



DCFS: College and University Staff Must Report Suspected Child Abuse

November 14, 2011

By Ellen M. Babbitt, Scott L. Warner and Amy K. Dickerson

In the wake of the Penn State child abuse allegations, a spokesperson from the Illinois Department of Children and Family Services (DCFS) has stated that DCFS interprets the State's Abused and Neglected Child Reporting Act, 325 ILCS 5/1 *et seq.*, (ANCRA) to require college and university employees to report suspected child abuse. This development was reported in the *Chicago Tribune* on November 11, 2011, and it may require prompt action by post-secondary institutions operating within the State of Illinois.

Under ANCRA, certain individuals, including school personnel, are identified as "mandated reporters"; this means they have a duty to immediately make a report to DCFS if they have reasonable cause to believe that a child known to them in their professional or official capacity may be neglected or abused. Separately, other professionals, such as physicians, social workers, registered nurses, licensed counselors, and psychologists, are identified as "mandated reporters" under the Act in their capacity as professionals rather than employees.

Although ANCRA expressly identifies "school personnel" as mandated reporters, it does not define "school personnel"; it does, however, expressly include school administrators, school board members, and certificated and non-certificated school employees within the list of individuals who would be considered "mandated reporters," and it repeatedly references the duties of school district staff. In contrast, it makes no specific reference to the duties of college or university staff anywhere in the Act. As such, many institutions of higher learning may have assumed that ANCRA's reference to "school personnel" does not include every employee of postsecondary institutions and that the mandated reporters on college campuses are only those physicians, social workers, counselors, and psychologists who fall within the narrower, separate category of covered professionals under the Act.

The recent statement by DCFS indicates otherwise, and it suggests the need for prompt adjustment of institutional policies and training protocols regarding reports of potential neglect or abuse. It should be emphasized that ANCRA itself has not been amended and remains unclear on this point. As such, courts might not agree with the broad DCFS interpretation or the legislature might clarify the Act to narrow its application on postsecondary campuses. But there is equally good reason to assume that the DCFS interpretation will prevail and that more campus employees than simply medical and counseling professionals actually fall within the legal definition of "mandated reporter" and need to be advised of their responsibilities. Both for risk management and policy reasons, institutions of higher learning should consider revising their policies and offering training now, so that all employees understand when and how to report suspected abuse or neglect of minors.

What Are the Duties of Mandated Reporters?

ANCRA requires all mandated reporters who suspect abuse or neglect of a minor child—that is, any person under the age of 18 (unless married or a member of the United States armed services)—to immediately make a report to DCFS by telephone to the DCFS hotline (1-800-25-ABUSE) or in person, followed by a written report within 48 hours. This duty to report is absolute, and it rests with the individual identifying the suspected abuse or neglect.

Mandated reporters are required to report both suspected physical abuse as well as sexual abuse, which occurs when a person responsible for the child's welfare sexually exploits or molests the child, engages in sexual penetration with the child, or transfers a



sexually transmitted disease to the child. This definition would therefore include sex with a child by a person over the age of 18 if that person over the age of 18 is responsible for the child's welfare or comes to know the child through an official capacity or position of trust, including health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel. The Act also does not distinguish between current or past abuse. Thus, if a mandated reporter suspects that a child was abused in the past, he or she must report that suspicion. DCFS recommends that if a mandated reporter is in doubt about whether to report, the reporter should report the suspected abuse. DCFS hotline staff members are trained on what constitutes grounds for an investigation and can assess a mandated reporter's concerns to determine if a report should be taken and referred for investigation.

ANCRA also requires all mandated reporters to sign a form prior to starting their employment acknowledging their understanding of the reporting requirements under the Act. This requirement applies to any mandated reporter who begins employment on or after July 1, 1986. Any current employees who have not signed such a form should do so as soon as possible in order to confirm that they understand their obligations under the Act.

For further information on the requirements of ANCRA and how they apply to colleges and universities, please contact us or any of our higher education colleagues at Franczek Radelet.

More Information

Ellen M. Babbitt
emb@franczek.com
312.786.6520

Amy Kosanovich Dickerson
akd@franczek.com
312.786.6108

Scott L. Warner
slw@franczek.com
312.786.6523

Related Practices

Education Law
Higher Education
K-12 Education

Copyright © Franczek Radelet P.C. All Rights Reserved. Disclaimer: Attorney Advertising. This is a publication of Franczek Radelet P.C. This publication is intended for general informational purposes only and should not be construed as legal advice