

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 oral allegations of child abuse by an employee or volunteer in an educational setting:

- school administrator;
- teacher;
- school nurse;
- school guidance counselor;
- school psychologist;
- school social worker;
- other school personnel required to hold a teaching or administrative license or certificate;
- licensed and registered physical therapist;
- licensed and registered occupational therapist;
- licensed and registered speech-language pathologist;
- teacher aide;
- school resource officer;
- school board member; and
- any staff whose duties involve direct student contact and who is paid either by a school district or contracted to provide transportation services to children; or
- an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law.

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

Definitions

“Administrator” or “school administrator” means a principal, or the equivalent title, in a school, or other chief school officer.

“Child” means a person under the age of twenty-one (21) years enrolled in a school.

“Child abuse” means any 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

- intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death; or
- any child sexual abuse as defined in this section; or
- the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to article two hundred thirty-five of the penal law.

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

"Employee" means any person who is receiving compensation from a school district. Additionally, for the purpose of this policy, employee also means any person whose duties involve direct student contact and who (1) is receiving compensation from any person or entity that contracts with a school to provide transportation services to children or (2) is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, whereby such services performed by such person involve direct student contact.

“Law enforcement authorities” means a municipal police department, sheriff’s department, the division of state police, or any officer thereof. Notwithstanding any other provision of law, for the purposes of this policy, law enforcement authorities shall not include any child protective service or any society for the prevention of cruelty to children as such terms are defined in section four hundred twenty-three of the social services law.

“Parent” means either or both of a child’s parents or other persons legally responsible for the child.

“School” means and shall include any school district, public school, charter school, non-public school, board of cooperative educational series, special act school district, approved preschool special education program pursuant to section forty-four hundred ten of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, or state-operated or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

"Volunteer" means any person, other than an employee, who has direct student contact and provides services to a school or provides services to any person or entity that contracts with a school to provide transportation services to children.

Reporting Requirements

In any case where a written or oral allegation of child abuse by an employee or volunteer in an educational setting is made to a required reporter, the required reporter shall:

1. promptly complete the required State Education Department report form; and

2. personally deliver a copy of the written report to the Principal of the school in which the child abuse allegedly occurred.

If the allegation involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the required reporter must promptly forward the report form to the Superintendent of the district of attendance and the Superintendent of the school district where the abuse allegedly occurred.

If an allegation is made to a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such driver shall promptly report the allegation to his/her/their supervisor.

If an allegation is made to a supervisor of a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall promptly complete a written report on the State Education Department report form and shall personally deliver it to the school district superintendent employed by the school district where the child abuse occurred.

If an allegation is made which involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, shall be notified of the allegation.

Upon receiving a written report, the Principal shall determine whether there is reasonable suspicion to believe an act of child abuse has occurred. In those circumstances where the Superintendent receives the written report directly, he/she/they will be responsible for making the reasonable suspicion determination. If the person making the allegation of abuse is someone other than the child or the child's parent, the Principal/Superintendent shall contact the person making the report to learn the source and basis for the allegation.

If the Principal/Superintendent determines there is reasonable suspicion to believe an act of child abuse has occurred, he/she/they shall promptly notify the parent of the alleged child victim that an allegation of child abuse in an educational setting has been made, assuming the parent is not the person who originally reported the alleged abuse. In those circumstances where the Principal received the written report, the Principal shall also promptly provide a copy of the written report to the Superintendent.

The Principal/Superintendent shall promptly provide the parent with a written statement setting forth parental rights, responsibilities, and procedures prepared in accordance with the Regulations of the Commissioner of Education. The Principal/Superintendent shall also promptly send a copy of the written report of alleged child abuse to the appropriate law enforcement authorities. In no event shall the Principal delay sending the report to law enforcement because of an inability to contact the Superintendent.

The Superintendent shall send to the Commissioner of Education a copy of any written report forwarded to the local law enforcement authorities where the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the Department of Education.

In any case where the employee the allegation is being made against is a Principal or is an employee of Central Office, the report of such allegation shall be made to the Superintendent. If an allegation is being made against the Superintendent, the report of such allegations shall be made to the Director of Safety and Security. The Superintendent or Director of Safety and Security, as applicable, shall be responsible for all reporting requirements contained herein.

Rights of Employees and Volunteers

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. In addition, such persons are entitled to seek disclosure of reports involving them under the Freedom of Information Law.

Confidentiality

All reports, photographs, and other written material submitted pursuant to this policy and Article 23-B of the Education Law shall be confidential and may not be redisclosed except to law enforcement authorities involved in investigating the alleged abuse or except as expressly authorized by law or pursuant to a court-ordered subpoena. The Principal and Superintendent shall exercise reasonable care to prevent unauthorized disclosure.

Willful disclosure of a written record required to be kept confidential to a person not authorized to receive or review such record is a class A misdemeanor.

Penalties

Willful failure of an employee to prepare and submit a written report of alleged child abuse required by Article 23-B of the Education Law shall be a class A misdemeanor and subject to disciplinary sanctions imposed in accordance with law and any applicable collective bargaining agreement.

Willful failure of any administrator or Superintendent to submit a written report of alleged child abuse to an appropriate law enforcement authority, as required by Article 23-B of the Education Law, shall be a class A misdemeanor and subject to disciplinary sanctions imposed in accordance with law and any applicable collective bargaining agreement. In addition, the Commissioner of Education may, following an administrative determination, impose a civil penalty of up to five thousand dollars on any administrator or Superintendent who fails to submit a report of child abuse to an appropriate law enforcement authority.

The law further prohibits any administrator or Superintendent from agreeing to withhold from the appropriate law enforcement authorities, a superintendent, or the Commissioner of Education, where appropriate, an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by law, in return for the resignation or voluntary suspension

of the alleged perpetrator. Violation of this prohibition can result in a class E felony charge and a civil penalty of up to \$20,000.

Record Retention

Any report of child abuse by an employee or volunteer that does not result in a criminal conviction shall be expunged from the records kept by the District with respect to the subject of the report after five years from the date the report was made.

Training

The Superintendent shall be responsible for establishing and implementing on an ongoing basis a training program for all current and new required reporters on the procedures required under Article 23-B. The program shall include at a minimum information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including, but not limited to, when and how a report must be made, what other actions the reporter is can and should take, the legal protections afforded reporters, and the consequences for failing to report, and all other elements as specified in Regulations of the Commissioner of Education.

Further, all persons employed on or after July 1, 2019 as a school bus driver employed by any person or entity that contracts with a school to provide transportation services to children shall be required to complete two hours of coursework or training (from an approved provider) regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall include, but is not limited to, information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including but not limited to, when and how a report must be made, what other actions the reporter can and should take, the legal protections afforded reporters, and the consequences for failing to report, and all other elements as specified in Regulations of the Commissioner of Education. Each employee in such title shall provide the Superintendent or designated administrator with documentation showing that he/she/they completed the required training. In addition, each school bus driver shall provide such contracting person or entity with documentation showing that he/she/they completed the required training. The Department of Education shall be authorized to request such records on a periodic basis and may publish a list of any persons or schools who are not in compliance with this subdivision on its website.

The coursework or training required by this section shall not apply to those persons already required to undergo coursework or training regarding the identification and reporting of child abuse and maltreatment pursuant to sections three thousand three and three thousand four of this chapter.

Ref: Education Law §§1125 - 1134
Penal Law §§130, 235, 263
8 NYCRR §100.2 (hh)
Appeal of S.S., 42 EDR 273 (2003)

Adoption date: May 8, 2007

Revised: May 19, 2021