

## **CHILD ABUSE IN AN EDUCATIONAL SETTING**

As part of Chapter 181 the Laws of 2000, the Safe Schools Against Violence in Education (S.A.V.E) Legislation, Article 23-B was added to the Education Law. In accordance with the statutes, the following policy has been adopted and takes effect July 1, 2001.

### **I. Definitions**

The following definitions are applicable for this policy:

- A. Child abuse shall mean any of the following acts committed in an educational setting by an employee or volunteer against a child:
  - 1. Intentionally or recklessly inflicting physical injury, serious physical injury or death.
  - 2. Intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death.
  - 3. Any child sexual abuse defined in paragraph "I" below.
  - 4. 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.
- B. "Child" shall mean a person under the age of twenty-one (21) years of age enrolled in a school district in this state.
- C. "Employee" shall mean any person receiving compensation from the school district or employee of a contracted service provider or a 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.
- D. "Volunteer" shall mean any person other than an employee, who provides services to a school or school district which involves direct student contact.
- E. "Educational Setting" shall mean the buildings and grounds of a public school district, the vehicles provided by the school district for 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.
- F. "Administrator" or "School Administrator" shall mean a principal of a public school or any other chief school officer.
- G. "Law Enforcement Authorities" shall mean a municipal police department, sheriff's department, the Division of State Police or any officer thereof. Notwithstanding any other provision of law, law enforcement authorities shall not include any child protective service or any society for the prevention of cruelty to children as such terms are defined in Section 423 of the Social Service Law.

**Child Abuse in an Educational Setting (Continued)****I. Definitions (Continued)**

- H. "Parent" shall mean either or both of a child's parents or other persons legally responsible for the child.
- I. "Child Sexual Abuse" shall mean conduct prohibited by Article 130 or 263 of the Penal Law.

**II. Duties of Employees**

- A. In any case where an oral or written allegation is made to a teacher, school nurse, school guidance counselor, school psychologist, school social worker, school administrator, school board member or other school personnel required to hold a teaching or administrative license or certificate, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such person shall upon receipt of such allegation:
  - 1. Promptly complete a written report of such allegation including:
    - a) full name of child alleged to be abused
    - b) name of the child's parent
    - c) identity of the person making the allegation and their relationship to the alleged child victim
    - d) name of the employee or volunteer against whom the allegation was made
    - e) a listing of the specific allegations of the child abuse in an educational setting
  - 2. The report shall be written upon the prescribed form (attachment). Promptly personally deliver a copy of such written report to the school administrator of the school in which the child abuse allegedly occurred.
- B. When it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district of the child's attendance, the report of such allegations shall be promptly forwarded to the superintendent of schools of the school district of the child's attendance and the school district where the abuse allegedly occurred. Both school superintendents shall follow instructions in IV and V of this policy.
- C. Any employee or volunteer who reasonably and in good faith makes a report of allegations of child abuse in an educational setting to a person and in the manner described in this policy shall have immunity from civil liability which might otherwise result by reason of such action.

## Child Abuse in an Educational Setting (Continued)

### III. Confidentiality

Confidentiality of records, reports, other written material and photographs taken concerning such reports in the possession of any person authorized to receive such information shall be confidential and shall not be redisclosed except to law enforcement authorities involved in an investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. A school administrator or a school superintendent shall exercise reasonable care in preventing such 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.

### IV. Duties of School Superintendent and Administrators

Upon receipt of a written report as described in Section II A of this policy alleging that a child has been abused in an educational setting, a school administrator or superintendent where there is reasonable suspicion to believe that an act of child abuse has occurred shall:

- A. Where the subject child has made the allegation:
  1. Promptly notify the parent of such child that an allegation of child abuse in an educational setting has been made regarding said child.
  2. Promptly provide the parent with a written statement prepared setting forth parental rights, responsibilities, and procedures.
  3. Where a school administrator receives a written report, such administrator shall promptly provide a copy of such report to the superintendent.
  4. Promptly forward such report to appropriate law enforcement authorities.
- B. Where a parent of the child has made the allegation:
  1. Promptly provide the parent of such child with a written statement setting forth parent rights, responsibilities, and procedures.
  2. When the school administrator receives the written report, promptly provide a copy of report to the superintendent.
  3. Promptly forward such report to appropriate law enforcement authorities.
- C. Where a person other than the subject child or the parent of a subject child has made the allegation:
  1. Promptly notify the parent of the subject child that an allegation of child abuse in an educational setting has been made regarding his or her child.
  2. Promptly provide the parent with a written statement setting forth parental rights, responsibilities, and procedures.
  3. Ascertain from the person making such report the source and basis for such allegations.
  4. Promptly provide a copy of the report to the superintendent.
  5. Promptly forward the report to appropriate law enforcement authorities.

**Child Abuse in an Educational Setting (Continued)****IV. Duties of School Superintendent and Administrators (Continued)**

In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent. Any school superintendent or administrator who reasonably and in good faith makes a report of allegations of child abuse in an educational setting or reasonably in good faith transmits such a report to a person or agency shall have immunity from civil liability which otherwise might result by reason of such action.

**V. Additional Duties of the Superintendent**

- A. Where a superintendent of schools forwards to law enforcement a report of alleged child abuse, the superintendent shall also refer such report to the commissioner of education where the employee or volunteer alleged to have committed an act of child abuse and holds a certification or license issued by The State Education Department.
- B. Where a report which is filed pursuant to this policy and does not, after investigation, result in a criminal conviction such report 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 (5) years from the date of making the report or at such earlier time as the school district determines.

**VI. Penalties**

- A. Willful failure of an employee to prepare and submit a written report of an allegation of child abuse as required by law shall be a Class A misdemeanor.
- B. A willful failure of a school superintendent or administrator to submit a written report of child abuse to an appropriate law enforcement authority as required by law shall be a Class A misdemeanor.
- C. Any failure to submit a written report of child abuse to an appropriate law enforcement authority as required by law shall be punished by a civil penalty not to exceed five thousand dollars (\$5000).

**VII. Notification of Staff**

- A. Each school shall annually provide information regarding the reporting of Child Abuse in the Educational Setting to the staff.

Policy Adopted:

September 24, 2001