

ADVISORY BULLETIN: Parent Notification Regarding Employee Criminal Conduct

June 29, 2018

The following is an overview of a School's responsibilities to notify parents when an employee of the School is charged with certain crimes. Note that these requirements also explicitly apply to charter school collaboratives. [H.B. 18-1269](#) was passed in the 2018 Legislative Session and takes effect August, 15, 2018. Each CSI School must incorporate these notification policies into its Safe School Plan, including a notification procedure for when school is not in session. These requirements are not waivable.

This document is not intended to provide legal advice in any way. It is always recommended that a CSI school contact its attorney if there is ever a question about notifying parents of an employee's criminal conduct.

Duty to Monitor

Currently, schools receive routine background check reports from the Colorado Bureau of Investigation (CBI) related to employees who have previously been subject to a background check.

H.B. 18-1269 requires schools to monitor the criminal proceedings of a school employee after they become aware that a school employee has been **arrested** for a certain crime. These crimes include:

- felony child abuse;
- a crime of violence, not including second degree assault unless the victim is a child;
- a felony involving unlawful sexual behavior;
- a felony in which it is alleged that the factual basis for the crime includes an act of domestic violence;
- felony indecent exposure; or
- a level one or level two drug felony.

When a school is alerted that one of its employees has been **arrested** for one of the above crimes, the school is responsible for monitoring the criminal proceedings to determine whether the employee is **charged** with an offense that warrants notification.

This bill defines "**employee**" as any employee of any school who is required to be in contact with students or whose work area gives the employee access to students. Employees include former employees if the individual was employed by the school at any time within 12 months before an offense is **charged**. Notice is required even if the circumstances surrounding the charge occurred when the employee was off duty. The definition of "employee" also includes employees of private online education providers with which a school contracts. Although the bill does not directly address employees of an education service provider, it is likely that this definition would extend to any such individuals. Schools should err on the side of caution in requiring and keeping on file background checks for employees of education services providers who have access to students.

Duty to Notify

There are two situations under which a school is required to provide notification to parents pursuant to the notification requirements listed below:

1. Within two school days after the preliminary hearing is either held or waived by the employee, or within two school days after the date on which the employee is charged if the charged offense is not eligible for a preliminary hearing.
 - NOTE: If the school has already provided notification that substantially conforms with the notification requirements described below, then the school does not need to issue additional notice at this step.
2. Within two school days after the school confirms the **disposition** (outcome) of the charge, the school shall provide notice to the parents of the disposition in the same manner as the original notice.

Notice can be delayed if requested by law enforcement until the request is withdrawn.

Notification Requirements

Where the duty to notify is triggered, notification must be provided to all parents of students enrolled in the school in which the employee is or was employed at the time of the alleged offense, or with whom the school has reason to believe the employee may have had contact as part of his or her employment.

The notification must be in the same manner in which the school notifies parents of important school business, like e-mail or other electronic communication.

The notification must include:

- the name of the employee;
- the employee's position;
- whether the employee continues to be employed by the school;
- the length of employment with the school;
- the alleged offense as set forth in the charging document, including the violation of statute or code; and
- a statement that, under state and federal law, a person is presumed innocent until proven guilty.

A school may provide any other additional information it deems necessary in the notification regarding underlying facts or circumstances, but shall not disclose the identity of the alleged victim.

Each school must incorporate these notification requirements into its Safe School Plan. In addition, each school must develop a procedure for notification for when school is out of session.

Resources

[Sample Policy](#)

Legal References

H.B. 18-1269

C.R.S. 18-6-401 (*felony child abuse*)

C.R.S. 18-1.3-406 (*Crime of violence, not including assault in the second degree unless the victim is a child*)

C.R.S. 16-22-102(9) (*felony offense involving unlawful sexual behavior*)

C.R.S. 18-6-800.3 (*a felony, where it is alleged that the underlying factual basis of which includes an act of domestic violence*)

C.R.S. 18-7-302 (*felony indecent exposure*)