HEWLETT-WOODMERE UFSD

Policy 5465
(X) Required
( ) Local
(X) Notice

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 employees and school volunteers violates this right and is strictly prohibited. The District is committed to the protection of children from such abuse in the educational setting.

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

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:

- Board of Education member;
- teacher;
- school nurse;
- school guidance counselor;
- school psychologist;
- school social worker;
- coaches;
- school administrator;
- other school personnel required to hold a teaching or administrative license or certificate; and
- all other employees of the School District including, but not limited to, clericals, custodians, food service workers, bus drivers, security guards, school monitors, teacher aides/assistants, licensed and registered physical therapist, licensed and registered occupational therapist, licensed and registered speech pathologist, or school resource officer.

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/or school volunteers and are encouraged to do so.

Definitions

For purposes of this policy, the following definitions apply:

"Child" means a person under the age of 21 enrolled in the District.

"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 prohibited by the Penal Law, or
- involves the actual or attempted dissemination of indecent materials to minors pursuant to the Penal Law.

"Educational setting" means the building and grounds of the district, the vehicles provided by the district to transport students to and from school buildings, field trips, co-curricular and extracurricular activities both on and off school district grounds, all co-curricular and extracurricular activity sites, and any other location where direct contact between an employee or volunteer and a child has allegedly occurred, including but not limited to the district's computer network.

"Employee" means any person (i) who is receiving compensation from the school district or
(ii) whose duties involve direct student contact an (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 a public assistance employment program, pursuant to Title 9-B of Article 5 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 provides services to the school district, which involve direct student contact.

Reporting Information

The District will post the child abuse hotline telephone number and directions for accessing the Office of Children and Family Services (OCFS) website in English and Spanish on its website and in clearly and highly visible areas of school buildings. The District will also make this information available from its administrative offices; provide it to parents and persons in parental relation at least once per school year by electronic communication, sending the information home with students, or otherwise; and provide it to each teacher and administrator. The District may post and provide this information in other, common languages used by the school community.

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:

- Immediately complete a written report of such allegation including: the full name of the child alleged to have been abused; the name of the child's parent; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be completed on a form prescribed by the Commissioner of Education.
- Except where the school administrator is the person receiving such an oral or written allegation, the 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. 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.

In any case where it is alleged that the child was abused by an employee or volunteer of another school district, the report of such allegations shall be promptly forwarded to the Superintendent of the school district where the alleged victim attends school and to the Superintendent of the school district where the abuse allegedly occurred (if different). Both Superintendents are responsible for contacting law enforcement authorities without delay and for taking other actions required by law.

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 with the Superintendent and/or school attorney to determine whether the allegation constitutes child abuse.

Upon receiving a written report alleging child abuse in an educational setting, 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 finds that reasonable suspicion exists, 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). The notice shall be given by telephone (if possible) and in writing, sent via overnight mail to the parent, or by hand-delivery.

The notice shall inform the parent of his or her rights and responsibilities and the procedures related to the allegations of abuse and shall indicate in accordance with the provisions of the Commissioner's Regulations, the following:

(i) the duties of employees upon receipt of an allegation of child abuse in an educational setting;
(ii) the duties of school administrators and Superintendents upon receipt of a written report alleging child abuse in an educational setting;

(iii) additional duties of the Superintendent in regard to written reports of child abuse;

(iv) notification by the county district attorney and actions to be taken upon criminal conviction of a licensed or certified school employee;
(v) the duties of the Commissioner of Education relating to child abuse in an educational setting;
(vi) confidentiality of records;
(vii) penalties for failure to comply with respect to allegations and reports of child abuse in an educational setting; and
(viii) the prohibition of and penalty against agreements relating to the unreported resignation of an employee or volunteer.

The Principal shall also simultaneously provide a copy of the written report to the Superintendent and promptly send a copy 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.

In any case where an oral or written 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 upon receipt of such allegation promptly report or cause a report to be made to his or her supervisor employed by such contracting person or entity.

In any case where an oral or written report or allegation is made to a supervisor who is employed by a person or entity that contracts with a school to provide transportation services to children from a person employed by the contracted person or entity, that a child in such school has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall upon receipt of such allegation promptly complete a written report of such allegation including the full name of the child alleged to be abused; the name of the child's parent or guardian; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be on the form prescribed by the State Education Department and shall be personally delivered to the Superintendent of Schools where the child abuse occurred.

The Superintendent shall send any written report forwarded to local law enforcement authorities to the Commissioner of Education where the employee or volunteer alleged to have committed an act of child abuse holds a certificate or license issued by the State Education 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 who has adverse action taken against him or her by virtue of or in connection with any report made pursuant to Article 23-B of the Education Law or this policy shall be entitled to receive a copy of the report and respond to the allegations of child abuse made therein in accordance with the law.

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 who has adverse action taken against him or her by virtue of or in connection with any report made pursuant to Article 23-B or this policy shall be entitled to receive a copy of the report and respond to the allegations of child abuse made therein in accordance with the law.

Confidentiality

All reports and other written material submitted pursuant to this policy and Article 23-B of the Education Law and photographs taken concerning such reports in the possession of any person authorized to receive such information, pursuant to Article 23-B,shall be confidential and shall not be redisclosed except to law enforcement authorities involved in investigating the alleged child abuse in an educational setting or except as expressly authorized by law or pursuant to a court- ordered subpoena. The Principal, Superintendent and other school administrator 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 statute, as well as disciplinary sanctions imposed in accordance with applicable law and collective bargaining agreements.

Administrators

Any administrator who: (1) willfully fails 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, (2) makes any agreement to withhold from law enforcement authorities, the Superintendent or the Commissioner of Education, where applicable, the fact that an allegation of child abuse in an educational setting has been made in return for the resignation or voluntary suspension of the employee or volunteer against whom the allegation has been made , or (3) willfully discloses a confidential record shall be subject to criminal penalties provided for by statute, as well as disciplinary sanctions imposed in accordance with applicable law and collective bargaining agreements. In addition, the failure to submit a report of child abuse to an appropriate law enforcement authority is also punishable by a civil penalty of up to $5,000.

Record Retention

Any report of child abuse by an employee or volunteer that does not, after investigation, 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 an ongoing training program for all required reporters regarding the procedures specified in Article 23-B of the Education Law. The program shall include, at a minimum, training regarding all the elements specified in Commissioner's Regulations, 100.2(hh.).

In addition, the district shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of child abuse in the educational setting pursuant to Education Law 3028-b including the immunity provision of the Education Law 1126.

Immunity

Any employee or volunteer 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.

Prohibition of "Silent" (Unreported) Resignations

The Superintendent and other school administrators are prohibited from making any agreement to withhold from law enforcement authorities, the Superintendent or the Commissioner of Education, where appropriate, the fact that an allegation of child abuse in an educational setting has been suppressed in exchange for the resignation or voluntary suspension of the employee or volunteer against whom the allegation is made and is punishable by a civil penalty of up to $20,000.

A Superintendent or Building Principal who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required pursuant to the law shall have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions.

Legal References:

Education Law Article 23-B and 3028-b Penal Law Articles 130, 235 and 263 8 N.Y.C.R.R. 100.2(hh)

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CONFIDENTIAL REPORT OF ALLEGATION

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

SOURCE OF ALLEGATION (Check as Appropriate)

☐ Child ☐ Parent ☐ Other - Name _____ Relationship to Child (if any) _____

ALLEGED PERPETRATOR (EMPLOYEE OR VOLUNTEER)

Name _____ School District/Charter School _____

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 /Charter School _____

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	FOR SUPERINTENDENT/CHARTER SCHOOL CHIEF ADMINISTRATOR OF SCHOOL USE ONLY
Reasonable Suspicion _____Yes _____No	Reasonable Suspicion _____Yes _____No
Date Submitted to Superintendent /Charter School Chief Administrator ____/____/____ Name/Signature _____ Date Submitted to Law Enforcement ____/____/____ Name/Signature _____	Date Submitted to Law Enforcement ____/____/____ Name/Signature _____ Date Submitted to Commissioner ____/____/____ Name/Signature _____