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Questions?

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Superintendents to be Notified of Sex Offender Release

In accordance with Public Act 09-199, the Department of Public Safety is now obligated to notify school superintendents whenever a sex offender is released into their school districts:

(B) Whenever a registrant is released into the community, the Department of Public Safety shall, by electronic mail, notify the superintendent of schools for the school district in which the registrant resides, or plans to reside, of such release and provide such superintendent with the same registry information for such registrant that the department makes available to the public through the Internet under subdivision (1) of this subsection.

Given this new requirement, we have received a number of questions on whether and how superintendents should respond when they receive this information.

Neither the statute itself nor the legislative history of Public Act 09-199 provides guidance. However, our best thinking is that superintendents should do something. In the unlikely event that a student were the victim of a sexual offender released into the community, the parents could seek to hold the school district liable by claiming that it

was unreasonable for the superintendent to do nothing after receiving this information. Conversely, it would be unreasonable to establish a notification procedure and then fail to follow it. Liability may be imposed when (1) there is a duty of care, (2) a district official acts unreasonably, (3) that failure to act reasonably causes an injury, and (4) such an injury was foreseeable. Accordingly, we recommend that school superintendents establish and follow a protocol for both internal and external communications related to the receipt of sex offender notifications. To do nothing, or to fail to follow an established protocol, would be an invitation to litigation.

School districts may choose to deal with this statute in different ways. Indeed, during the legislative debate over this statute, Senator Witkos stated “that one size doesn’t necessarily fit all.” However, we have identified a protocol for dealing with notification to parents. The approach is twofold:

1. We suggest placing a link to the Department of Public Safety’s sex offender registry on the school district’s website, whether or not the district has received a specific notification under this new law. This link can simply be entitled “Department of Public Safety” or



words to similar effect. The following is the link to the Department of Public Safety's sex offender registry: http://www.communitynotification.com/cap_office_disclaimer.php?office=54567.

2. If and when the superintendent receives a specific notification from the Department of Public Safety that a registered sex offender is being released into the community, we suggest that the district post the actual notification from the Department of Public Safety on the website.

In addition to the above steps, we recommend that districts adopt procedures to ensure that information disseminated pursuant to this new law is used as effectively as possible. In particular, we recommend that districts develop a protocol for cross-checking the notification prior to hiring any new employee and prior to utilizing the services of volunteers for school-

related activities. In addition, districts should be sure that staff members are appropriately trained about how to proceed (in coordination with Central Office personnel) in the event that a registered sex offender seeks to serve as a volunteer or as an employee in the district.

We understand that school superintendents did not ask for this notification, and the legislative history also reflects serious questions as to the efficacy of providing school superintendents this notification. However, given the provisions of this statute, which became effective September 1, 2009, we recommend that school superintendents take some action. We hope that this information is helpful to you in this regard. To read the full text of the new law, please **click here** or visit <http://www.cga.ct.gov/2009/ACT/PA/2009PA-00199-R00SB-00533-PA.htm>. To review excerpts from the legislative history of this law, please **click here** or visit http://www.shipmangoodwin.com/files/upload/PublicAct09_199.pdf.

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