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ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
70804-9005

July 9, 2024
OPINION 24-0091

100 SCHOOL & SCHOOL DISTRICTS – Teachers, Principals, & Superintendent, Sabbatical leave, Extracurricular activities, Students

Dr. Cade Brumley
State Superintendent
Claiborne Building
1201 N 3rd Street
Baton Rouge, LA 70802

La. Ch. Code art 603
La. Ch. Code art 609
La. Ch. Code art 610

La. R.S. 14:403
La. R.S. 17:81.7

DCFS is required to initiate an investigation in nonresidential schools when a teacher reports suspected child abuse by a caretaker as defined by La. Ch. Code art. 603(4)(a). Teachers are mandatory reporters and are required to report to law enforcement abuse or neglect by someone other than a caretaker. A school board may not enact a policy that interferes with a teacher's obligation or ability to contact law enforcement when abuse of a child is suspected.

Dear Dr. Brumley:

You requested an opinion of this office regarding: 1) the legality of a school board's policy for investigating and reporting allegations of child abuse or neglect; and 2) the obligations of the Department of Children and Family Services ("DCFS") to investigate suspected child abuse or neglect, as defined by La. Ch. Code art 603, in nonresidential schools. The policy you submitted to our office provides that when a school employee receives information about child abuse committed by another school employee or volunteer, the employee shall "notify the appropriate immediate supervisor of the accused individual, and that supervisor in turn will as soon as reasonably possible, notify the Superintendent or designee." The policy affords discretionary authority for the superintendent or school board's attorney to "determine what appropriate action the school system may take over and above the investigation being conducted by the appropriate state agency."

For the reasons that follow, we determine that the policy you submitted to this office does not comply with the law and that DCFS is required to initiate an investigation in nonresidential schools when a teacher reports suspected child abuse by a caretaker as defined by La. Ch. Code art. 603(4)(a).

Pursuant to La. Ch. Code art. 603(17)(d), teachers are mandatory reporters. As such, they are required to report to law enforcement abuse or neglect.¹ Louisiana Children's Code Article 603(2)(a) defines abuse, in pertinent part, as follows:

(1) "Abuse" means any one of the following acts which seriously endangers the physical, mental, or emotional health of the child;

¹ See La. Ch. Code art. 610(A)(1). Louisiana Children's Code Article 610(A)(1) also requires teachers to report to the Department of Children and Family Services when abuse has occurred against a child and the abuser is believed to be a parent, caretaker, a person dating the parent or caretaker, or a person living in the same residence as the caretaker.

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person

The act of abuse must seriously endanger the physical, mental, or emotional health of the child. If a teacher believes that the actions of a teacher, school employee, or volunteer rises to the level of abuse as outlined in La. Ch. Code art. 603(2)(a), then the teacher must report the act according to La. Ch. Code art 609 using the procedures provided in La. Ch. Code art 610, or face possible criminal liability under La. R.S. 14:403.

Louisiana Revised Statutes 17:81.7 states:

A. No parish or city school board shall adopt any rule, regulation, or other policy, formal or informal, which forbids or discourages any teacher or other school board employee from reporting directly to any appropriate law enforcement authority any apparent criminal activity by any person involving, or appearing to involve, controlled dangerous substances, or any other apparent illegal activity.

B. No parish or city school board shall adopt any rule, regulation, or other policy, formal or informal, which would have the effect of preventing or hindering the response of law enforcement officials on school board property to reports of illegal activity.

The policy you submitted to our office violates La. R.S. 17:81.7. The policy directs teachers to report abuse by another teacher or school employee to their supervisor who in turn notifies the superintendent, who then decides upon a course of action. This contravenes La. Ch. Code art. 609, which requires that a teacher immediately report to law enforcement abuse by someone other than a caretaker.

Turning to your next question, pursuant to La. Ch. Code art. 610(A)(1), reports of abuse where the abuser is believed to be a parent or caretaker shall be immediately reported to DCFS. Dual reporting to both DCFS and the local or state law enforcement agency is permitted. *Id.* Louisiana Children's Code Article 603(4)(a) specifically excludes from the definition of caretaker an operator or employee of a nonresidential school. Accordingly, when a teacher suspects and reports abuse of a child by a caretaker, DCFS is required to investigate. But when the suspected abuse was committed by a teacher or school employee, DCFS is not required by statute to investigate. If a teacher believes that the actions of a teacher or school employee rises to the level of abuse as outlined in La. Ch. Code art. 603(2)(a), then pursuant La. Ch. Code art 610, the teacher must report the act to law enforcement for investigation.


Considering the foregoing, it is the opinion of this office that DCFS is required to initiate an investigation in nonresidential schools when a teacher reports suspected child abuse by a caretaker as defined by La. Ch. Code art. 603(4)(a). Furthermore, teachers are mandatory reporters and are required to report to law enforcement abuse or neglect by

someone other than a caretaker. A school board may not enact a policy that interferes with a teacher's obligation or ability to contact law enforcement when abuse of a child by someone other than a caretaker is suspected.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: 

Amanda M. LaGroue
Assistant Attorney General

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