

Hi Henry,

*I have reviewed the 2 policies and the revised version does not violate the law. It would also be acceptable for the school to have no policy at all. If you adopt the revised version, be sure to eliminate the bolded Note, as it refers to a provision that doesn't exist. Also, with regard to II.A, there is repetitive language in sentence 2 and the last sentence about the bus drivers getting the Offender Fact Sheets. It is also not clear to me how the bus drivers will get those Fact Sheets if there is no procedure in place for you (as Head of School) to notify law enforcement that you want notifications (unless you automatically get them without asking?)*

*One concern that I have relates to the optics of it. I would be interested in knowing the rationale for the revisions. It could be viewed as an effort to protect the privacy of sexual predators or not taking the danger they pose seriously.*

*The second concern is the possibility of opening up a negligent supervision claim. The parts that were removed included directing the school to notify its staff about the presence of a predatory offender. If the staff does not know about a predatory offender in the area, they are not able to be on the lookout for that person. If something were to happen, perhaps an argument could be made that the school did not fulfill its duty to protect its students due to not alerting its staff of the predator offender's presence. The model policy sets a standard. That standard is not a legal mandate, but it is evidence of what actions a school might be expected to take to meet its duty, and it seems to me that notifying staff entails a pretty nominal burden. Even if the school was not held liable, the public perception could still be terrible. In contrast, adopting the model policy (or at least the staff notification portion) and following it, could give the school some cover if something does go wrong, as the school can say that it is following a standard policy that is relied upon by a lot of other schools.*

*If the concern is this becoming too burdensome to implement and you really want revisions, I might be more inclined to cut paragraphs IV. A. 4-5, but leave II.A. and IV.B. intact.*

*Of course, I may be persuaded otherwise or I might have some different suggestions if I had a better idea of the argument for such revisions.*

*Let me know if you want something further from me.*

Lee Ann Riehle