CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT
NOTICE/REPORTING REQUIREMENTS

Duties of Employees

The law imposes reporting requirements on school administrators, teachers, school nurse, school guidance counselors, school psychologists, school social workers, other school personnel required to hold a teaching or administrative license or certificate, licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides, school resource officers, school board members, 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 who 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.

When these employees of the District or to a school bus driver employed by a person or entity that contracts with a school to provide transportation services 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 (See Policy 5461 E1).
b. Upon completion of the 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 they find 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.

CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT
NOTICE/REPORTING REQUIREMENTS

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 is 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

CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT
NOTICE/REPORTING REQUIREMENTS

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 (8NYCRR §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.

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 three years from the date of the making of such report or at such earlier time as such school or school district determines. However, any report that includes an allegation of a sexual offense against a child as defined by the Child Victims Act shall be retained until the child attains age fifty-five (55).

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.

CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT
NOTICE/REPORTING REQUIREMENTS

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 their 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.

Revised and Approved by the Board of Education: 11/21/24