

Office of the Child Advocate
Mandated Reporter Commission Meeting Minutes
Thursday, May 21, 2020
10:00am-12:00pm

Meeting held virtually via WebEx pursuant to the Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20 signed by Governor Baker on March 12, 2020.

Mandated Reporter Commission Members Present:

Maria Mossaides, - Child Advocate- Chair
DA Marian Ryan - Representative of MDAA
Michael Ryan on behalf of Lisa Hewitt - CPCS
Andrew Rome - General Counsel, DCF
Michaela Martini on behalf of Spencer Lord - EOPSS
John High - Chief of Staff, DPL
Angela Brooks - Director of the Child and Youth Protection Unit, OAG
Anne Connors - Associate Commissioner for Field Investigations EEC Officer
Officer Elizabeth Fleming- Member Appointed by the Governor
Ann Reale- Undersecretary and Chief Operating Officer, EOE
Nina Marchese- Director of the Office of Approved Special Education Schools, DESE

Members of the Public:

Cristine Goldman (OCA)
Alix Riviere (OCA)
Cecely Reardon - General Counsel, DYS

Meeting Commenced: 10:04am

Welcome and Introductions:

Maria Mossaides, Chair of the Mandated Reporter Commission, called the meeting to order and each member introduced themselves virtually. She discussed last meeting's work and explained that given the absence of Lisa Hewitt, the Commission would postpone discussing any possible carveout for certain social workers until the next meeting. Next, Cristine Goldman, the Office of the Child Advocate's Director of Policy and Legal Counsel, reviewed the agenda.

Approval of March and May Meeting Minutes:

Ms. Goldman offered discussion and held a formal vote on the approval of the March 30, 2020 and May 20, 2020 Mandated Reporter Commission meeting minutes. The May 7, 2020 meeting minutes were approved by a roll call vote: Ms. Mossaides, Ms. Connors, Mr. High, Mr. Rome, DA Ryan, Ms. Brooks, Officer Fleming, Ms. Marchese.

The March 30, 2020 Mandated Reporter Commission meeting minutes could not be approved as there were not enough members present to constitute a quorum of persons who attended the

March 30, 2020 meeting. A roll call vote was held and those who voted in favor: Ms. Mossaides, Ms. Connors, Mr. Rome, DA Ryan, Ms. Brooks. All other present members abstained from the vote due to not being present at the March 30, 2020 meeting. Further discussion and voting on the March 30, 2020 meeting minutes will be tabled until next meeting.

Presentation of Research and Proposals Regarding Categories of Mandated Reporters and Institutional Reporting:

All discussion was based off of the text of the document provided to Commission Members in advance of the meeting. Document title: MRC 05_21_2020 Categories and Institutional Reporting Document.

Mandated Reporter Definition

The Commission discussed the wording around the inclusion of volunteers in the definition of mandated reporters and agreed to the language proposed in the document. The Commission discussed that volunteers who may be volunteering once could be permitted to forgo any mandated reporter training requirement so long as they are not left alone with children. This proposal and explanation will be explored by the Commission in the report that will accompany the draft legislation.

The Commission then discussed the topic of contractors. Two language proposals in the document were reviewed by the group. The group agreed that the second language proposal, i.e. “any person contracted by any entity to perform the functions of a profession or role listed herein” captured the Commission’s recommended language for consideration. The Commission discussed that different sectors, public and private, use the term “contractor” differently and that it is important that the statute be clear. The Commission therefore decided to add a section to their proposed statutory language for review defining terms such as “contractor” for clarity and inclusiveness.

Medical Providers

Commission members agreed that the wording of the *Medical Providers* section of the document captured their recommendations for consideration.

Mental Health Providers

Commission members agreed that the wording of the *Mental Health Providers* section of the document captured their recommendations for consideration., Ms. Goldman reiterated the reason for the change from “clinical worker” to “social worker.”

School Employees

The Commission discussed how to capture educational settings that are not traditional. Commission members agreed that the language should be broad and inclusive. The Commission discussed that the “remote” aspect of educational setting is important to think about, especially during this pandemic and as we think about the future of education. Members pointed out that virtual settings pose problems of their own including possible jurisdictional challenges. The Commission discussed the implications of remote settings for mandated reporters beyond the educational settings (tele-health etc.). The OCA will redraft the language to reflect Commission members’ comments and suggested changes and review the entire document of proposed language to ensure there is room to accommodate possible remote/virtual circumstances.

Higher Education

The Commission reviewed the changes made based on feedback from the last meeting and agreed the proposed language captured their intent, noting the removal of the “contractors” language as that language will be incorporated elsewhere.

Public Safety Officials

The Commission reviewed the two proposals in the document. Members discussed that judges should not be included as mandated reporters in light of concerns for the appearance of bias resulting in requests for recusal and other legal complications. The Commission also discussed that security personnel are often privately contracted, such as during school events or athletic events, and are in positions of power. The Commission agreed to add “private security personnel” to their recommended language for consideration.

Social Service Providers

The Commission discussed language changes made since the last meeting and discussed broadening language regarding individuals’ roles is preferred to specifics about title or certification, as those might change in the future. The group discussed instances that could hinder individuals’ reporting of abuse and neglect in the specific case of social service providers. The Commission discussed types of persons who performed duties in households and who may potentially witness child abuse or neglect. The Commission discussed whether mandated reporting obligations should hinge on whether in-home providers are paid noting that there will be difficulty in training volunteers who may provide services sporadically. The Commission agreed that the OCA should draft a few versions of the language so that the Commission could consider the issue further at the next meeting. The Commission also noted that there was no subsection related directly to mentorship relationships, including volunteer mentors, and asked that the OCA draft proposal language.

Clergy

The Commission discussed the history of this section briefly. The proposed language changes are based on recent court cases from other states which have involved confidentiality in religious scenarios. The OCA noted that due to the Covid-19 pandemic the OCA’s legal research abilities are limited at this time and Commission members agreed to delay in-depth discussion of this proposal section until the OCA can conduct further research into the scope of the clergy-penitent privilege in Massachusetts.

Other Notes

It was discussed throughout the meeting that it is important that the language be clear that we are referring to individuals who are mandated reporters, not entities or organizations. The OCA will review all language proposed to ensure that is clear.

The Commission revisited the discussion of a universal mandated reporter scheme as a possibility. Commission members agreed that the benefits of universal reporting include that there is no confusion around who is a mandated reporter and it could be easier to ensure training if it were mandatory for all. However, Commission members noted that there is no evidence that universal reporting schemes result in an increase in substantiated reports and that there is a danger of racial/ethnic/socioeconomic bias in reporting that can cause DCF over-involvement in certain

communities or groups. The Commission agreed to continue to pursue legislative drafting for categories of mandated reporters.

Closing Comments:

The OCA will update the working document based on Commission discussion at this meeting and the conversation regarding categories of mandated reporters will be continued next meeting. The OCA expects to move on to the topic of mentors, recreational activities staff & coaches, and institutional reporting at the next meeting. Ms. Mossaides explained that she has asked for an extension for the Mandated Reporter Commission report until December 31, 2020, but added that the legislature does not yet have the vehicle to extend the Commission's projects and she will keep the group informed.

The next meeting will be held virtually on June 24, 2020 from 2:00pm-4:00pm. The Commission members present agreed upon the next meeting date.

Adjournment: 11:59am