

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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MEMORANDUM

TO: Laurel Thompson, Director School Social Work and Attendance

FROM: Edward J. Marko, Esq. and Marilyn Batista-McNamara, Esq.

DATE: March 27, 2007

SUBJECT: Policy 5.3 – Mandatory Reporting of Child Abuse

This memorandum is in response to the request for a legal opinion concerning whether School Board Policy 5.3 complies with Florida Statute 39.202 when it requires that an employee making a mandatory report of child abuse pursuant to statute, then notify the principal or designee that a report has been made. For the reasons stated below, this question is answered in the negative.

Florida Statute 39.202 (2) allows certain persons, officials and agencies to receive access to the reports of abuse, abandonment, or neglect of children. Section (p) of that statute provides that "the principal of a public school . . . where the child is a student" is allowed to receive information from the report and share that information with other school employees to effectively provide educational services to a student. However, the statute very clearly states that this access to information excludes the "name of the reporter." The only time that the reporter's name can be released is with the written consent of the person reporting.

As such, to mandate that a school employee notify the principal or designee that a report has been made runs afoul of the language in Florida Statute 39.202 (2). Staff should amend Policy 5.3 to conform with this opinion and designate a process whereby the teacher is permitted to share information with the principal but is not required to do so. Additionally, Form 4002B needs to be amended to reflect the change in policy.

If you have any questions, please do not hesitate to contact the School Board Attorney's Office.

MBM

c: Leah Kelly, Executive Director, Student Support Services & ESE
Nina Hansen, School Social Worker

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