CAP's empowering message of children's rights to approximately 100,000 students annually in pre-K to 12th grades in school districts across New Jersey. The motto of CAP is that *"All Children Deserve to be Safe, Strong and Free"*.

A segment of the CAP program, known as *Review Time*, is dedicated to giving children an opportunity to individually review prevention strategies and to discuss their personal safety concerns with trained CAP Facilitators. Over the years, as a result of CAP in their classroom, thousands of children have disclosed a variety of concerns during Review Time. Some of these concerns, were as simple, as needing to know when is the best time to talk to their parents about a problem - to more serious situations, of being bullied by classmates, physically abused at home, witnessing domestic violence, sexually victimized, suicidal ideations and many other overwhelming situations. Situations that often have been kept a secret until they had CAP.

Skilled CAP Facilitators have helped these children by making joint reports with the school to the State Central Registry and by linking the schools to local resources such as the school's Child Study Teams and social workers and community programs, such as the Traumatic Loss Coalition, 2nd Floor Hotline, Family Success Centers and other strength-based programs offered in our state.

NJ CAP, which is funded through the Department of Children and Families, provides its programming to over 500 schools annually. Although, this best practice program is effective to the schools it serves, there are so many schools that have never chosen to participate. The decision to participate in CAP is totally voluntary and up to the individual district administrator to decide whether their schools will offer this prevention program to their staff, parents and students.

Whereas, some districts faithfully engage CAP and embrace its children right's based tenets, others regularly put off implementation, often with the excuse that there is not enough time in the school calendar year for this type of "extra-curricular" activity. In actuality, some schools still do not believe that sexual assault and violence prevention should be taught in schools and therefore refuse programs like CAP over and over again. It is unfortunate, that in those schools, a few who are in charge have the power to deny, the many, including children and families, these lifesaving lessons.

In order to get compliance from all districts and ensure the fair primary prevention education of all our students, their families and school staff, NJCAP is recommending to both the Senate Education and Labor Committees that you quickly vote to **support S-1130** which *"Requires school districts to incorporate age-appropriate sexual abuse and assault awareness and prevention education in grades preschool through 12 as part of Core Curriculum Content Standards in Comprehensive Health and Physical Education."*

This bill passed in the Assembly as A- 769 with overwhelming 73-0 support and we hope that it also is pushed through the Senate with the same enthusiasm. NJ CAP with its demonstrated expertise would like to offer its county project network which already exists, as the primary resource for S-1130. Often when a bill is mandated for schools, they quickly respond by developing their own curricula which entails countless staff hours and additional funding. We recommend that the Department of Education utilize the best practice model of the CAP project to enhance S-1130 and ensure that those districts that have long denied their need for prevention education, now offer it for their school community.

Additionally, with the amount of sexual abuse and harassment which is taking place on social media and texting, NJCAP recommends the **support of S-2092**, which *requires districts to include instruction on consequences of distributing sexually explicit images through electronic means as part of New Jersey Student Learning Standards in Comprehensive Health and Physical Education.*

Along with its Bullying Prevention Program for grades k through 8th, NJ CAP offers a *followup Cyber-Empowerment* program for the 6th through 8th grades. This program was developed in collaboration with Rowan University and provides training for staff, parents and teens on choices and outcomes around texting, sexting and gaming. It also explores how social media can be used to reduce, instead of escalating bullying, bias crimes and violence among youth.

I thank you for this opportunity to present these recommendations from the NJ CAP Network and extend our hand to you, to help you accomplish the signing of bills – S-1130 and S- 2092, as well as the furthering of the use of the CAP prevention program, as you seek to keep our children safe today and in the years to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl A. Mojta".

Cheryl A. Mojta
Director of Operations
NJ Child Assault Prevention

18A:36-24. Missing children; legislative findings and declarations

The legislature finds and declares:

- a. That there is a growing recognition of the prevalence and consequences of child abuse.
- b. That the removal of children from school constitutes a deprivation in itself and may be an indicator of even more grievous abuses.
- c. That the public schools can and should provide an early warning to the appropriate authorities when a child appears to be missing from the educational system.

L.1984, c. 228, s. 1, eff. Dec. 28, 1984.

18A:36-25. Early detection of missing and abused children; policies of school districts

All school districts shall be required to establish policies designed to provide for the early detection of missing and abused children. These policies shall include provisions for the notification of the appropriate law enforcement and child welfare authorities when a potential missing or abused child situation is detected. This provision shall be complied with no later than March 1, 1985.

L.1984, c. 228, 2, eff. Dec. 28, 1984.

9:6-8.10 Report of abuse.

3. Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

L.1971, c.437, s.3; amended 1987, c.341, s.4; 2012, c.16, s.21.

N.J.A.C. 6A:16-11.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 10, May 21, 2018

New Jersey Administrative Code > TITLE 6A. EDUCATION > CHAPTER 16. PROGRAMS TO SUPPORT STUDENT DEVELOPMENT > SUBCHAPTER 11. REPORTING POTENTIALLY MISSING, ABUSED, OR NEGLECTED CHILDREN AND ATTEMPTED OR COMPLETED SUICIDE

§ 6A:16-11.1 Adoption of policies and procedures

(a) The district board of education shall develop and adopt policies and procedures for school district employees, volunteers, or interns to provide for the early detection of missing, abused, or neglected children through notification of, reporting to, and cooperation with appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-25 and 25.2, N.J.S.A. 9:6-8.10, and N.J.A.C. 6A:22-4.1(d). At a minimum, the policies and procedures shall include:

1. A statement indicating the importance of early detection of missing, abused or neglected children;
2. Provisions requiring school district employees, volunteers, or interns to immediately notify designated child welfare authorities of incidents of alleged missing, abused, and neglected children.
 - i. The person having reason to believe that a child may be missing or may have been abused or neglected may inform the principal or other designated school official(s) prior to notifying designated child welfare authorities if the action will not delay immediate notification.
 - ii. The person notifying designated child welfare authorities shall inform the principal or other designated school official(s) of the notification, if such had not occurred prior to the notification;
 - (1) Notice to the principal or other designated school official(s) need not be given when the person believes the notice would likely endanger the reporter or student involved or when the person believes the disclosure would likely result in retaliation against the student or in discrimination against the reporter with respect to his or her employment;
3. Provisions requiring the principal or other designated school official(s) to notify designated law enforcement authorities of incidents of potentially missing, abused, or neglected child situations.
 - i. The school district shall identify the school district official(s) and his or her designees responsible for reporting to the designated law enforcement authorities.
 - ii. The school district policies and procedures shall be consistent with the memorandum of agreement between education and law enforcement authorities pursuant to N.J.A.C. 6A:16-6.2(b)13.
 - iii. Law enforcement authorities shall be notified about all reports by employees, volunteers, or interns working in the school district made pursuant to (a)2 above;
 - (1) The notification to designated law enforcement authorities on behalf of a student attending a receiving school shall be made to the law enforcement authorities identified in the receiving school's memorandum of agreement as required by N.J.A.C. 6A:16-6.2(b)13;
4. Under no condition shall the school district's policy require confirmation by another person to report the suspected missing-, abused-, or neglected-child situation;

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5. Provisions for school district cooperation with designated child welfare and law enforcement authorities in all investigations of potential missing, abused, or neglected children including the following:

i. Accommodations permitting the child welfare and law enforcement investigators to interview the student in the presence of the school principal or other designated school official.

(1) If the student is intimidated by the presence of the school representative, the student shall be requested to name an employee, volunteer, or intern working in the school district whom he or she feels will be supportive and who will be allowed to accompany the student during the interview;

ii. Scheduling interviews with an employee, volunteer, or intern working in the school district who may have information relevant to the investigation;

iii. The release of all records of the student who is the subject of the investigation that are deemed relevant to the assessment or treatment of a potentially missing, abused, or neglected child pursuant to N.J.S.A. 18A:36-19 and 9:6-8.40 and allowable under the Family Education Rights and Privacy Act (FERPA), 34 CFR Part 99;

iv. The maintenance, security, and release of all confidential information about potential missing, abused, or neglected child situations in accordance with N.J.S.A. 18A:36-19, N.J.S.A. 9:6-8.40, and N.J.A.C. 6A:32-7;

(1) All information regarding allegations of potentially missing, abused, or neglected children reported to authorities about an employee, volunteer, or intern working in the school district shall be considered confidential and may be disclosed only as required to cooperate in investigations pursuant to (a)2 and 3 above or by virtue of a court order.

(A) Records pertaining to such information shall be maintained in a secure location separate from other employee personnel records and accessible only to the school district chief school administrator or his or her designee;

v. The release of the student to child welfare authorities while school is in session when it is necessary to protect the student or take the student to a service provider.

(1) Removal shall take place only after the principal or his or her designee has been provided, either in advance or at the time removal is sought, with appropriate documentation that the child welfare authority has already removed, or has appropriate authority to remove, the student from his or her home, as specified in N.J.S.A. 9:6-8.27 through 8.30; and

vi. The transfer to another school of a student who has been removed from his or her home by designated child welfare authorities for proper care and protection pursuant to N.J.S.A. 9:6-8.28 and 8.29;

6. A provision for the establishment of a school district liaison to designated child welfare authorities to act as the primary contact person between schools in the school district and child welfare authorities with regard to general information sharing, the development of mutual training and other cooperative efforts;

7. A provision for designating a school district liaison to law enforcement authorities to act as the primary contact person between schools in the school district and law enforcement authorities, pursuant to N.J.A.C. 6A:16-6.2(b)1, consistent with the memorandum of understanding, pursuant to N.J.A.C. 6A:16-6.2(b)13.

1. The designation of the school district liaison shall be consistent with the policies and procedures established by the district board of education for ensuring cooperation between school and law enforcement officials, pursuant to N.J.A.C. 6A:16-6.2(b)1;

N.J.A.C. 6A:16-11.1

8.Provisions for training employees, volunteers, and interns working in the school district on the school district's policies and procedures for reporting allegations of missing-, abused-, or neglected-child situations.

i.All new employees, volunteers and interns working in the school district shall receive the required information and training as part of their orientation;

9.Provisions regarding due process rights of an employee, volunteer, or intern working in the school district who has been named as a suspect in a notification to child welfare and law enforcement authorities regarding a missing-, abused-, or neglected-child situation.

i.Temporary reassignment or suspension of an employee, volunteer, or intern working in a school district named as a suspect pursuant to (a)2 above shall occur only if there is reason to believe that the life or health of the alleged victim or other student is in jeopardy due to continued contact between the school employee, volunteer, or intern and the student.

ii.All references to a notification to the designated child welfare authorities of a potential missing-, abused-, or neglected-child situation involving a school district employee shall be removed from the employee's personnel records immediately following the receipt of an official notice from child welfare authorities that the allegation was unfounded pursuant to N.J.S.A. 18A:6-7a; and

10.A statement that prohibits reprisal or retaliation against any person who, in good faith, reports or causes a report to be made of a potential missing-, abused-, or neglected-child situation pursuant to N.J.S.A. 9:6-8.13.

(b)The district board of education shall develop and adopt policies and procedures for school district employees, volunteers, or interns with reasonable cause to suspect or believe that a student has attempted or completed suicide, to report the information to the Department of Human Services, Division of Mental Health and Addiction Services, in a form and manner prescribed by the Division of Mental Health and Addiction Services pursuant to N.J.S.A. 30:9A-24.a.

History

HISTORY:

Repeal and New Rule, R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

Administrative correction.

See: 46 N.J.R. 2405(b).

Administrative correction.

See: 47 N.J.R. 781(d).

Amended by R.2015 d.158, effective October 5, 2015.

See: 47 N.J.R. 569(a), 47 N.J.R. 2492(b).

In (b), substituted "completed" for "contemplated".

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**ADDITIONAL APPENDIX MATERIALS
SUBMITTED TO THE**

**SENATE EDUCATION COMMITTEE
and
SENATE LABOR COMMITTEE**

for the
May 31, 2018 Meeting

Michael Vrancik, Director, Government Relations, New Jersey School Boards
Association (NJSBA):

NJSBA Policy Services, *Critical Policy Reference Manual*, New Jersey Schools Boards
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