

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 District personnel and School District volunteers violates this right and therefore is strictly prohibited.

Allegations of child abuse by School District personnel and School District 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 as set forth below:

- school administrator
- teacher
- school nurse
- school guidance counselor
- school psychologist
- school social worker
- coaches
- student teachers
- 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
- all other employees of the School District including, but not limited to, custodians, food service workers, bus drivers, security guards, school monitors and/or teacher aides/ assistants/ other school resource officers
- bus drivers employed by a third-party transportation contractor who has a contract with the School District
- Board of Education member

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

#### Definitions

"Educational setting" means the buildings and grounds of the School District, the vehicles provided by the School 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 or volunteer and a child has allegedly occurred.

"Child" means a person under the age of twenty-one (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
- 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 sections 130 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; or
- using corporal punishment as defined by the commissioner

"Employee" means any person: (i) who is receiving compensation from a school or, (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children, or (b) who is an employee of a contracted service provider or worker placed within the school under public assistance program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such school, its students or employees, directly or through contract.

"Volunteer" means any person, other than an employee, who has direct student contact and: (i) provides services to a school, or (ii) provides services to any person or entity which 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 it to the Building 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 Schools of the district of attendance and the Superintendent of Schools of the school district where the abuse allegedly occurred (if different).

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 to his or her 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 and shall personally deliver it to the Superintendent.

Upon receiving a written report, the Building Principal and the Superintendent of Schools or designee shall determine whether there is reasonable suspicion to believe that an act of child abuse has occurred. In those circumstances where the Superintendent of Schools receives the written report directly, they will be responsible for making the reasonable suspicion determination. The Superintendent of Schools shall notify the Board of Education of complaints made pursuant to this policy.

If the Building Principal/Superintendent of Schools determines there is reasonable suspicion to believe that an act of child abuse has occurred, they shall promptly notify the parent of the alleged child victim (assuming that the parent is not the person who originally reported the alleged abuse) that an allegation of child abuse in an educational setting has been made and promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Regulations of the Commissioner of Education.

If the person making the allegation of abuse is someone other than the child or the child's parent/guardian, the Building Principal/Superintendent of Schools shall contact the person making the report to learn the source and basis for the allegation.

In the event the Building Principal determines there is reasonable suspicion to believe that an act of child abuse has occurred, the Building Principal shall also promptly provide a copy of the written report to the Superintendent of Schools or designee and send a copy to the appropriate law enforcement authorities. In no event shall the Building Principal delay in sending the report to law enforcement because of an inability to contact the Superintendent of Schools.

The Superintendent of Schools or designee shall send to the Commissioner of Education 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.

#### Rights of Employees and Volunteers

Any employee or volunteer against whom an allegation of child abuse has been made and against whom the School 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 Building Principal and Superintendent of Schools 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.

Willful failure of any Building Principal or Superintendent of Schools 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. In addition, the Commissioner of Education may, following an administrative determination, impose a civil penalty of up to five thousand dollars on any administrator who fails to submit a report of child abuse to an appropriate law enforcement authority.

The law further prohibits any principal or superintendent of schools from agreeing to withhold from the appropriate law enforcement authorities, a superintendent of schools 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 School District with respect to the subject of the report after five years from the date the report was made or at such earlier time as the School District determines.

Training

The Superintendent of Schools or designee 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 all the elements specified in Commissioner's regulations.

Cross-ref:     5113 Student Attendance  
                  5130 Student Records  
                  5200 Child Abuse, Maltreatment or Neglect Outside the Educational Setting

Ref:     Education Law §§1125-1133  
          Penal Law §§130, 235, 263  
          8 NYCRR §100.2 (hh)

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