

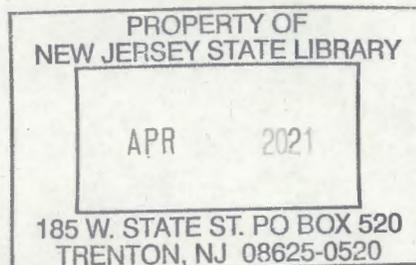


State of New Jersey

GENERAL ASSEMBLY
LEGISLATIVE OVERSIGHT COMMITTEE

REPORT OF THE IMPLEMENTATION OF
THE SCHOOL VIOLENCE REPORTING LAW

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INTRODUCTION

One of the more unsettling and unfortunate developments in our public schools in recent years has been an increase in acts of student violence, vandalism and alcohol and drug abuse. While there is undoubtedly great variation in the degree of this problem from school to school, and while these harmful activities may be representative of the behavior of only a small percentage of students, nonetheless even on a small scale incidents of violence and abuse pose unacceptable threats to the safety, tranquility and orderly process of the educational environment. When students and teachers suffer bodily harm, when school facilities and materials are destroyed, when students are rendered incapable by alcohol or drugs, then an entire educational system is at peril.

The State of New Jersey took swift and sure action to begin to deal with this issue when it surfaced as a widespread and growing phenomenon in the 1970's. Legislation was introduced in 1978 and enacted in January, 1979, to monitor the extent of violence and vandalism in the public schools and to ensure that school authorities responded to any offenses with appropriate disciplinary, remedial or referral activity. Originally intended as a temporary law for the purpose of assessing the extent of the problem over a period of two and one-half years, the law was given permanent status, although in a revised format, through enactment of superseding legislation in 1982.

The Assembly Legislative Oversight Committee undertook a review of the implementation of this law by the Department of Education in response to concerns raised by both the sponsor of the legislation, Senator Raymond Lesniak, and the New Jersey Education Association that the department was not currently fulfilling its mandated obligations in a manner consistent with legislative intent nor in a manner conducive to the effective monitoring and handling of incidents of violence, vandalism and alcohol and drug abuse. The committee held a meeting on this issue on February 23, 1984, and received testimony from the following parties: Senator Lesniak, Dr. Walter McCarroll (Department of Education, Assistant Commissioner for County and Regional Services), John Pietrowicz (New Jersey Education Association), Russ Molloy (New Jersey Association of School Administrators) and Wayne Oppito (New Jersey Principals and Supervisors Association). The findings and recommendations of this report are based on a review of the information submitted at the meeting, additional material supplied by the Department of Education and the NJEA, and the legislative history of the two versions of the law as expressed in legislative committee statements and bill markups.

LEGISLATIVE HISTORY

On June 26, 1978, Mr. Lesniak (then a member of the General Assembly) introduced a bill (A-1564) to require the Commissioner of Education to "monitor the incidence of

violence in the public schools...and establish a uniform recordkeeping system for the purpose of gathering information pertaining to offenses against persons, offenses against the school, and victimless offenses." The bill listed a number of specific actions subject to reporting, including assaults, thefts, fights, weapons possession, property destruction, setting of fires and false alarms, and "drug sale, and use of alcohol and other drugs."

The bill was amended three times during its course of consideration and was enacted as Chapter 183 of the Laws of 1978 (as approved by the Governor on January 3, 1979) in a form which retained the essence of the reporting requirement but deleted specific reference to the categories of reportable violence, vandalism and alcohol and drug abuse. Unfortunately, there is no explanation in any bill statement by either the Assembly or Senate Education Committee as to why these categories were eliminated.

The law (NJSA 18A:4-29.1 et seq.) required the Commissioner of Education to "establish standards and promulgate rules and regulations" for monitoring and recordkeeping with regard to "offenses against persons" and "destruction of school buildings or property." An additional feature of the law required any school employee who observed or had direct knowledge from a participant or a victim of an act of violence to "file a report describing the incident to the school principal in a manner prescribed by the commissioner." A copy of the report was to be forwarded to the county office of education. Lastly, the principal was

obligated to "notify the county office of education of the action taken regarding the incident."

This law clearly had a threefold intent: 1) to establish a system to assess the extent and nature of violence and vandalism, 2) to ensure that all such acts would be promptly reported by school employees and 3) to require, through reports to the county office of education, that principals would report on any follow-up action.

This law was enacted as a temporary measure with an expiration date of June 30, 1981. Its continuing value seemed self-evident, however, and it was reenacted, with modifications, on a permanent basis as Chapter 163 of 1982. Also sponsored by Assemblyman Lesniak, this new law (NJSA 18A:17-46) became effective on October 28, 1982. It continued the requirement that school employees report incidents of violence to the school principal in a manner prescribed by the Commissioner of Education. A copy of the report was now to be sent to the district superintendent in order that the local school board could remain apprised of acts of violence and vandalism. Likewise, the principal was required to notify the district superintendent of the action taken with respect to the incident. Reports were no longer to be submitted to the county office of education. Furthermore, in order to ensure that the public was appropriately informed of any incidents and of the school's response, the new law required that "Annually, at a public meeting, the superintendent of schools shall report to the board of education all acts of violence and vandalism."

An additional and most significant feature of the new law was a provision which offered school employees protection from administrative intimidation or reprisal in the event that they reported a violent incident. This new language made it "unlawful for any board of education to discharge or in any manner discriminate against a school employee as to his employment because the employee had filed a report..." The reason for this provision was explicitly stated in the bill statement offered by both the Senate and the Assembly Education Committees: "Experience has indicated that some school employees who have submitted such reports feel that they have been singled out and treated unfairly by school management after having submitted reports. To ensure that the public has full access to all information concerning any act of violence and vandalism in their schools, a provision has been included that offers protection to school employees who submit reports of violence and vandalism."

It is clear that the new law was designed to address the understood, if understated, concern that school employees or administrators might minimize an incident or deal with it "within the family" in order not to cause undue adverse publicity for a student, a school, or a community. However well-meaning such an approach might be, it may stand as a disservice to parents and to the general public, who have a need and a right to know of conditions affecting the safety and well-being of students. Further, in the case of disruptive student behavior that is of a criminal nature, any

failure of school authorities to promptly notify the police represents an abdication of legal and moral responsibility.

ADMINISTRATIVE HISTORY

Upon enactment of the original law, the Department of Education convened a task force of interested parties in both the public and private sector to develop appropriate implementation standards and forms. The task force developed a detailed incident report form to be used in all school districts. It was of obvious importance that standards and procedures be uniform throughout the State in order to both develop meaningful data on the extent and nature of the problem and to ensure that compliance was equal and even-handed. If school districts were free to be selective as to what constituted an act of violence or vandalism, or offered reports differing in scope and detail, then the law's requirement for a "uniform recordkeeping system" could not be met and, of greater consequence, the public might be uninformed or misinformed of emerging problems.

The uniform report sheet as developed by the task force and circulated by the department was entitled a "Violence, vandalism and drug abuse incident report." It offered a checklist of 16 types of incidents, ranging alphabetically from arson to trespassing, and including "drug possession," "drug sale," and "drug use." Both alcohol and marijuana were listed as subentries under these three headings. This form in essence paralleled the provisions of

Senator Lesniak's original version of the bill, which itemized the specific types of violence, crime or abuse to be reported. While the final version of the bill as enacted into law did not make reference to any specific offense, its mandate for the monitoring of violence and the gathering of information "pertaining to offenses against persons and destruction of school buildings or property" was obviously interpreted in its broadest sense by those who developed and adopted the report form.

When the law was revised and made permanent, the department interpreted its mandate in a somewhat different fashion. The uniform report form was abandoned. In a memo to county superintendents in December, 1982, the department offered as a replacement "a suggested format which contains the minimum standards established by the Commissioner." The memo pointed out that "a local district may replace this form with another of its own design, with the County Superintendent's review and approval..." This suggested form retained most of the categories of violence and vandalism that were listed on the original form, but deleted all references to alcohol and drug abuse. In addition, the reports of each incident were no longer to be forwarded to the Department of Education. Instead, only summary reports of aggregate data on the number of incidents were filed with the commissioner. There is no question that since the law did not specifically call for the reporting of incidents of alcohol and drug abuse, the department was certainly acting within the

letter of the law in eliminating these categories. As to the cessation of the filing of reports with the commissioner, the Department points out that whereas the old law specifically charged the commissioner with a responsibility to establish a "uniform recordkeeping system," the new law only required the commissioner to establish standards for the reporting of violence and to submit an annual report "detailing the extent of violence and vandalism." Further, the department maintains that the elimination of the submission of reports to the county office of education meant that individual reports no longer had to be filed with the commissioner's office.

PROBLEMS AND CONCERNS

Despite the fact that there was little difference between the first and second versions of the law as to the specific role and direction given to the Commissioner of Education, the commissioner nonetheless instituted three major procedural changes for the implementation of the revised law: (1) the discontinuance of the uniform report form, (2) the deletion of any reference to alcohol and drug abuse on the suggested report form, and (3) the elimination of the forwarding of a copy of each incident report to the commissioner's office.

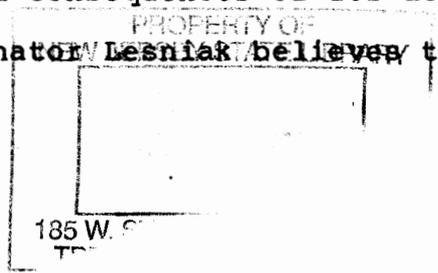
In his testimony before this committee, Dr. Walter McCarroll of the Department of Education stated that the reporting procedures were changed in the interests of eliminating hours of paper work and administrative time at

the local, county and state level. He also indicated that once the department had developed and analyzed the data provided under the original law, it then became more important to develop programs to deal with the problems of violence, vandalism and drug abuse then to continue to collect and compile data on an issue that had been well-documented. In fact, Dr. McCarroll's view was that the requirement for the yearly collection of data on drug and alcohol abuse was unnecessary and that periodic surveys would be sufficient to monitor the extent of any problems. Dr. McCarroll amplified this viewpoint in a supplementary letter to the Oversight Committee:

"While the original violence and vandalism reporting system was quite comprehensive, the current system was intended to supplement the original report of 1982 with data to identify trends in the kinds of incidents reported. ... This in no way detracts from ... the need for the department and local school districts to develop effective programs to deal with the problems of violence, vandalism, and drug and alcohol abuse."

As to the deletion of alcohol and drug abuse from the report form, Dr. McCarroll explained "that the extent of the problem regarding drugs and alcohol is well documented. Since the present statute does not require the reporting of drug and alcohol abuse, the department chose not to include the items for reporting in an effort to eliminate unnecessary paperwork for local districts."

Beyond the question of whether or not the Department of Education was wise to alter the reporting system stands the more direct issue of the practical consequences of its action. As sponsor of the legislation, Senator Lesniak believes that a



continuing assessment of the extent of alcohol and drug abuse in our public schools is essential in order to ensure that problems will be quickly identified and appropriately dealt with and in order to promote public confidence in and support for our educational system. Without a mandate from the Department of Education that these activities be reported, Senator Lesniak is concerned that incidents of abuse may be ignored, excused or hidden.

The New Jersey Education Association, which also sees a need for the reporting of alcohol and drug abuse, believes that the Department of Education's new reporting procedures have produced a system that lacks credibility and value, one that is viewed with suspicion by teachers, one that does not ensure that potential criminal acts are reported to the police, and one that provides questionable data and results. It argues that teachers will be reluctant to report violent incidents in the absence of a clear and strong state mandate that it is an expected and accepted thing to do. The NJEA is disturbed that the incident report form is actually filled out and signed by the principal, not the teacher, and that a copy of each report is not filed with the commissioner. The NJEA feels that this method of handling the reports is inimical to the development of an open, cooperative system. A teacher has no assurance that the principal will file a report that thoroughly and accurately reflects the teacher's assessment of the incident. Nor can the teacher check the files in the commissioner's office if there is any question as to what, if any, action was taken by the principal in response

to the report. The NJEA also maintains that the lack of uniform reporting standards allows for divergent judgments as to what constitutes a reportable offense (thereby confusing teachers and administrators) and makes it impossible to aggregate or compare data across district lines (thereby inhibiting an assessment of the nature and magnitude of the problem).

FINDINGS AND RECOMENDATIONS

It is clear that the Department of Education is concerned that the reporting law may wastes resources in the production of paperwork that might be better applied to the development of programs to deal with problems of violence, vandalism and alcohol and drug abuse is not. No doubt the department reasonably expects that each school would on its own monitor and take appropriate action with regard to these problems, regardless of whether or not there was a reporting law. Unfortunately, there is considerable evidence that, if left to their own devices, some schools would be neither vigilant in uncovering these offenses nor diligent in punishing them. The fact that legislation was necessary to protect teachers from reprisals for reporting possible criminal activity among students does little to inspire confidence in the good faith efforts of local school districts to deal with these issue in an open, straightforward and unemotional manner.

The Assembly Legislative Oversight Committee is disturbed that there seems to be a fair amount of confusion as to the reporting system's purposes and procedures. To the extent that implementation of the law can be improved through a dialogue among interested parties, this committee urges the department to reconvene the task force that participated in the development of the original guidelines. We are pleased to note in this regard that Dr. McCarroll has already pledged to follow this course. In a letter to this committee on February 28, he wrote:

"In an effort to address the concerns of the Assembly Oversight Committee, and others who testified, I am appointing a representative committee from the state educational community. The committee shall be asked to review the process for reporting the incidence of violence and vandalism and the need for inclusion of items regarding drug and alcohol abuse. Changes in the reporting system can be considered for implementation in the 1984-85 school year."

We applaud the assistant commissioner's action and look forward to the outcome. It is this committee's opinion that the system should reflect at least the following administrative or legislative mandates:

1. Incidents of alcohol and drug abuse should be reported.
2. A uniform report form should be established.
3. School employees, rather than the principal, should fill out and sign the initial report form. A section could be provided for additional comments or remarks from the principal. The form should also provide additional space for a description or amplification of any information that can not be adequately expressed in the checklist of items.
4. A copy of the report should be maintained by the employee and a copy should be forwarded to the commissioner's office.

5. A list of the categories of reportable offenses, with detailed descriptions of each, should be developed in order to assure that similar incidents are reported in a similar manner from one district to another.

6. A list of suggested follow-up actions for principals should be developed, with particular attention to the manner in which potential criminal activity ought to be handled. Similar incidents should be treated similarly from one district to another.

7. A periodic assessment of the viability and value of the reporting system should be made by a task force of the educational community. No system need be set in stone, and changing conditions -- a decline in the number of incidents, a growth in the paperwork burden -- could result in a general agreement that the system could use further modification. The key is that changes should not be imposed unilaterally by the department.

It is clear that the Department of Education must take a strong leadership role in promoting the reporting system and ensuring that it functions in a proper manner. Teachers should not feel inhibited about reporting an incident nor be in doubt as to whether there will be effective follow-up. Principals should be urged to take immediate and effective action. School boards must be counseled to provide for an open discussion of any problems. At all levels, emphasis must be on public accountability.