

Waterville Central School District

SUPERINTENDENT'S REGULATION

STUDENTS

7201.1

NOTICE OF PARENTAL RIGHTS CHILD ABUSE IN AN EDUCATIONAL SETTING

This notice is provided pursuant to Education Law §1128 and sets forth parental rights and the responsibilities and procedures of school districts, the District Attorney's Office and the Commissioner of Education under Article 23-B of the Education Law relative to child abuse that occurs in an educational setting.

I. 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 including all compensated District employees who are required to hold a temporary coaching license or permanent coaching certificate, whether full-time or part-time. 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 (Regulation 7201.4).
- B. Upon completion of the report form, the employee must personally deliver it to the site 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.

II. 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.

A. Child makes the Allegation

1. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.

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2. 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)).
3. Promptly provide a copy of the completed report form to the Superintendent.
4. 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.

B. Parent Makes the Allegation

1. 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)).
2. Promptly provide a copy of the completed report form to the Superintendent.
3. 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.

C. Person other than the Parent or the Child Makes the Allegation

1. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
2. 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)).
3. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the report form.
4. Promptly provide a copy of the completed report form to the Superintendent.

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5. 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.

III. Duties of the Superintendent

In most cases, the site 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 site 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.
- C. In addition, the 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.
- D. 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.

1. 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.

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2. 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.

3. 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.

IV. 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 the Board of Education determines.

V. Penalty Provisions

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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.

VI. Immunity Provisions

The law provides immunity from civil liability for employees, volunteers, District site administrators and the Superintendent if they, 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 District site administrators and the Superintendent, if they 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.

VII. Confidentiality of Records

In general, the only persons authorized to receive the written report form and any related materials are the District site 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 the District site administrator and Superintendent exercise reasonable care to prevent unauthorized disclosure.

VIII. Duties of District Attorneys

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

1. an indictment;
2. the filing of an accusatory instrument;
3. the disposition of the criminal case; or,

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4. the suspension or termination of the investigation.

- B. 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 if the acts of child abuse occurred at a District site and the superintendent of the school district where the child attends, if different.

IX. Duties of the Commissioner of Education

- A. 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.
- B. 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.
- C. 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.

X. Unreported Resignations or Voluntary Suspensions

The law prohibits the District site administrator or Superintendent from agreeing to withhold from the appropriate law enforcement authorities, the District 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.

Adopted: 01/22/02

Approved by Superintendent: 06/13/17