

# LEGAL MAILBAG – JUNE 20, 2024



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

*The Legal Mailbag column is written this week by Attorney Natalia Sieira Millán with Attorney Thomas Mooney. Natalia Sieira Millán is a partner of Shipman & Goodwin who represents school districts throughout Connecticut, and she formerly served as Assistant Legal Director at the Department of Children and Families. Natalia represented the Connecticut Association of Public School Superintendents this year in the working group that made recommendations that included the changes in the law described this week. Readers are invited to submit short, law-related questions of practical concern to school administrators. One question and its answer will be published in this column each week. Questions may be edited; authors will not be identified; and answers cannot be considered formal legal advice. Please submit questions to: [legalmailbag@casciac.org](mailto:legalmailbag@casciac.org).*

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Dear Legal Mailbag,

As we close out the school year, one of the teachers at my school told me about an incident last month that causes me concern. Apparently, a fourth-grader told a friend last month that the physical education teacher had grabbed him by the shoulders in anger and shook him so hard that his neck hurt. That claim made the rounds in the fourth grade until a student told a teacher about the first student's accusation against the physical education teacher.

Given the emphasis on making prompt reports to the Department of Children and Families (DCF) whenever a student makes an accusation of abuse against a teacher (or others), I figured that the teacher would tell me that she then made the obligatory report to DCF. However, I was surprised when she told me that she spoke directly with the student who supposedly claimed that the physical education teacher had grabbed him. She described the student as embarrassed when she asked him about the incident. He told her that he was just fooling around and he made up the story as a joke on his friend. The student expressed surprise that his friend took his claim seriously, and he apologized for causing trouble. The teacher told me that she pressed the student to make sure that he was not simply backtracking after being manhandled by the physical education teacher. But by the end of the conversation, she was convinced that the student had just made up the story, and she told me that she never filed a report of suspected abuse with DCF.

That all sounded reasonable to me, but I have a nagging concern that this teacher should have reported the accusation directly to DCF. The powers that be have drummed into my head the idea that mandated reporters should never investigate because investigation of such allegations is the job of DCF. Should I tell the teacher that she put herself at risk by investigating this accusation?

Signed,  
*Better Safe than Sorry*

Dear Safe:

Thank you for writing about this important topic. Legal Mailbag joins you in stressing that once a mandated reporter has reasonable cause to suspect or believe that abuse has occurred, the mandated reporter should report that suspicion or belief to DCF and should not investigate further. In this case, I think the teacher did put herself at risk. However, you will be relieved to read that there has been a change to the law effective July 1, 2024, that will permit teachers to conduct a preliminary inquiry before reporting a claim of abuse or neglect to DCF.

As a threshold matter, the standard for reporting suspected abuse or neglect remains the same, as follows:

(a) (1) ***Any mandated reporter***, as described in section 17a-101, ***who in the ordinary course of such person's employment or profession has reasonable cause to suspect or believe*** that any child under the age of eighteen years (A) has been abused or neglected, as described in section 46b-120, (B) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (C) is placed at imminent risk of serious harm [must report that suspicion or belief to DCF]. (Emphasis added).

Conn. Gen. Stat. § 17a-101a(a) (NOTE: mandated reporters are also obligated to report facts regarding the possible victimization of students by school employees whether or not the alleged victims are under eighteen years of age.)

Determining what is or is not reasonable cause to suspect or believe that abuse or neglect has occurred, however, has been a challenge. In 2015, the General Assembly provided additional guidance by adding the following to the statute:

For purposes of this section and section 17a-101b, a mandated reporter's suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child, victim, as described in subdivision (2) of subsection (a) of this section, or third party. Such suspicion or belief does not require certainty or probable cause.

In Public Act 24-41, the General Assembly has now provided further clarification of the duties of mandated reporters by adding the following to the provision above:

Nothing in this section shall preclude a mandated reporter from conducting a preliminary inquiry to determine if reasonable cause exists for such mandated reporter to make a report pursuant to subsection (a) of this section.

By adding the foregoing, the General Assembly has made clear that, effective July 1, 2024, mandated reporters are not obligated to report allegations of abuse blindly without inquiring further whether the allegation of abuse in fact gives rise to reasonable cause to suspect or believe that abuse has occurred.

Here, the teacher heard about an allegation through the student rumor mill and should have reported the matter because Public Act 24-41 is not effective until July 1, 2024. However, moving forward, mandated reporters will have a right to inquire further to determine whether they have reasonable cause to report an allegation to DCF. Under the law as will be effective July 1, the teacher here would have been able to conduct the soon-to-be-permissible “preliminary inquiry” through that further conversation to determine whether she has reasonable cause to suspect or believe that abuse had occurred.

Finally, among the other important changes to the reporting statutes made in Public Act 24-41 is a change in the immunity provision in the statute. Mandated reporters who make a report in good faith have long been immune from liability (for example, if the report is not substantiated and the subject of the report wants to bring a claim against the reporter). Conn. Gen. Stat. § 17a-101e(b). Public Act 24-41 restores a further protection that was removed from the law in 2018, again effective July 1, 2024. This immunity provision will also provide that mandated reporters are protected if they act in good faith under the circumstances presented and not file a report. Such could be the case, for example, in your situation if, after convincingly telling the teacher that the allegation against the physical education teacher was false, the student in question then renewed his accusation. If a mandated reporter heard the renewed accusation, he or she must file at that time, but the teacher who in good faith did not make a report after her preliminary inquiry with the student would not be subject to a failure to report charge.