

LAW OFFICES OF  
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## **August 2010 USBA Legal Update**

As the new school year begins, it is a good time to revisit training and appropriate practices for dealing with officials who show up at a school requesting information pertaining to a student or asking to interview a student at the school. This is particularly important because these officials often represent other public agencies, such as police officers or caseworkers from the Division of Child and Family Services, and school districts have continuing interactions with such agencies. Similarly, it is important for school employees to know how and under what circumstances they should affirmatively contact such agencies to provide them with information relating to a student.

Most interactions between representatives of schools and government agencies occur without problems. In those occasional unfortunate cases when an interaction does not go smoothly (even if this is only a matter of miscommunication or misperception) it can result in substantial disruption to the school and those school employees involved. For example, in a recent well-publicized case which we observed through the media, a school principal faced criminal charges because the city prosecutors took the position that the principal did not notify authorities of suspected child abuse. This case serves as a reminder that in certain circumstances, school employees have an affirmative duty to report information. This duty to report child abuse is set forth by statute in Utah Code Ann. § 62A-4a-403, and USBA model policy DDA provides guidance in meeting this duty.

In addition, it is advisable to consider having trained administrators deal with requests from representatives of other governmental agencies. This can help to safeguard against inappropriate disclosure of information relating to the students and their educational records under FERPA while at the same time appropriately working with the government agency representatives in addressing their concerns. Having untrained or inexperienced individuals handle these requests can be problematic for the employees and the school. For example, our office recently assisted with defending a school employee who was criminally charged with obstruction of justice following a visit by a caseworker from the Division of Child and Family Services to the school and the involvement of a local police detective. This case involved an individual who was not an administrator and was relatively new in the school office environment. This criminal charge was brought against the school employee for providing information to a parent. The charges seemed to be a result of the Division and the local police department's dissatisfaction with the manner in which their visit was handled by the school employee and the school's subsequent follow-up. Although in our assessment the charges lacked merit, the employee and district were subjected to the stress, time and expense of having to defend the matter. In addition, relations with the other agencies were temporarily strained.

Because the impact of such intergovernmental agency interactions can be so significant, it is important that a district establish appropriate practices and periodically train employees on the district's practices, policies and procedures. These policies are important not only to help employees and districts to avoid liability, but also to help avoid misunderstandings and ensure good relations with other government entities. District legal counsel can assist in creating or revising practices and procedures which should be followed.