

5460 CHILD ABUSE, MALTREATMENT OR NEGLECT IN A DOMESTIC SETTING

The Board of Education recognizes that because of their sustained contact with school-aged children, employees are in an excellent position to identify abused, maltreated or neglected children and refer them for treatment and protection. The Board further recognizes the specific dictates of law which require school officials to report suspected instances of child abuse, maltreatment (which includes neglect) in a domestic setting.

The purpose of mandatory reporting is to identify suspected abused and maltreated children as soon as possible, so that such children determined to be abused or maltreated can be protected from further harm and, where appropriate, can be offered services to assist him or her and his or her family.

School officials, who have reasonable cause to know or suspect that a child has been subjected to abuse or maltreatment, must immediately report this to the New York State Central Register for Child Abuse and Maltreatment (Central Register), as required by law. No conditions may be imposed which limit their responsibility to report. A school official is defined as:

- Teacher
- Guidance counselor
- Psychologist
- Nurse
- Administrator
- Any school personnel required to hold a teaching or administrative license or certificate.

The school official will also report the matter to the Building Principal.

The report shall be made by telephone or by telephone facsimile machine on a form supplied by the Commissioner of Social Services. A written report shall be made within 48 hours to the appropriate local child protective service, and to the statewide Central Register.

School employees who are not school officials, as defined above, but who have reasonable cause to know or suspect that a child has been subjected to abuse or maltreatment are encouraged to report to the Central Register. However, the school employee must report the matter to the Building Principal. If the matter has not yet been reported to the Central Register, the Building Principal shall make the report, in accordance with state law. In being required to file such report, the Building Principal does not have discretion.

School employees or officials may not contact the child's family or any other person to determine the cause of the suspected abuse or maltreatment. It is not the responsibility of the school official or employee to prove that the child has been abused or maltreated.

Any school official or employee who has cause to suspect that the death of any child is a result of child abuse or maltreatment must report that fact to the appropriate medical examiner or coroner.

In accordance with the law, any school official who fails to report an instance of suspected child abuse or maltreatment may be guilty of a Class A misdemeanor and may be held liable for the damages caused by the failure to report. The law grants immunity to persons who, in good faith, report instances of child abuse from any liability.

School employees will not be subject to retaliatory action, as defined in state law, as a result of making a report when they reasonably suspect that a child has been abused or maltreated.

The Board recognizes that knowingly reporting a false claim of child abuse is a violation of state law and this policy acknowledges that it is a crime to do so. The district will make every reasonable effort to ensure the integrity of the district's child abuse reporting process and procedure.

School District Relationship with Local Social Service District

The school district will cooperate to the extent possible with authorized child protective services workers in investigations of alleged child abuse. The Superintendent, or his or her designee, will represent the district when collaborating with local social service agencies to address instances of abuse or maltreatment, and in the development of policy and procedures regarding abuse or maltreatment (including educational neglect). In addition, the Superintendent will share a copy of the district's attendance policy, 5100, with the local social service district.

The school district shall maintain an ongoing training program which will address the identification and reporting of child abuse and maltreatment, including the legal implications of reporting and not reporting. Attendance at sessions of this training program shall be required of all school officials. Attendance records shall be kept, and notations will be made in personnel files as to the dates of attendance.

The Superintendent shall develop, with input from appropriate personnel, a plan for implementation of such a training program, to be approved by the Board. In addition, the policy and regulations will be included in all employee handbooks and distributed annually to all school officials who are not covered under existing handbooks. The Superintendent will prepare and implement all regulations as are necessary to accomplish the intent of this policy

Cross-ref:

Attendance, 5100

Ref:

Child Protective Services Act of 1973, Social Services Law §§411 et seq.

Social Services Law §34-a, Family Court Act §1012, Family Educational Rights and Privacy Act,

20 U.S.C. §1232g, 45 CFR §99.36, Education Law §3209-a, Penal Law 240.50

Adoption date: October 25, 2011

WEST BABYLON UNION FREE SCHOOL DISTRICT

5460-R CHILD ABUSE, MALTREATMENT OR NEGLECT IN A DOMESTIC SETTING REGULATION

New York State Law (Child Protective Service Act of 1973, as amended) provides for reporting of suspected cases of child abuse by school officials. These regulations are designed to implement this law within the district and to help protect students from the harmful effects of child abuse.

I. Definitions

Abused Child, according to Social Services Law and the Family Court Act, is a child less than 18 years of age whose parent or other person legally responsible for his or her care:

- a. inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- b. creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ; or
- c. commits, or allows to be committed, a sex offense against such child, as defined in the penal law, provided, however, that the corroboration requirements contained therein shall not apply to proceedings under this article.

Neglected or maltreated child, according to the Family Court Act, is a child less than 18 years of age:

- a. whose physical, mental, or emotional condition has been impaired or is in danger of becoming impaired as a result of the failure of his or her parents or other person legally responsible for his care to exercise a minimum degree of care:

(1) in supplying the child with adequate food, clothing, shelter, or education in accordance with provisions of Part One, Article 65 of the Education Law, or medical, dental, optometrical or surgical care though financially able to do so or offered financial or other reasonable means to do so; or

In order for a report of educational neglect to be accepted, three elements need to be established:

- a. Excessive absence from school by the child
- b. Reasonable cause to suspect that the parent is aware or should have been aware of the excessive absenteeism and the parent has contributed to the problem or is failing to take steps to effectively address the problem, and;
- c. Reasonable cause to suspect educational impairment or harm to the child or imminent danger of such impairment or harm.

(2) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he/she loses self-control of his/her actions; or by any other acts of a similarly serious nature requiring the aid of the court; or

b. who has been abandoned by his/her parent(s) or other person legally responsible for his/her care.

Person legally responsible includes the child's custodian, guardian, or any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

Impairment of emotional health and impairment of mental or emotional condition includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, or acting out of misbehavior, including incorrigibility, ungovernability, or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the parent, guardian, or custodian to exercise a minimum degree of care toward the child.

II. Reporting procedures and related information:

1. All school officials must, when they have reasonable cause to suspect that a child is abused or maltreated, report it to the New York State Central Register for Child Abuse and Maltreatment (800-342 3720). A school official, under state law, is defined as:

- Teacher
- Guidance counselor
- Psychologist
- Nurse
- Administrator
- Any school personnel required to hold a teaching or administrative license or certificate.

The school official must also report the matter to the Building Principal.

2. In the event that a school employee, who is not required to report under the law (such as a bus driver, custodian, cafeteria monitor, etc.), has reasonable cause to suspect that a child is abused or neglected, he/she is encouraged to make a report to the Central Register. The employee must, by district policy, report the matter to the Building Principal.

3. After the filing of a report, the suspected abuse and the course of additional follow-up action is generally reviewed by appropriate school team members (e.g., Building Principal, school nurse, social worker, psychologist and/or guidance counselor).

4 The Building Principal must (1) inform the Superintendent of Schools of the information received and (2) confirm that a report was made to the Central Register.

5 The Building Principal may take photographs or cause photographs to be taken of the areas of visible trauma on the child, and/or, if medically indicated, cause an examination to be performed.

Such actions may be performed at public expense if they will provide appropriate documentation when filing the report. A camera and film shall be kept at the school and be available for this purpose.

6 The written report that must be filed shall include all information that the Commissioner of Social Services may require. In addition to filing this report with Child Protective Services, a copy shall be forwarded to the Executive Director for Curriculum and Student Services and the Director of Student

Services.

7. If it should be necessary for Child Protective Services to interview a child at school to ascertain whether he/she has been abused or maltreated, or to obtain documentation of such acts, the interview should be conducted in the presence of a school official, unless circumstances require otherwise. The school official shall examine and verify the credentials of Child Protective Services worker(s) before allowing such worker(s) to either interview the child or to examine the child's records. If sexual abuse is indicated, the presence of a same-sex staff member during the interview is appropriate.
8. School employees and officials will not contact the child's family or any other person to determine the cause of the suspected abuse or maltreatment. It is not the responsibility of the school official or employee to prove that the child has been abused or maltreated.
9. The Building Principal shall request a summary report of the investigation of a case referred to Child Protective Services so the district can take appropriate next steps.
- 10 Only one report of any suspected abuse is required.
11. School personnel who have reasonable cause to suspect that a child has died as a result of child abuse or maltreatment shall report that fact to the appropriate medical examiner or coroner.

III. Training

1. The district shall maintain an ongoing training program which will address identification and reporting of child abuse and maltreatment. Attendance at sessions of this training program shall be required of all school officials.
2. Employee handbooks shall include a copy of these regulations and the related Board policy concerning child abuse and reporting requirements.

IV. Rights of Reporters

1. School personnel who, in good faith, make a report or take photographs of injuries and bruises have immunity from any liability, civil or criminal. The good faith of any person required to report cases of child abuse or maltreatment is presumed.
2. School personnel have the right to request that information which would identify the individual making the report be withheld if furnishing such data might prove detrimental to the safety or interest of that individual.
3. The Superintendent can request a summary report of an investigation of a case referral to Child Protective Services.
4. No retaliatory personnel action (as defined in paragraph (e) of subdivision one of section 740 of the Labor Law) against an employee because the employee believes that he or she has reasonable cause to suspect that a child is an abused or maltreated child and that employee therefore makes a report in good faith.

V. Penalties

1. Any person required to report suspected cases of child abuse or maltreatment and who fails to do so may be found guilty of a class A misdemeanor and may be held civilly liable for the damages caused by this failure.

2. Any school employee who fails to comply with this policy is subject to discipline in accordance with collective bargaining agreements and/or policy.

VI. Confidentiality and Records Retention

1. All reports and other material submitted pursuant to this policy shall be confidential and may not be re-disclosed 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 district and all its personnel shall exercise reasonable care to prevent unauthorized disclosure.

2. Maintenance of all records will be in a manner consistent with applicable laws and regulations. Information received regarding a determination of either a founded or unfounded report, is to be communicated to the Principal, Executive Director for Curriculum and Student Services and the Director of Student Services.

Adoption date: October 25, 2011

WEST BABYLON UNION FREE SCHOOL DISTRICT

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 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
- school board member

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

All other employees should report incidents to the “required reporters”.

Definitions

“Educational 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, other than New York City.

“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 235 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 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 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 different).

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

The Principal shall also promptly provide a copy of the written report to the Superintendent and send a copy to the appropriate law enforcement authorities. In no event shall the Principal delay in sending the report to law enforcement because of an inability to contact the Superintendent.

The Superintendent 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 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 re-disclosed 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.

Willful failure of any Principal 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. 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 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 all the elements specified in Commissioner's regulations.

Ref: Education Law §§1125-1133

Penal Law §§130, 235, 263

8 NYCRR §100.2 (hh) (Reporting of Child Abuse in an Educational Setting)

Appeal of S.S., 42 EDR 273 (2003)

Adoption date: December 13, 2011

**CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT -
CONFIDENTIAL REPORT OF ALLEGATION**

SUBJECT CHILD	PARENT OF SUBJECT CHILD
Name _____ Last First MI	Name _____
Address _____ _____	Address (if different) _____ _____
School _____	
Grade _____ Sex (M, F, Unknown) _____	
Age or Birthday (Mo/Day/Yr) _____	

SOURCE OF ALLEGATION (Check as Appropriate)

Child Parent Other – Name _____ Relationship to Child (if
ny) _____

ALLEGED PERPETRATOR (EMPLOYEE OR VOLUNTEER)

Name _____ School District _____

School Building _____ School Position _____

SPECIFIC ALLEGATION

Use this space to provide information to describe or explain the circumstances surrounding the
allegation.
(attach additional sheets if necessary)

REPORTER INFORMATION

Name _____ School District _____
 School Address _____ School Telephone _____
 Relationship to Child (if any) _____

Teacher School Guidance Counselor School Nurse School Psychologist

Administrator School Board Member School Social Worker

School personnel required to hold teaching or administrator license or certification

Date Submitted to Administrator ____/____/____/
 Signature _____

FOR ADMINISTRATOR USE ONLY

Reasonable Suspicion _____ Yes
 _____ No

Date Submitted to Superintendent
 ____/____/____
 Name/Signature _____

Date Submitted to Law Enforcement
 ____/____/____
 Name/Signature _____

FOR SUPERINTENDENT OF SCHOOL USE ONLY

Reasonable Suspicion _____ Yes
 _____ No

Date Submitted to Law Enforcement
 ____/____/____
 Name/Signature _____

Date Submitted to Commissioner ____/____/____
 Name/Signature _____

Child Abuse in an Educational Setting Definitions

Definitions contained in §1125 of Article 23-B, Title I of the Education Law

1. “Child abuse” shall mean any of the following acts committed in an educational setting by an employee or volunteer against a child:
 - a. intentionally or recklessly inflicting physical injury, serious physical injury or death, or
 - b. intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death, or
 - c. any child sexual abuse as defined in this section, or
 - d. 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.
2. “Child” shall mean a person under the age of 21 years enrolled in a school district in this State, other than a school district within a city having a population of one million or more.
3. “Employee” shall mean any person receiving compensation from a school district or 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, and consistent with the provisions of such title for the provision of services to such district, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact.
4. “Volunteer” shall mean any person, other than an employee, who provides services to a school or school district, which involve direct student contact.
5. “Educational setting” shall mean the building and grounds of a public school district, the vehicles provided by the school district for the transportation of 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.
6. “Administrator” or “school administrator” shall mean a principal of a public school, charter school or board of cooperative educational services, or other chief school officer.
7. “Law enforcement authorities” shall mean a municipal police department, sheriff’s department, the division of state police and/or any officer thereof. Notwithstanding any other provision of law, law enforcement authorities shall not include any child protective service or society for the prevention of cruelty to children as such terms are defined in section four hundred twenty-three of the social services law.
8. “Parent” shall mean either or both of a child’s parents or other persons legally responsible for the child.
9. “Child sexual abuse” shall mean conduct prohibited by article one hundred thirty or two hundred sixty-three of the penal law.

Adoption date: December 13, 2011

CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT - NOTICE/REPORTING REQUIREMENTS

Duties of Employees

The law imposes reporting requirements on teachers, administrators, school nurses, school guidance counselors, school psychologists, school social workers, school board members and all other school personnel required to hold a teaching or administrative license or certificate. When these employees receive an allegation of child abuse by an employee or volunteer in an educational setting, they must take the following steps:

- a. Upon receipt of an oral or written allegation of child abuse in an educational setting, the employee must promptly complete the "Child Abuse in an Educational Setting" report form (attached).
- b. Upon completion of the report form, the employee must personally deliver it to the school building administrator of the school in which the child abuse allegedly occurred.
- c. If the allegation(s) involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the employee must promptly forward the report form to the superintendent of schools of the school district of attendance and the school district where the abuse allegedly occurred.

Duties of School Building Administrators

In all cases, upon receipt of a report form, the school building administrator must review the form and determine if there is reasonable suspicion to believe that an act of child abuse, as defined by law, has occurred. If he or she finds reasonable suspicion to believe that an act of child abuse has occurred, additional steps must be taken which differ depending upon the individual who has made the allegation.

Child makes the Allegation

- a. Promptly notify the parent of the 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 (8 NYCRR §100.2(hh)).
- c. Promptly provide a copy of the completed report form to the superintendent.
- 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.

Parent Makes the Allegation

- a. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly provide a copy of the completed report form to the superintendent.
- 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.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the 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 (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the report form.
- d. Promptly provide a copy of the completed report form to the superintendent.
- 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.

Duties of Superintendents

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 will receive the report form directly and he or she will be responsible for making the reasonable suspicion determination such as:

- a. Where the school building administrator receives the oral or written allegation and is required to complete the report form;
- b. Where 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.

In addition, a superintendent 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 would be responsible for completing the report form and, subsequently, making the reasonable suspicion determination.

If the superintendent 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 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 (8 NYCRR §100.2(hh)).
- 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 with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the 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 (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee 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.
- e. 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.

Expungement

A report that does not, after investigation, result in a criminal conviction shall be expunged from any record which may be kept by a school or school district with respect to the subject of such a report after a period of five years from the date of the making of such report or at such earlier time as such school or school district determines.

Penalty Provisions

The requirements set forth within the law are mandatory. Willful failure of an employee to prepare and submit a report form as required by the law is a Class A misdemeanor. The law also provides that a willful failure of a school building administrator or superintendent to forward a copy of the report form to the appropriate law enforcement authority is a Class A misdemeanor. In addition, the Commissioner of Education can also fine a school building administrator or a superintendent up to \$5,000 for failure to forward a copy of the completed report form to the appropriate law enforcement authorities.

Immunity Provisions

The law provides immunity from civil liability for employees, volunteers, school building administrators and superintendents who reasonably and in good faith make a report of child abuse in an educational setting in the manner described in the law. The law also provides immunity from civil liability to school building administrators and superintendents who reasonably and in good faith forward a copy of the report form to a person or agency as required by law and in the manner described in the law.

Confidentiality of Records

In general, the only persons authorized to receive the written report form and any related materials are the school building administrator and the superintendent. The law requires that all reports, records, photographs and other material submitted remain confidential and may not be disclosed except to law enforcement authorities involved in the criminal investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. Willful disclosure of a written record required to be confidential, to a person not authorized to receive or review such record is a class A misdemeanor. The law requires that school building administrators and superintendents exercise reasonable care to prevent unauthorized disclosure.

Duties of District Attorneys

Where a criminal investigation is undertaken in response to a report forwarded to the appropriate law enforcement authorities, the district attorney must notify the superintendent of the school district where the acts of child abuse occurred and the superintendent of the school 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 the school district in which the acts of child abuse occurred and the superintendent of the school district where the child attends, if different.

Duties of the Commissioner of Education

Upon receiving notification of conviction from a district attorney, the Commissioner of Education must begin proceedings against the convicted individual pursuant to Part 83 of the Commissioner's regulations to determine whether the individual possesses good moral character. The determination may result in additional action taken against the individual related to his or her license or certification.

The Commissioner has also issued the attached form that must be used for the recording and transmission of allegations of child abuse in educational settings.

The Commissioner and the Board of Regents also promulgated §100.2(hh)(2), which sets forth the training requirements relating to child abuse in an educational setting.

Unreported Resignations or Voluntary Suspensions

The law prohibits school building administrators or superintendents 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.

Adoption date: December 13, 2011