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121 N. LaSalle St.
Room 107
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Legislation Details (With Text)

File #: O2018-7214
Type: Ordinance **Status:** Failed to Pass
File created: 9/20/2018 **In control:** City Council
Final action:
Title: Amendment of Municipal Code Chapter 8-16 by adding new Section 8-16-128 regarding regulation of appropriate school staff and student communication networks and policies
Sponsors: Burke, Edward M., Solis, Daniel, O'Connor, Patrick, Dowell, Pat, Laurino, Margaret, Scott, Jr. Michael, Reilly, Brendan, O'Shea, Matthew J.
Indexes: Ch. 16 Offenses By or Against Minors
Attachments: 1. O2018-7214.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|----------------|--------|
| 5/29/2019 | 1 | City Council | Failed to Pass | |
| 9/20/2018 | 1 | City Council | Referred | |

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City has a duty to protect kids and a primordial interest in ensuring child and student safety; and

WHEREAS, in June 2018, the Chicago Tribune published an investigation titled "Betrayed," of Chicago Public Schools' (CPS) mishandling of sexual misconduct cases; and

WHEREAS, the investigation revealed that CPS failed to protect students and report misconduct claims to the Department of Children and Family Services (DCFS) or the Chicago Police Department (CPD) as required by law; and

WHEREAS, the investigation exposed systematic failures of child protection and showed that police had investigated 523 cases of sexual violence against students inside Chicago public schools since 2008; and

WHEREAS, one case specifically exposed a teacher who sent text messages via personal phone to a student asking inappropriate questions and was eventually arrested for charges including indecent solicitation of a child; and

WHEREAS, most recently on September 1, 2018 the Chicago Tribune revealed another case of sexual abuse in the CPS system, this time involving a trusted mentor and employee at an elementary school who has been accused of sexually abusing at least 19 boys; and

WHEREAS, the Tribune article states the employee had been seen at a party "coming on" to teenage boys who were students at the school where he first began volunteering, and would take students to his apartment where they could come and go at any hour of the day; and

WHEREAS, the article explains that the employee's apartment was open to male students where he would offer them meals and a place to play videogames, wash their clothes, shower, and sleep at night; and

WHEREAS, the article also reveals that the employee would buy the students clothes and shoes and give them money, only to later force himself on them, causing confusion and asserting dominance over vulnerable individuals; and

WHEREAS, according to the investigation, the school should have known or was on alert that his acts both inside and outside of the school were inappropriate and unprofessional, and no steps were taken to look into the allegation that he was taking advantage of young boys; and

WHEREAS, due to these disturbing accounts of CPS staff sexually abusing students and communicating with them through personal text messages, personal email, or social media accounts, the Chicago Board of Education approved new policies adopted by CPS found in the Policy Handbook for Staff Acceptable Use, that would place restrictions on how teachers, staff, and students can communicate through these platforms; and

WHEREAS, technology devices, internet, and data systems can be effective tools for education, but, when used inappropriately by educators, students are put in vulnerable positions and could end up harmed; and

WHEREAS, there is an abundance of formalized, school sponsored resources and communication channels for both teachers and coaches to communicate with their students; and

WHEREAS, using personal communication channels as a way to build relationships with students is unnecessary, unprofessional, and opens the door to potentially inappropriate student/teacher interactions; and

WHEREAS, students may feel they are inclined to respond so as not to anger or disappoint their teachers or coaches who, by their position, have an inherent dominance in the relationship; and

WHEREAS, elected officials in the City of Chicago have a primary responsibility to protect the children who attend school in the City and seek to do so here by ensuring school staff cannot- via the most prevalent forms of youth-involved communication that are text, email, and social media- misuse their position of authority to impose inappropriate contact and, ultimately, relationships with students; and

WHEREAS, a code of conduct with respect to unmonitored communication through non-school sanctioned channels is the most effective and direct way to ensure that all communication is subject to monitoring and therefore, remains on appropriate school staff/student subject matter; and

WHEREAS, appropriate student contact parameters should exist in every school in the city, and their codification is hereby sought in order to extend the protection to every student who attends school in Chicago; and

WHEREAS, with the school year now underway, it is of utmost importance that this City Council act to protect students and establish clear parameters of appropriate contact for the benefit and protection of students and all of those charged with ensuring that the trust that students and families place on school staff is well-placed; and

WHEREAS, that trust is a fundamental aspect of the education that we are charged with providing; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 8-16 of the Municipal Code of Chicago is hereby amended by inserting a new Section 8-16-128 as follows:

8-16-128. Communications with Students

a) *Applicability.*

The provisions of this section shall apply to any elementary, middle or secondary school in the City of Chicago, public or private.

b) *Definitions.*

For the purposes of this section the following words and terms shall be understood as having the following meanings:

"Broadcast Email" means any email which contains the same content and is transmitted en masse to school(s), department(s), parents or students from a school or school system's bulk communication tool.

"Collaboration Tools" means systems which support synchronous and asynchronous communication through a variety of devices, tools and channels. Examples of collaboration systems include, but are not limited to: calendaring, message/conference boards, blogs, group messaging apps, video conferencing, websites and podcasting.

"Computer Resources" means all computers, electronic devices and information technology, whether stationary or portable, used to conduct the day to day business of the school or school system including, but not limited to, all related peripherals, components, disk space, storage devices, servers, telecommunication devices and output devices such as printers, scanners, facsimile machines and copiers whether owned or leased by the school or school system.

"School Network or Network" means the infrastructure used to communicate and to transmit, store and review

data over an electronic medium and includes, but is not limited to, school email system(s), bulk communication tools, collaboration tools, databases, internet service, intranet and systems for student information, financials, and personnel data and any school-based system authorized for use hereunder.

"Department/School Management" refers to the supervisor, manager, director, officer, principal, or other employee of the school or school system designated by his or her department or office or school to implement policy compliance requirements.

"Non-School Social Media" means Social Media established by or for a third party or non-school group or organization (e.g. Social Media page(s) established by or for a public or private organization, for profit or not-for-profit company, etc.)

"Personal Social Media" means non-school-related Social Media page(s) established by a School Employee for his or her personal or private endeavors.

"Portable Device" means movable devices including, but not limited to, laptops, desktop computers and like-devices, tablets, wireless communication devices (e.g. Smartphones).

"School Employee" means any employee including but not limited to teachers, coaches, after school directors or administrative staff, who is employed by any elementary, middle or secondary school in the City of Chicago, public or private.

"School Social Media" means authorized school-related social media that is either school-based (e.g. principal establishes a social media page for the school, or a teacher establishes a social media page for his/her class) or district-based, network-based or department-based (e.g. a department establishes a social media page to communicate with the larger Chicago school community).

"School System" means a school's governing network, district, or organization.

"Social Media" means online platforms, networks or websites through which users post or share information, ideas, messages and other content (such as photos or videos) and includes, but is not limited to, media sharing sites and social networking sites such as Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn.

(c) Communications with Students via email. A school employee who communicates with students through email: (i) must do so using a school authorized network system, except for any express exception noted in the school's policy or guidelines; (ii) shall communicate regarding classroom, school and school-related activities only; and (iii) shall exercise best professional judgment, integrity and concern for student well-being.

A school employee shall not use a personal, third-party email account in their capacity as representatives of the school where they work to communicate with students. Email sent by school employees must be sent from their school account. If a school employee inadvertently sends or receives an email related to his or her work duties on their personal email account, the employee shall forward the email(s) to his or her school email account.

(d) Communication with Students via Mobile Device. School employees are prohibited from communicating with a student via: (i) a student's mobile device, whether phone, text or Instant Messaging (IM), (ii) a student's personal email account (communications to the student's school email account is permitted), (iii) any Personal Social Media account or non-school Social Media account, and (iv) any group messaging application other than a school- approved application.

(1) Exceptions. School systems may adopt the following exceptions, which if adopted, may constitute a defense to a claim of violation of paragraph (d);

(i) Pre-Approved Safety Meet-Up Communications. School employees may communicate with students in grades 9-12 via text messaging or IM when necessitated by an educational or extra-curricular activity for purposes of ensuring student safety, and: (1) the student's parent/guardian and the principal both provide prior written permission for the text/IM messaging communications using the school form established for such

purpose, and (2) communications are sent as group texts or messages with the parent/guardian on the text message or IM and also the school employee's school email address for proper retention of communications.

(ii) Approved Bulk Text Notifications and Alerts to Students. Schools may utilize a bulk text notification system that delivers group text notifications and alerts to a student's personal mobile device, provided that: (1) the notification system is authorized by the school or designee upon information security and records retention compliance review; (2) the parent/guardian provides prior written permission for their child to receive the text notifications/alerts; and (3) the parent/guardian receives the same text notifications/alerts sent to their child when the parent/guardian elects to receive these notifications/alerts.

(iii) School Programs for Re-Engagement of Out-of-School Youth, Chronic Truants and Students Exiting Juvenile Detention Facilities approved by the school system authority. School staff members who are responsible for student outreach efforts under School System-Approved Re-Engagement Programs may communicate with students in grades 7-12 via text messaging or IM provided that the school staff member: (1) complies with the parent/guardian permission requirements established by the school system authorities for staff/student text communications under the applicable program; (2) complies with the group texts/messages requirements established by the school system authority to include other staff member(s) or the parent/guardian on the staff/student text communications; (3) complies with any other requirements established by the school system authority for such text/IM communications with a student for program purposes, and (4) includes the staff member's school email address, or other school email address identified by the school system authority, on all texts/IMs for proper records retention.

(iv) The school system may authorize exceptions when the school determines, in writing, to permit school employee/student text/IM communication when it is in the best interest of the student to authorize school employee/student electronic communications outside of the school network.

(e) Communication with Students via Online Social Media. School employees are prohibited from communicating with current school students on Personal Social Media and Non-School Social Media except as expressly described herein. School employees are permitted to communicate with current school students on School Social Media as described herein.

(1) Personal Social Media.

(i) In order to maintain a professional and appropriate relationship with students, school employees shall not communicate with current school students via Personal Social Media or Non-School Social Media. School employees shall not add any current school student, regardless of age, as "friends," followers, or contacts on a Personal Social Media account. This provision is subject to the following exceptions: (1) communication with the school employee's family members, and (2) if an emergency situation requires such communication, in which case the school employee shall notify his or her supervisor of the contact within twenty-four (24) hours of the communication and send a copy of the communication to the school employee's and supervisor's school email account so that it can be retained in accordance with school records retention requirements.

(ii) Nothing herein prohibits communication with school graduates or former school students who are over the age of eighteen (18).

(2) School Social Media.

(i) School employees may communicate with students on School Social Media in accordance with the communication policies set out by the School. Any violation of those guidelines subjects the school employee to a violation under this Section. This includes any School Social Media that is created for the purposes of communicating with students in his or her class, sports team, or club.

(ii) School employees shall comply with the requirements set out in School Social Media Guidelines and shall include: Requirements to ensure that before posting any student image, work or accomplishment, the school employee must verify that the student has a current signed School Media Consent Form on file with the school. Posts must be deleted and reported to the principal if a signed media consent form is not on file with the school.

(f) Violation. Upon the determination that a person has violated any provision of this Section or any rule or regulation promulgated hereunder, shall for the first offense, be fined not more than \$2,500.00 or be incarcerated for not more than thirty (30) days, or both. Any subsequent conviction for a violation of this

Section shall be fined not more than \$5,000.00 or be incarcerated by no more than one hundred-eighty (180) days, or both.

SECTION 3. This ordinance shall take effect immediately upon passage.

Edward M. Burke Alderman, 14th Ward

Daniel Solis Alderman. 25th Ward

Alderman, 40th Ward