

NATIONAL HOME EDUCATION LEGAL DEFENSE

(NHELD, LLC)

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Susan Hamilton
Commissioner
Department of Children and Families
505 Hudson Street
Hartford, CT 06106

Dear Commissioner:

I received your September 13, 2007 correspondence regarding the proposed changes to the DCF Policy Manual. I also note that you posted your proposed changes on the DCF website the same day in which you sent me your correspondence.

Thank you for the one change you made to sections 37-7-7, Criteria for Hotline Acceptance, and 34-12-5, "Criteria to determine educational neglect".

While I believe the changes you are proposing are beneficial, I understand, however, from the comments in the cover letter, that your agency will not make any further changes to this policy. This does concern me because I believe that there remain a few, but significant, problems with the policy.

To be clearer, I will quote those sections below and follow with my comment.

1. DCF Policy Manual Section 37-7-7, Educational Neglect, Criteria for Hotline Acceptance:

DCF's First Redrafted policy read:

"The Hotline may accept a report of educational neglect from a school if a child who is **registered** in the school has a pattern of unexcused absences or fails to attend, or if the person responsible for the child's health, welfare, or care fails or refuses to meet the child's **educational needs.**"

DCF's Second Redrafted policy now reads:

“The Hotline may accept a report of educational neglect from a school if a child who is **enrolled** in the school has a pattern of unexcused absences or fails to attend or if the person responsible for the child’s health, welfare or care fails or refuses to meet the child’s **educational needs.**”

Comment:

Changing the word “registered” to the word “enrolled” is a welcome change. It accurately reflects statutory language. Children are not statutorily “registered” in school, they are “enrolled”. This should alleviate confusion about that issue.

I am still very much troubled by the fact that you have chosen not to change the words “educational needs” in that paragraph. As I indicated to you previously, this term does not accurately reflect statutory law, is open to varied subjective and discretionary interpretation and may continue to cause unnecessary problems for parents, school districts, and DCF. As I previously stated, Conn. General Statute §10-184 requires parents to instruct their children, cause them to be instructed, or to have them attend a public school. The statute does not refer to “educational needs”. Therefore, your policy does not accurately reflect statutory law.

Moreover, Conn. Gen. Stat. §46b-120(9) provides that “a child or youth may be found "neglected" who (A) has been abandoned, or (B) is being denied proper care and attention, physically, educationally, emotionally or morally”. This statute, also, does not refer to “educational needs”. Again, your policy does not accurately reflect statutory law.

Why not simply use the same language that you use in your newly proposed policy that appears just below the paragraph in contention? That language is as follows:

“Child Protective Hotline shall use the following criteria in determining acceptance of a report of educational neglect:

The child’s age

Parental action, including

1. not enrolling a child age 7 through 15 in school or providing home instruction
2. for children who are enrolled in school, failing to take appropriate steps to ensure that the child attends school,
3. for children who are enrolled in school, refusing or failing to cooperate with school efforts to improve attendance, including school outreach efforts.”

In other words, instead of directing that the Hotline worker to accept a report when “the person responsible for the child’s health, welfare or care fails or refuses to meet the child’s educational needs”, direct the Hotline worker to accept a report when “the person responsible for the child’s health, welfare or care fails or refuses to **enroll a child age 7 through 15 in school or to provide home instruction.** That would accurately reflect statutory law and lessen the possibility for confusion. I sincerely hope that you will reconsider your position on making no further changes, and adopt this simple suggestion.

In my previous correspondence with you, I also noted my concerns regarding three other important issues. While your newly drafted policies are appreciated, they do not address specifically the problems that we have encountered this year regarding DCF accepting reports against families simply because they have withdrawn their children from enrollment in a public school. Again, I would urge you to direct your staff, through the policy manual, that intake of reports when the only allegation is educational neglect due to withdrawal from school is not acceptable. This one directive would have eliminated an inordinate amount of waste in time, money, and enormous anxiety among many this year alone. A simple directive such as this doubtless could save your agency thousands of dollars. I urge you to reconsider and to again amend your policy manual.

Your newly drafted policies also do not address the issue of the filing of false complaints. As you know, Conn. Gen. Stat. §17a0101e(c) states, “Any person who knowingly makes a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, shall be fined not more than two thousand dollars or imprisoned not more than one year or both.” The fact is, many false complaints were filed against parents this year alone. Yet, your agency has not directed staff to do anything about those false complaints. Neither you, nor your staff, have reported to proper authorities for further prosecution those who have filed those false complaints. Why not? How will your agency direct staff to uphold and enforce this law? Until your agency answers those questions and duly reports those who have filed false complaints to the proper authorities for further prosecution, there is no reason to believe these false complaints will cease. Again, I cannot urge you strongly enough to amend your policies to address this very important issue.

Finally, coinciding with directives concerning the filing of false complaints, it is imperative that you and your staff become familiar with Conn. Gen. Stat. §53a-192, the criminal statute prohibiting coercion. It states, in relevant part,

“(a) A person is guilty of coercion when he compels or induces another person to engage in conduct which such other person has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which such other person has a legal right to engage, by means of instilling in such other person a fear that, if the demand is not complied with, the actor or another will...take or withhold action as an official, or cause an official to take or withhold action.”

Unfortunately, all too frequently, uninformed school district personnel have tried to compel or induce parents into engaging in conduct which the parents have a legal right to abstain from engaging in, (usually compelling parents to file the Notice of Intent form, a Suggested Procedure), by means of instilling in the parents a fear that if the demand is not complied with, the school district official will take action as an official to report the parent to DCF for truancy or neglect. As you know, this was a prime impetus behind our effort to have the policy manual changed so that DCF is no longer improperly used as an “attack dog” to compel parents into compliance. I believe it is imperative for your staff to be aware of this statute and to be directed that they are not to be used in this manner by anyone improperly coercing parents into compliance with that which they are not statutorily compelled to comply. Again, I strongly urge you to reconsider and to incorporate reference to this statute in your policy manual.

I also hope that when your agency proposes any further changes in its policies or regulations, or proposes legislation, that would affect the rights of parents in their ability to instruct their children at home, you would let us know. I think that continued dialogue between DCF and the homeschool community would only serve to foster better understanding.

I eagerly await your response.

Yours truly,



Deborah G. Stevenson

cc. Thomas DeMatteo