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MEMORANDUM

TO: School District Superintendents

FROM: Jacob Oliva

DATE: September 25, 2020

SUBJECT: Mandatory Reporting of Offenses Affecting the Health, Safety and Welfare of Florida Students

Contact Information:

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DPS: 2020-112

The Commissioner of Education has made the health, safety and welfare of Florida students a high priority. Section 1012.796, Florida Statutes, contains requirements for school districts, charter schools and private schools that accept scholarships to file in writing with the Florida Department of Education (FDOE) all legally sufficient complaints within 30 days.

In October 2019, the State Board of Education passed Rule 6A-10.082, F.A.C., which clearly enumerates 10 felony offenses and one misdemeanor offense that must be reported to the FDOE Office of Professional Practices Services within 24 hours of the individual's arrest or conviction. Timely reporting allows the Office of Professional Practices Services to place a notification of a pending case on the educator's profile in the educator certification database so other school districts are aware and can make informed decisions regarding potential employment.

On September 23, 2020, the State Board of Education expanded the list of criminal offenses for 24-hour reporting identified in Rule 6A-10.082, F.A.C., to include:

- Section 796.04, F.S., Forcing, compelling, or coercing another to become a prostitute;
- Section 796.05, F.S., Deriving support from the proceeds of prostitution;
- Section 800.101, F.S., Offenses against students by authority figures;
- Section 796.06, F.S., Renting space to be used for lewdness, assignation, or prostitution; and
- Section 796.07, F.S., Prohibiting prostitution and related acts.

Additionally, the rule requires the FDOE Office of Professional Practices Services to take several steps including: placing a notification on the educator's certification file within 24 hours, notifying the commissioner of these cases within 24 hours, and prioritizing these cases and immediately beginning the investigation of the certified educators involved.

JACOB OLIVA
CHANCELLOR OF PUBLIC SCHOOLS

Below is the entire rule language as amended September 23, 2020:

6A-10.082 Mandatory Reporting of Offenses Affecting the Health, Safety and Welfare of Florida Students

(1) Definitions. For the purposes of this rule, the following definitions apply:

(a) "Administrative personnel" means any K-12 personnel, as defined by Section 1012.01(3), F.S.

(b) "Instructional personnel" means any K-12 staff member as defined by Section 1012.01(2), F.S.

(c) "Substantiated allegation" means evidence of guilt that goes beyond reasonable suspicion and which supports a finding of probable cause to believe the conduct has occurred. It does not require the completion of an investigation and can be a preliminary determination.

(2) Beginning with the 2019-20 school year, in order to provide the Department with information which will form the basis of a complaint to recommend revocation, suspension or other penalty of a educator's certificate and in order to provide the Commissioner information so that he can exercise his authority to request the reassignment of personnel from direct student contact, within twenty-four (24) hours of the matter coming to the attention of a school district, a school district superintendent must report to the Department of Education an arrest or conviction of any administrative or instructional personnel for any of the offenses listed below. The same reporting requirements apply where there are substantiated allegations of misconduct by any administrative or instructional personnel that would constitute any of the offenses listed below, regardless of whether there has been an arrest or conviction.

(a) Felony offenses:

1. Section 782.04, F.S., relating to murder.

2. Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

3. Section 787.01, F.S., relating to kidnapping.

4. Section 787.04(2), F.S., relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

5. Section 787.04(3), F.S., relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

6. Section 794.011, F.S., relating to sexual battery.

7. Section 794.05, F.S., relating to unlawful sexual activity with certain minors.

8. Section 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute.

9. Section 796.05, F.S., deriving support from the proceeds of prostitution.

10. Section 800.101, F.S., relating to offenses against students by authority figures.

11. Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.

12. Section 827.071, F.S., relating to sexual performance by a child.

(b) Felony or misdemeanor offenses:

1. Section 787.025, F.S., relating to luring or enticing a child.

2. Section 796.06, F.S., renting space to be used for lewdness, assignation, or prostitution.

3. Section 796.07, F.S., prohibiting prostitution and related acts.

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(c) Any criminal act committed in another state, or under federal law, which if committed in Florida constitutes an offense prohibited under any statute listed in subsection (2)(a) or (2)(b) of this rule.

(3) The superintendent's report to the Department of Education must include, at a minimum:

(a) The name of the instructional or administrative staff person arrested, convicted, or implicated by a substantiated allegation of misconduct;

(b) The name of the institution where the person is or was employed;

(c) The date on which the school district became aware of the arrest, conviction, or substantiated allegation of misconduct;

(d) A summary of the substantiated allegations of misconduct giving rise to this report; and

(e) A description of any action taken by the district in response.

(4) The superintendent's report must be emailed to the Department of Education at the following address: 24hr.DistrictReporting@fldoe.org.

(5) The Department of Education's Office of Professional Practices Services must at a minimum:

(a) Within twenty-four (24) hours, place an administrative notification on the educator's profile screen in the database maintained by the Bureau of Educator Certification and the Office of Professional Practices Services shall notify the Commissioner within twenty-four (24) hours;

(b) Prioritize the case and immediately begin the investigation to expedite presentation of the case to the Commissioner of Education for the Commissioner's consideration of probable cause to sanction the educator's certificate.

Thank you for your attention to these important changes. This rule revision strengthens the original rule that went into effect in October 2019 by adding additional criminal offenses that have been reported to the Office of Professional Practices Services over the past year. Their inclusion will further ensure prompt action by the FDOE to increase safe and healthy environments for all of Florida's students.

JO/rk