

5460-R CHILD ABUSE REPORTING REGULATIONS

REGULATIONS FOR REPORTING CHILD ABUSE IN A DOMESTIC SETTING

Pursuant to Board of Education policy and [Section 411 of the Social Services Law](#), school district staff should be on the alert for the purpose of identifying abused and maltreated children and reporting such findings as required in paragraph "2" below. For the purpose of discerning whether or not a child is abused or maltreated the following definitions should be considered:

Definitions

The definition of child abuse and maltreatment is established by law.

An abused child, according to Social Service Law and the Family Court Act means a child less than 18 years of age whose parent or other person legally responsible for 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.

A neglected or maltreated child, according to the Family Court Act includes 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/her parents or other person legally responsible for his/her 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
 - (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.

1. Persons Obligated to Report Cases of Suspected Child Abuse or Maltreatment

School officials and registered nurses working in the district are under an obligation, pursuant to [Section 413 of the Social Services Law](#), to report such cases by immediately notifying the Building Principal. All professional staff members (including Superintendents, teachers, administrative officers, guidance counselors, coaches and substitute teachers) should consider themselves to be under a duty to report suspected cases of child abuse, maltreatment and neglect to the Building Principal or School Nurse ([Sections 413 and 414, Social Services Law](#)).

2. Reporting Procedure

ALL REPORTS TO THE STATE AND LOCAL CHILD PROTECTIVE SERVICES SHALL BE MADE BY THE BUILDING PRINCIPAL AFTER CONSULTATION WITH THE SUPERINTENDENT OF SCHOOLS OR HIS/HER DESIGNEE.

Reports of suspected child abuse, maltreatment or neglect shall be made immediately, by telephone and in writing, within 48 hours after such oral report or by telephone facsimile machine on a form supplied by the Commissioner of Social Services. The oral report shall be made to the Statewide Registry and to the Local Child Protective Services. The written report shall be made to the appropriate Local Child Protective Services on forms prescribed by and supplied by the Commissioner of Social Services. The telephone facsimile report shall be made to a special telephone facsimile number for use only by persons mandated by law to make reports, as set forth below ([Section 415, Social Services Law](#)).

Oral Report to: New York State Central Registry of Child Abuse and Maltreatment (1-800-342-3720) and Dutchess County Department of Social Services, Child Protective Services (431-5332); Mandated Reporter's Hotline (1-800-635-1522).

Written Report to: Dutchess County Department of Social Services, Child Protective Services, 14 Academy Street, Poughkeepsie, New York 12601.

Telephone Facsimile Report to: Special telephone facsimile number: 1-800-635-1554.

3. Report Requirements

Each report shall include the following information:

The name and address of the child and his/her parents or other person responsible for his/her care, if known, the child's age, sex and race; the nature and extent of the child's injuries, abuse and maltreatment, including any evidence of prior injury, abuse or maltreatment to the child or his/her siblings; the name of the person or persons responsible for causing the injury, abuse or maltreatment, if known; family composition; the sources of the report; the person making the report and where he/she can be reached; the actions taken by the reporting source, including the taking of photographs and any other information which the Commissioner may, by regulation, require or the person making the report believes might be helpful in the furtherance of the investigation.

4. Taking Photographs

The law allows for the photographing at public expense of the areas of trauma visible on a child who has been abused or maltreated. All photographing should be conducted with the authorization of the Building Principal, who shall, to the extent possible, do so upon notification of the Superintendent or his/her designee. All photographs shall be sent to the Child Protective Services at the time that the written report, reference in paragraph "3" above, is sent or as soon thereafter as possible.

5. Access to School Records by the Child Protective Services

The district may disclose personally identifiable information from the educational records of a student to Child Protective Services personnel when it is necessary to protect the health or safety of the student or other individuals. In deciding whether or not the disclosure should be made, the seriousness of the threat to the health or safety of the student or other individuals, the need for the information to meet the emergency and the extent to which time is of the essence should be considered (Federal Family Educational Rights and Privacy Act of 1974, "Buckley Amendment").

6. Student Interviews by Child Protective Services Personnel on School Property

The Building Principal may allow a Department of Social Services Child Protective Services employee to interview, in school, any student concerning whom a report of suspected abuse or maltreatment has been made regardless of the source of the report. A school official should be present during the interview unless it is decided that the presence of the school official is not essential to protect the interests of the student and that the Department of Social Services worker's job can best be accomplished by conducting the interview without the school official present. If sexual abuse is indicated, the presence of a same-sex staff member during the interview is appropriate.

7. Taking a Child into Protective Custody

School officials and staff members do not have the power to take a child into protective custody under the Social Services Law or Education Law. A peace officer, police officer, law enforcement official, agent of a duly incorporated society for the prevention of cruelty to children or a designated employee of the County Department of Social Services may take a child into protective custody without the consent of a parent or guardian. The Building Principal shall cooperate with any of the officials referenced above who produces official documentation indicating that a student be taken into protective custody. Release of a child to such official(s) must be authorized by the Superintendent of Schools.

8. Confidentiality of Reports

Reports of suspected child abuse and maltreatment are confidential and may only be made available to those individuals who are specified by law. Prior to the release of a report, the Freedom of Information Law Records Access Officer should consult with the Superintendent and the school attorney regarding the propriety of releasing the report even to one specified by law as being entitled to receive the report. The Commissioner of Social Services may intervene to prohibit the release of a report by determining that to do so would be detrimental to the safety or interests of the reporter.

9. Reporting of a Child's Death

A post-mortem report must be made to the medical examiner or coroner in the event that a child dies as a result of abuse or maltreatment. If such death occurs at school, the report shall be made by the Superintendent to the appropriate medical authority ([Section 418, Social Services Law](#)).

10. Immunity from Liability

The law provides school officials who act in good faith in the making of a report or the taking of photographs with immunity from liability. The immunity from liability extends to civil or criminal liability that might otherwise result from such actions. The law establishes a presumption of immunity from liability ([Section 419, Social Services Law](#)).

11. Penalties for Failure to Report

The penalty for failure to report a suspected case of child abuse, maltreatment and neglect is a Class A Misdemeanor. In addition, there may be civil liability for damages proximately caused by such failure to report ([Section 420, Social Services Law](#)).

12. Obligations for Provision of Services and Procedures to Safeguard Life and Health

If, during the course of an investigation of suspected child abuse, the Building Principal determines that a child's health or safety is threatened, the Principal shall immediately contact the Superintendent, who will immediately contact Child Protective Services and police to recommend having the child placed in protective custody pursuant to paragraph "7", above.

13. Training Programs for Staff and New Hirees

The Superintendent shall establish and implement, on an ongoing basis, a training program for all current employees and newly hired employees regarding child abuse and the procedures described hereinabove ([Section 3209-a, Education Law](#)).

14. General Information

General information about child abuse, maltreatment or welfare, other than for the purpose of making a report of child abuse or maltreatment, can be obtained by calling 1-518-473-9516.

15. Distribution of Policy and Regulations

The Superintendent shall distribute copies of the policy and regulations regarding child abuse reporting requirements to all current employees and new employees ([Section 413, Social Services Law](#)).

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 Reports

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 Board Member
- Teacher
- School Nurse
- School Guidance Counselor
- School Psychologist
- School Social Worker
- School Administrator
- Other school personnel required to hold a teaching or administrative license or certificate.

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

Other district employees may, of course, report allegations of child abuse allegedly committed by district staff and volunteers and are encouraged to do so.

Definitions

For purposes of this policy, "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 or 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" generally refers to any intentional or reckless act by an employee or volunteer against a child which injures or kills a child or creates a risk of injury or death, or constitutes child sexual abuse, or involves the actual or attempted dissemination of indecent materials to minors. If a required reporter or any other district employee has a question as to whether alleged conduct constitutes "child abuse," he or she shall promptly raise the question to the Principal of the building where the abuse is alleged to have occurred. The Principal shall consult [Article 23-B of the Education Law](#), law enforcement officials and the school attorney, if necessary, to determine whether the allegations constitute child abuse.

Reporting Requirements

Required reporters and any other district employee deciding to report an allegation of child abuse by district staff or volunteers shall complete a written report 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.

The required reporter shall personally file the report with the Principal of the school in which the child abuse allegedly occurred.

If the alleged abuse did not occur in a school building, the report shall be filed with the Principal of the school attended by the alleged victim.

If the alleged abuser is an employee or volunteer of another district, the report shall be sent to the Superintendent of the district where the alleged child victim attends school and to the Superintendent of the district where the abuse allegedly occurred (if different). The report shall be prepared on a standard form supplied by the district. Each Building Principal shall keep a supply of the forms available in his or her office.

Upon receiving a written report, the Principal shall determine whether there is reasonable suspicion to believe that an act of child abuse has occurred. If the person making the allegation of abuse is someone other than the child or the child's parent, the Principal shall contact the person making the report to learn the source and basis for the allegation. If the Principal determines there is reasonable suspicion, he or she shall promptly notify the parents of the alleged child victim (assuming that the parent is not the person who originally reported the alleged abuse). The notice shall be given by telephone (if possible) and in writing, sent via overnight mail to the parent.

The notice shall inform the parent of his or her rights and responsibilities related to the allegations of abuse.

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 any 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 certificate or license issued by the department.

Rights of Employees and Volunteers

Employees: Pending resolution of the allegations, no employee against whom an allegation of child abuse has been made shall be permitted to have unsupervised contact with any district student. Any employee 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.

Volunteers: Pending resolution of the allegations, no volunteer against whom an allegation of child abuse has been made shall be permitted to render volunteer services to the district. Any volunteer against whom an allegation of child abuse has been made and against whom the district decides to take adverse action shall be entitled to receive a copy of the report and to respond to the allegations.

Confidentiality

All reports 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.

Penalties

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

Administrators: Any administrator who (1) willfully fails to submit a written report of alleged child abuse to an appropriate law enforcement authority is required by [Article 23-B of the Education Law](#), or (2) makes any agreement to withhold from law enforcement authorities, the Superintendent or the Commissioner, the fact that an allegation of child abuse in an educational setting on the part of any employee or volunteer has been made in return for the employee's or volunteer's resignation or voluntary suspension from his or her position, or (3) willfully discloses a confidential record shall be subject to criminal and civil penalties provided for in law, as well as, 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 who fails to submit a report of child abuse to an appropriate law enforcement authority.

Ref:

[Education Law §§1125-1133](#)

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

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