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The Newsletter from

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# CIVIL RIGHTS UPDATE

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## FEDERAL COURT UPHOLDS STATE LAW SHIELDING IDENTITY OF SCHOOL OFFICIALS WHO REPORT SUSPECTED CHILD ABUSE

DeLeon v. Putnam Valley Board of Education, 228 F.R.D. 213, 2005 WL 1140555 (S.D.N.Y. 2005)

**Facts:** Four plaintiffs sued the school district claiming racial discrimination in education. One plaintiff, the mother of an African American child, on the child's behalf, claimed that the District filed a false report with Child Protective Services which asserted that the District suspected child abuse in the home. The plaintiffs alleged that the District's officials were racially motivated in filing the report. Plaintiffs sought, through discovery in the federal action, the identity of the individual school district employee who filed the report.

**Issue:** Is the identity of an individual school district employee, who is a mandated reporter of suspected child abuse, subject to disclosure in a federal civil rights lawsuit?

**Holding:** District Judge Colleen McMahon held that the identity of the reporter of suspected child abuse is to be shielded from discovery, reversing the order of Magistrate Judge Lisa M. Smith.

**Analysis:** New York State Social Services Law § 413(1) requires school officials and other professionals who work with children to file a report with Child Protective Services when they have "reasonable cause to suspect" that a child is being abused or maltreated. The failure of a mandated reporter to file a report subjects them to criminal liability for a misdemeanor. §420(1) and (2). Even though the subjects of the reports are entitled to copies of the reports under state law, they are not entitled to know the name of the reporter. § 422. State law also grants immunity from civil and criminal liability to individuals, officials and institutions that make such reports in good faith. Mandatory reporters of abuse are also given assurances that their confidentiality will be protected.

Because federal courts do not have to afford deference to state law privileges such as those provided under the Social Services law, the Court balanced the competing interests in the case. The Court determined that the factors favoring disclosure of the reporter's identity – the relevancy of, the importance to, and the strength of plaintiffs' case – were heavily outweighed by factors militating against disclosure. In doing so, the Court concluded that there is a strong interest in assuring mandatory reporters of child abuse that their identities will be protected and expressed grave concern that the failure to enforce these state laws could have a chilling effect on the reporting of suspected abuse.

The Court cautioned, "If a person who was the subject of an unfounded report could get around the statutory prohibition against disclosure of the reporter's name merely by alleging that discrimination rather than a genuine suspicion motivated the original report, the legislatively-mandated protection for the reporter would not be worth the paper on which it was written."

**Miranda & Sokoloff, LLP represents the Putnam Valley Board of Education in this matter.**

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***"If federal courts could routinely preempt this state law and allow the identity of mandatory reporters to be released, school officials, as well as other mandatory reporters, may be less likely to come forward and report these allegations."***

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