

## **CHILD ABUSE IN AN EDUCATIONAL SETTING**

The Board of Education recognizes that children have the right to an educational setting that does not threaten their physical and emotional health and development. Child abuse by school personnel and school volunteers violates this right and therefore is strictly prohibited.

Allegations of child abuse by school personnel and school volunteers shall be reported in accordance with the requirements of Article 23-B of the Education Law.

### **Required Reporters**

Any person holding any of the following positions shall be required to promptly report written and/or oral allegations of child abuse in an educational setting:

- school administrator
- teacher
- school nurse
- school guidance counselor
- school psychologist
- school social worker
- all other school personnel required to hold a teaching or administrative license or certificate
- school board member

For purposes of this policy, persons holding these positions shall be referred to as “required reporters.”

### **Definitions**

“Education setting” means the buildings and grounds of the District, the vehicles provided by the District to transport students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off School District grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee and volunteer and a child has allegedly occurred.

“Child” means a person under the age of 21 enrolled in a New York State School District.

“Child abuse” means any one of the following acts committed in an educational setting by an employee or volunteer against a child:

- intentionally or recklessly inflicting physical injury, serious physical injury or death; or

**CHILD ABUSE IN AN EDUCATIONAL SETTING, Con't.**

- intentionally or recklessly engaging in conduct that creates a substantial risk of physical injury, serious physical injury or death; or
- any child sexual abuse as prohibited by Article 132 or 263 of the Penal Law; or
- the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to Article 235 of the Penal Law.

**Reporting Requirements:** In any case where an oral or written allegation is made to a required reporter that a child has been subjected to child abuse by an employee or volunteer in an educational setting, that person shall upon receipt of such allegation:

- a. Promptly complete a written report of such allegation (See Attached Form). Each Building Principal and the Superintendent of Schools shall maintain a supply of this form in his/her office. Such form will be completed as soon as practical after receiving the allegation, but in no event shall a required reporter wait more than one workday to file a report.
- b. A School Board Member completing the written report must promptly submit a copy of the written report to the Superintendent of Schools.
- c. An employee completing the written report must promptly personally deliver a copy of that written report to the Principal of the school in which the child abuse allegedly occurred (subject to the following paragraph).
- d. In any case where it is alleged the child was abused by an employee or volunteer of a school other than the Corning-Painted Post Area School District, the report of such allegations shall be promptly forwarded to:
  1. The Corning Superintendent of Schools, and
  - ~~2.~~ The Superintendent of the school district of the child's attendance, and/or
  3. The Superintendent of the school district where the abuse allegedly occurred.
- e. Upon receipt of the written report, the Principal shall promptly forward a copy to the Superintendent of Schools.

Upon receipt of a written report, the Principal or Superintendent shall determine whether there is "reasonable suspicion" to believe that an act of child abuse as defined by law has occurred.

**Duties of the School Principal**

Where there has been a determination as to the existence of reasonable suspicion, the School Principal shall:

**CHILD ABUSE IN AN EDUCATIONAL SETTING., Con't.**

**If A Child Makes the Allegation**

- a. Promptly notify the parent of the alleged abused child that an allegation of child abuse in an education setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- c. Promptly provide a copy of the completed report form to the Superintendent of Schools.
- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the Superintendent of Schools.

**If A Parent Makes the Allegation**

- a. Promptly provide the parent of the alleged abused child with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- b. Promptly provide a copy of the completed report form to the Superintendent of Schools.
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the Superintendent of Schools.

**If A Persons Other Than Parent or the Child Makes the Allegation**

- a. Promptly notify the parent of the alleged abused child that an allegation of child abuse in an education setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- c. Ascertain from the reporting person the source and basis for the allegations and complete that portion of the report form.
- d. Promptly provide a copy of the completed report form to the Superintendent of Schools.
- e. Promptly forward a copy of the completed report form to appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the Superintendent of Schools.

If, upon receipt of a written report, the Principal or Superintendent determines that there is not "reasonable suspicion" to believe that an act of child abuse has occurred, a complete copy of the written report shall be filed in the office of the Superintendent of Schools, along with a written explanation of the basis of the principal's or superintendent's determination.

**CHILD ABUSE IN AN EDUCATIONAL SETTING, Con't.****Duties of the Superintendent of Schools**

In most cases, the school building administrator will receive the completed report form from an employee and make the reasonable suspicion determination. However, there are situations in which the Superintendent of Schools will receive the report form directly and he or she will be responsible for making the reasonable suspicion determination when:

- a. The school building administrator generates the oral or written allegation and is required to complete the report form.
- b. It is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district where the child attends.
- c. A school board member is acting as required reporter. It is expected that school board members will submit the confidential report directly to the Superintendent of Schools.

In addition, the Superintendent of Schools may receive an oral or written allegation of child abuse in an educational setting from local law enforcement officials or from child protective services. In these cases, the Superintendent of Schools would be responsible for completing the report form and, subsequently, making the reasonable suspicion determination.

**If the Superintendent of Schools finds reasonable suspicion** to believe that an act of child abuse has occurred, as defined by law, additional steps must be taken which differ depending on the individual who has made the allegation.

**Child Makes the Allegation**

- a. Promptly notify the parent of the alleged abused child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

**Parent Makes the Allegation**

- a. Promptly provide the parent of the alleged abused child with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- b. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

**CHILD ABUSE IN AN EDUCATIONAL SETTING, Con't.**

**Person other than the Parent or the Child Make the Allegation**

- a. Promptly notify the parent of the alleged abused child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations.
- c. Ascertain from the reporting person the source and basis for the allegation and complete that portion of the form.
- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

In all cases where a completed report is forwarded to the appropriate law enforcement authorities and the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the Department, the superintendent must also refer such report to the Commissioner of Education.

**Rights of Employees and Volunteers**

Any employee, volunteer, building administrator, School Board Member or Superintendent of Schools who reasonably and in good faith makes a report of allegations of child abuse in an educational setting in accordance with the reporting requirements of the law shall have immunity from civil liability which might otherwise result by reason of such actions.

Any school administrator or Superintendent who reasonably and in good faith makes a report of allegations of child abuse in an educational setting, or reasonably and in good faith transmits such a report to a person or agency as required by law, shall have immunity from civil liability which might otherwise result by reason of such actions.

Pending resolution of an allegation of child abuse, employees, volunteers and Board of Education member against whom an allegation of child abuse has been made shall not be permitted to have unsupervised contact with any district student.

Pending resolution of an allegation of child abuse, employees, volunteers and Board of Education member against whom an allegation of child abuse has been made shall not be permitted to render volunteer services to the district.

Any employee or volunteer against whom an allegation of child abuse has been made and against whom the District intends to take adverse action shall be entitled to receive a copy of the report and to respond to the allegations.

**CHILD ABUSE IN AN EDUCATIONAL SETTING, Con't.****Confidentiality**

Reports, photographs, and other written material regarding allegations of child abuse shall be confidential and shall not be redisclosed except to law enforcement authorities involved in an investigation of child abuse or as expressly authorized by law or pursuant to a court-ordered Subpoena. School administrators and the Superintendent shall exercise reasonable care in preventing such unauthorized disclosure.

**Duties of District Attorneys**

When a criminal investigation is undertaken in response to a report forwarded to the appropriate law enforcement authorities, the District Attorney by law must notify the Superintendent of Schools of the district where the acts of child abuse occurred and the Superintendent of Schools of the district where the child attends, if different, of the following:

- an indictment
- the filing of an accusatory instrument;
- the disposition of the criminal case; or
- the suspension or termination of the investigation

Where a criminal conviction is obtained for a crime involving child abuse in an educational setting by a licensed or certified school employee, the District Attorney is required to notify the Commissioner of Education, as well as the Superintendent of Schools in which the acts of child abuse occurred and the Superintendent of Schools where the child attends, if different.

**Training**

The Regulations of the Commissioner of Education in Section 100.2 (h)(h)(2) requires the following procedures:

“(i) Each school district, each charter school and each board of cooperative educational services shall establish, and implement on an ongoing basis, a training program regarding the procedures set forth in article 23-B of the Education Law for all current and new teachers, school nurses, school counselors, school psychologists, school social workers, school administrator, other personnel required to hold a teaching or administrative certificate or license and school board members.

- (ii) Such program shall include, but is not limited to, training regarding:
  - (a) the duties of employees specifically enumerated in Education Law, Section 1126 upon receipt of an allegation of child abuse in an educational setting;
  - (b) confidentiality of records pursuant to Education Law, section 1127;

**CHILD ABUSE IN AN EDUCATIONAL SETTING, Con't.**

- (c) duties of school administrators and superintendents upon receipt of a report pursuant to Education Law, section 1128, and the additional duties of superintendents pursuant to Education Law, Section 1128-a;
- (d) penalties for failure to comply pursuant to Education Law, Section 1129;
- (e) notification by a district attorney pursuant to Education Law, Section 1130, and actions taken upon criminal conviction of a licensed or certified school employee pursuant to Education Law, Section ~~1132~~ 1131; and,
- (f) the prohibition set forth in Education Law, Section 1133 with respect to an unreported resignation or voluntary suspension of an employee or volunteer against whom an allegation of child abuse in an educational setting is made.

(3) Each school shall annual provide to each teacher and all other school officials a written explanation pursuant to Section 3028-b of the Education Law concerning the reporting of child abuse in an educational setting, including the immunity provisions of Education Law, Section 1126.”

**Record Retention**

Any report of child abuse which does not result in a criminal investigation shall be expunged from the records kept by the district with regard to the subject of the report after five years from the date the report was made.

**Prohibition of “Silent” (Unreported) Resignations**

The Superintendent and other school administrators are prohibited from withholding from law enforcement authorities, the Superintendent, or the Commissioners of Education, where appropriate, information concerning allegations of child abuse in an education setting against an employee or volunteer in exchange for the individual’s resignation or voluntary suspension from his/her position.

**Penalties**

Any required reporter who willfully fails to make a written report of child abuse required by Article 23-B of the Education Law, shall be subject to criminal penalties as provided for in law, as well as disciplinary sanctions imposed in accordance with law and any applicable collective bargaining agreement.

Ref: Educational Law Article 23-B and Section 3028-b  
Penal Law Article 130, 235 and 263  
8 New York Code of Rules and Regulations  
(NYCRR) Part 38

Adopted: June 21, 2006

Reaffirmed: December 3, 2008

Revised: February 7, 2014

Reaffirmed: December 20, 2017