



GUIDE TO CHILD ABUSE REPORTING

FOR CHARTER SCHOOLS AUTHORIZED BY
THE STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES

INTRODUCTION

Child abuse is a systemic issue and school employees have distinct responsibilities regarding the reporting and preventing of child abuse and maltreatment due to their unique access to children. New York State law includes specific requirements for mandated reporters to report suspected child abuse and maltreatment that takes place outside the school setting, and specific protocols for reporting suspected child abuse in the school, which is known as child abuse in an educational setting. This guidance document provides an overview of a charter school education corporation's obligations to report all suspected child abuse and maltreatment in and out of an educational setting, and reflects changes to this area of law.¹

1. Article 23-B of the New York Education Law (entitled "Child Abuse in an Educational Setting"). Amendments are effective June 5, 2019 and include updated definitions, reporting, and training requirements. Updated New York State Commissioner of Education Regulations, 8 NYCRR § 100.2(hh), are expected in late September 2019 and will include definitions, reporting, and training requirements to match changes to Article 23-B.

TABLE OF CONTENTS

DEFINITIONS

| 2

CHARTER AGREEMENT;
LAWS & REGULATIONS

| 4

DISCUSSION

| 5

REPORTING

| 6

POLICY & TRAINING

| 10

ADDITIONAL
INFORMATION

| 11

APPENDIX A
Sample Letter to Parents

DEFINITIONS

CHILD ABUSE IN AN EDUCATIONAL SETTING

Child Abuse: Reportable child abuse includes:

- any intentionally or recklessly inflicted physical injury, serious physical injury, or death;
- conduct which creates a substantial risk of physical injury, serious physical injury, or death;
- any child sexual abuse;² or,
- exposing or attempting to expose a child to indecent materials.³

Educational Setting: An educational setting includes:

- the building and grounds of a school;
- the vehicles provided directly or by contract by the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school grounds;
- all co-curricular and extracurricular activity sites; and,
- any other location where direct contact between an employee⁴ or volunteer⁵ and a child⁶ has allegedly occurred.⁷

Employee: An employee includes:

- any person receiving compensation from a school;⁸ or,
- any person whose duties involve direct student contact, and is an employee of a contracted service provider including:
 - a transportation provider;⁹ or,
 - a worker placed within the school under a public assistance employment program.

Volunteer: A volunteer includes:

- any person, other than an employee, who has direct student contact, and;
 - provides services to a school;¹⁰ or,
 - provides services to a person or entity with a transportation contract with the school.
- Volunteers do not have to be unpaid.

2. Education Law § 1125(1). Child sexual abuse includes not only sexual intercourse with a minor but also intimate touching with or without clothing. For a full description of what is deemed “child sexual abuse” see Articles 130 and 263 of the New York Penal Law (Sex Offenses, and Sexual Performance by a Child, respectively).

3. See Penal Law §§ 235.20–235.24. Subdivision 235.20 defines terms, and §§ 235.21-22 describe felonies related to disseminating indecent material to minors with minors being defined as under age 17.

4. Education Law § 1125(3) (effective June 5, 2019).

5. Education Law § 1125(4) (effective June 5, 2019).

6. Education Law § 1125(2). After June 5, 2019, the definition will include students under 21 in New York City.

7. Education Law § 1125(5) (effective June 5, 2019).

8. Education Law § 1125(3).

9. *Id.*

10. Education Law § 1125(4) (the revised definition includes volunteers helping transport companies).

DEFINITIONS

CHILD ABUSE OUTSIDE AN EDUCATIONAL SETTING

Abuse: Reportable child abuse includes:

- infliction or substantial risk of physical injury, other than by accident, which causes or creates a substantial risk of death;
- serious or protracted disfigurement;
- protracted impairment of physical or emotional health;
- protracted loss or impairment of the function of any bodily organ by a parent or other person legally responsible for a child;¹¹
- exposing of or an attempt to expose a child to indecent materials;
- allowing, permitting, or encouraging the promotion of prostitution;
- allowing a child to engage in incest; or,
- permitting or encouraging acts related to sex trafficking.¹²

Maltreatment: Reportable maltreatment includes:

- infliction of serious physical injury other than by accident to a child;¹³
- the neglect of a child including impairment, or placement in imminent danger of impairment of a child's physical, mental, or emotional condition by the failure of the child's parent or other person legally responsible to exercise a minimum degree of care by:¹⁴
 - failing to provide sufficient food, clothing, shelter, or education;¹⁵
 - failing to provide proper supervision or guardianship by unreasonably inflicting harm or allowing harm to be inflicted, including excessive corporal punishment, misusing alcohol or drugs to the extent that the parent loses self-control; or,
 - abandoning the child as defined by Social Services Law § 384-b(5).¹⁶

11. New York Family Court Act § 1012(e); New York Social Services Law § 412(1) (referencing the Family Court Act) (each with a child being defined as under age 18).

12. Family Court Act § 1012(e). For a full description of offenses see New York Penal Law §§ 230.25, 230.30, 230.32, 230.34-a, 255.25 – 27, and 22 U.S.C. § 7102 (sex trafficking).

13. Social Services Law § 412(2) (maltreatment applies to children under 18).

14. Family Court Act § 1012(f) (neglect applies to children under 18).

15. Please note poverty or other financial inability to provide food, shelter, clothing, education, or medical care is not maltreatment unless the parent is offered financial means and refuses. Failure to provide an education despite efforts by the school or child protective agency to assist may be considered maltreatment.

16. "[A] child is 'abandoned' by his [or her] parent if such parent evinces an intent to forego his or her parental rights and obligations as manifested by his or her failure to visit the child and communicate with the child."

CHARTER AGREEMENT

A. Applicable Charter Agreement Provisions

The following provision from the model charter agreement is the same or very similar to that of each education corporation's Charter Agreement.

6.3 Child Abuse in an Educational Setting. Whenever the Education Corporation makes a determination under Article 23-B of the Education Law that there is a reasonable suspicion to believe that an act of child abuse has occurred at one of its schools (within the meaning of the statute), the Education Corporation must notify the Trustees of the same in addition to the other required statutory notifications. The Trustees shall not re-disclose this information except in accordance with applicable law.

LAWS AND REGULATIONS

B. Applicable Laws and Regulations

- New York Social Services Law §§ 412-428; 384-b(5)
- New York Education Law §§ 1125-1134; 2854(b)
- 8 NYCRR § 100.2(hh)

Education Law Article 23-B is applicable to charter schools because child abuse is a health and safety concern per the New York Charter Schools Act of 1998 (as amended, the "Act"). Education Law § 2854(b) provides, "A charter school shall meet the same health and safety, civil rights, and student assessment requirements applicable to other public schools . . ."

DISCUSSION

C. Discussion

Under the Social Services Law, persons in certain professions are mandated reporters of child abuse.¹⁷ Mandated reporters are required to report suspected child abuse or maltreatment “when they have reasonable cause to suspect[:]

- that a child coming before them in their professional or official capacity is an abused or maltreated child[; or,]...
- that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child.”¹⁸

In the school context, mandated reporters include: physicians, social services workers, licensed therapists, physical therapists, occupational therapists, speech-language pathologists, mental health professionals, full- or part-time compensated school employees required to hold a temporary coaching license or professional coaching certificate, school officials, school teachers, school guidance counselors, school psychologists, school social workers, school nurses, school administrators or other school personnel required to hold a teaching or administrative license or certificate. Additional mandated employees include teacher aides, school resource officers, school bus drivers, and school bus driver’s supervisors.¹⁹ If an education corporation includes a pre-Kindergarten program, those employees and other mandated reporters should also follow the same reporting requirements as the charter school.

A child coming before mandated reporters in their professional or official capacity can include any child that is a student in the school; it does not necessarily require the child to physically come to a mandated reporter.²⁰ “Reasonable cause” to suspect abuse or maltreatment is “an objective question that must be answered in light of the information available to the reporter at the time of [the] report.”²¹ Information to support reasonable cause does not have to be conclusive, but must be more than a hunch or gut feeling and can include personally witnessing an act, observing physical injury, the child exhibiting behavioral issues, or direct statements from the child.²²

Please note that charter school employees exempt from certification or license by the Act must report on the same basis as if they were certified or licensed. While mandated reporters are required to report suspected child abuse, any other individuals who have reasonable cause to suspect that a child is abused or maltreated may and should make a report.

Mandated reporters who willfully fail to report suspected child abuse or maltreatment may be found guilty of a Class A misdemeanor (punishable by up to one year in jail) and subject to damages.²³

17. See Social Services Law § 413(1) for a complete list of mandated reporters.

18. Social Services Law § 413(1)(a).

19. See Education Law § 1125 for the expanded definitions of employee and volunteer.

20. See *Diana G-D v. Bedford Cent. School Dist.*, 33 Misc.3d 970 (Sup. Ct. Westchester Cty. 2011).

21. *Thomsen v. Kefalas*, No. 15-CV-2668, 2018 WL 1508735, at *15 (S.D.N.Y. Mar. 26, 2018).

22. *Diana G-D*, 33 Misc.3d at 983-987.

23. Education Law § 1129; Social Services Law § 420; *Kimberly v. Bradford*, 226 A.D.2d 85 (4th Dep’t 1996) (upholding damage complaint against teacher).

REPORTING

REPORTING SUSPECTED CHILD ABUSE OUTSIDE OF AN EDUCATIONAL SETTING

When a mandated reporter has reasonable cause to suspect that a child has been abused or maltreated that person should follow the steps below.²⁴

Step 1 - Oral Report

- Once a person believes a child has been abused or maltreated the person must make a report immediately to New York Statewide Central Register for Child Abuse and Maltreatment (“SCR”) at 800-342-3720. A Child Protective Specialist will answer the call and ask for as much information as the person can provide about both the suspected abuse or maltreatment and the family of the child. If you are deaf or hard of hearing, call TDD/TTY at 1-800-638-5163 or have your Video Relay System provider call 1-800-342-3720. **If you believe that a child is in immediate danger, call 911 or your local police department.**
- The education corporation or school may not impose any conditions upon a staff member making this report (i.e., prior approval or notification).

Step 2 - Immediately Notify the Head of School

- The person should then immediately notify the head of school,²⁵ who will then be responsible for all subsequent actions.

Step 3 - Written Report

- All oral reports should be followed by a written report within 48 hours. Written reports shall be made in a manner prescribed and on forms supplied by the commissioner of the New York State Office of Children and Family Services (“OCFS”). A copy of the required report format may be found at <http://ocfs.ny.gov/main/cps/>.

Once a report is received, the Child Protective Service (“CPS”) unit of the local department of social services is required to begin an investigation of each report within 24 hours. The investigation should include an evaluation of the safety of the child named in the report and any other children in the home, and a determination of the risk to the children if they continue to remain in the home. CPS may take a child into protective custody if it is necessary for the protection from further abuse or maltreatment. Based upon an assessment of the circumstances, CPS may offer the family appropriate services. The CPS caseworker has the obligation and authority to petition the Family Court to mandate services when they are necessary for the care and protection of a child.

CPS has 60 days after receiving the report to determine whether the report is “indicated” or “unfounded.” The law requires CPS to provide written notice to the parents or other subjects of the report concerning the rights accorded to them by the Social Services Law. The CPS investigator will also inform the SCR of the determination of the investigation.

Please note that any person who participates, in good faith, in making a report of suspected child abuse or maltreatment is immune from any civil or criminal liability.²⁶ In addition, no education corporation may

24. Social Services Law §§ 413, 415 (reporting procedure).

25. Social Services Law § 413(1)(b) refers to the “person in charge” of a school.

26. Social Services Law § 419.

REPORTING

take any retaliatory action against any staff member for making a report based on reasonable cause to suspect child abuse or maltreatment.

REPORTING CHILD ABUSE IN AN EDUCATION SETTING

Charter school personnel, including teachers, administrators, trustees, and other employees, are obligated under Article 23-B of the Education Law to document and report all allegations of child abuse that occurs in an educational setting at the hands of a school employee or volunteer.²⁷ The legislature recognizes that investigations of allegations of child abuse, like other criminal conduct, “must not be undertaken by school personnel but must be the responsibility of law enforcement agencies”²⁸ in order to “promote the objectivity of such investigation and [to] protect the rights and interests of the alleged victim, the accused and the school community.”²⁹ However, the law establishes a formal, standardized procedure that schools must follow when such cases occur.

Step 1 - Written Report and School Administrator Notification³⁰

- 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, board member, or other school personnel required to hold a teaching or administrative license or certificate, as well as a licensed and registered physical therapist, licensed and registered occupational therapist, licensed and registered speech-language pathologist, teacher aide, or school resource officer, that individual must complete a written report. A copy of the report form may be found at: <http://www.p12.nysed.gov/sss/ssae/schoolsafety/save/#childabuse>.
- Once the written report is completed it should be provided to a designated school administrator³¹ except in cases where the allegation is made to the school administrator.
- 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 individual must promptly report or cause a report to be made to his or her supervisor employed by such contracting person or entity, who will then follow the written reporting and school administrator notification procedures.³² Once the written report is completed it should be provided to a designated school administrator.
- In any case where an oral or written allegation is made about the designated school administrator, the report of such allegations shall be made to another administrator designated by the school.

27. See Education Law § 1126 (effective June 5, 2019).

28. *People v. Heil*, 16 Misc.3d 1125(A) at *7 (Monroe Cty. Ct. 2007) (unreported disposition) (italics in original) citing L.2000, c. 180, § 1 (eff. July 1, 2001).

29. L.2000, c. 180, § 1.

30. See Education Law § 1126(1). When a child is alleged to have been abused by an employee or volunteer from another charter or district school where the child attends school, the report of the allegations should be promptly forwarded to the head of school, executive director or superintendent of the charter school or superintendent of the district of attendance, and the charter school or district where the abuse was alleged to have occurred. *Id.* at § 1126(2). If such a case involves a school that is not a public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, must be notified. *Id.*

31. See Education Law § 1125(6) (effective June 5, 2019) (“‘Administrator’ or ‘school administrator’ shall mean a principal, or the equivalent title, in a school, or other chief school officer.”)

32. Education Law § 1126(1-a).

REPORTING

Step 2 - School Administrator Duties

- When a school administrator receives the written report, the school administrator must determine if there is “reasonable suspicion to believe an act of child abuse [in an educational setting] has occurred.”³³
- If the person making the initial allegation is not the child victim or the child’s parent, the school administrator must ascertain from that person the source and basis for such allegations.³⁴
- Reporting procedures may differ slightly depending upon the employment position of the person receiving the oral or written allegation of abuse, and upon who made the initial allegation.³⁵

Step 3 - Parental Notification and Rights

- A school administrator, who has reasonable suspicion that the allegations might be true, must promptly notify the child’s parents.³⁶
- The school must also promptly provide the child’s parents with a written statement that sets forth their parental rights, responsibilities, and the procedures that will take place. A sample letter is attached as Appendix A.

Step 4 - Law Enforcement Notification

- A school administrator, who has reasonable suspicion that the allegations might be true, must promptly notify appropriate law enforcement authorities.
- The school administrator should not delay in contacting appropriate law enforcement authorities when the school administrator is unable to contact the “superintendent.”³⁷

Step 5 - Authorizer Notification

- The SUNY Charter Schools Institute must also be notified of any reasonable suspicion that an act of child abuse has occurred.³⁸

Step 6 - Commissioner of Education Notification

- Where a school administrator has reasonable suspicion that the allegations might be true and has notified the child’s parent/s and appropriate law enforcement of the allegation, the “superintendent” must promptly forward the report to the Commissioner of Education if the employee or volunteer alleged to have committed an act of child abuse holds a certification or license.³⁹ In the case of SUNY charter schools, if a person is exempt from certification by application of the Act or in the process of becoming certified, the report to the Commissioner of Education should still be made. Reports should be made to the New York State Education Department’s Office of School Personnel Review and Accountability (OSPRA) on its form.

33. Education Law § 1128 (effective June 5, 2019) (opening para.).

34. Education Law § 1128(3).

35. The Legislature drafted Article 23-B with district schools in mind and contemplates in Education Law § 1128(1) that the school administrator will report founded allegations to “the superintendent.” In charter schools, the school administrator may be the equivalent of a superintendent. In any event, charter school policy should make clear if there is any further reporting (and to whom).

36. Education Law § 1128(1). The school does not need to provide a copy of the actual report to the parents. *Appeal of S. S.*, 2003 Op. Comm. Ed. No. 14,852 (March 20, 2003). The Institute strongly encourages schools to speak to a knowledgeable attorney before disclosing or declining to disclose a report.

37. For charter schools, this would be the head of school, executive director or like title.

38. Charter Agreement Section 6.3.

39. Education Law § 1128-a (effective June 5, 2019), which contains the reporting requirement, speaks to the duties of a “superintendent.” For a charter school, it is the head of school, executive director, or other person designated by school policy.

REPORTING

- Mandated Reporters who are required to report allegations of child abuse in an educational setting to the vulnerable persons' central register of the Justice Center for the Protection of People With Special Needs and do report such allegations will have satisfied the reporting requirement under the Education Law.⁴⁰ Such reports should still be made to the Institute.

Additional Information

- The report and any supporting documents included with the report are confidential and may only be disclosed to persons authorized to receive such information including law enforcement officials involved in the criminal investigation, or by a court-ordered subpoena.⁴¹ Willful disclosure of such materials to unauthorized persons is a Class A misdemeanor punishable by up to one year in jail.
- If the report does not result in a criminal conviction, the report must be deleted from all school and school district records no later than five years from the date the report was written.⁴² If a report does lead to a criminal conviction, the district attorney shall provide notice to the Commissioner of Education, the head of school where the child abuse occurred, and to the school where the child attends school, if different.
- The Education Law does not give schools the authority to take adverse action against an employee, volunteer, or supervisor because of the existence of a report that has not been substantiated. Any proposed employment action against an accused employee should be reviewed by employment counsel for the school prior to implementation.⁴³

PLEASE NOTE: A school administrator may not enter into an agreement with an accused employee or volunteer to have such person resign or submit to voluntary suspension in exchange for a report of alleged child abuse being withheld from law enforcement or educational authorities. Violation of this rule is a felony and subject to a \$20,000 fine. ⁴⁴

40. Education Law § 1134 (effective June 5, 2019) (referring to the requirements of Article 11 of the Social Services Law).

41. Education Law § 1127.

42. Education Law § 1128-a(2).

43. See Education Law § 1131(3).

44. Education Law § 1133(1), (2).

POLICY AND TRAINING

Each charter school education corporation shall annually provide to each teacher and all other mandated school staff.⁴⁵ A written explanation pursuant to Education Law § 3028-b concerning the reporting of child abuse and child abuse in an educational setting including the immunity provisions of Education Law § 1126.⁴⁶

Under Education Law § 1126, each school must provide ongoing training to all employees defined above regarding mandatory reporting and reporting of child abuse in an educational setting. The training must include, at a minimum⁴⁷:

- information regarding the physical and behavioral indicators of child abuse and maltreatment;
- specific reporting requirements upon receipt of an allegation of child abuse outside an educational setting;
- specific duties of school employees upon receipt of an allegation of child abuse in an educational setting;
- confidentiality of records;
- specific duties of school administrators upon receipt of an allegation;
- legal protections for reporters;
- penalties for failure to report and comply with requirements;
- notification by the district attorney and actions taken upon criminal conviction of a licensed or certified employee; and,
- prohibition of the unreported resignation or voluntary suspension of an employee, volunteer, or supervisor accused of child abuse in an educational setting after an allegation is made.

The New York State Education Department provides further information regarding the reporting requirements of suspected child abuse in an educational setting at:

<http://www.p12.nysed.gov/sss/ssae/schoolsafety/save/EL23-B-RptngRequirements.html>.

45. Mandated staff includes school nurses, school counselors, school psychologists, school social workers, school administrators, other personnel required to hold a teaching or administrative certificate or license, any school bus driver or supervisor employed by any person or entity that contracts with such school to provide transportation services to children, board members, licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides, and school resource officers. 8 NYCRR 100.2(hh)(2)(ii) (proposed amendment).

46. 8 NYCRR § 100.2(hh)(3); SUNY interprets the “ongoing basis” requirement to mean at least annually. OCFS offers online training, available at: https://ocfs.ny.gov/main/cps/Mandated_Reporter_Training.asp.

47. Education Law § 1132(2) (effective June 5, 2019); 8 NYCRR § 100.2(hh)(2). See also Social Services Law § § 413-420.

ADDITIONAL INFORMATION

A copy of the Mandated Reporter form for reporting child abuse in an educational setting can be found at:

<http://p12.nysed.gov/sss/ssae/schoolsafety/save/home.html#childabuse>.

The New York State Office of Children and Family Services provides additional information regarding indicators child abuse or maltreatment at:

<http://ocfs.ny.gov/main/cps/signs.asp>.

A copy of the Mandated Reporter form for reporting child abuse outside an educational setting can be found at:

<https://ocfs.ny.gov/main/cps/>.

A sample copy of the notice letter to parents of their rights, responsibilities, and procedures under Education Law Article 23-B, is included as Appendix A at the end of the Guidelines. Your school is free to adopt your own letter to parents so long as the letter meets the intention of the Education Commissioner's regulatory requirements. The Institute recommends that you meet with a knowledgeable attorney to ensure that school materials are complete and correct in all respects.

APPENDIX A

SAMPLE LETTER TO PARENTS OF PARENTAL RIGHTS, RESPONSIBILITIES, AND PROCEDURES

{INSERT SCHOOL LETTERHEAD}

Dear [parent/s or guardian/s name/s],

The [name of charter school] is deeply committed to the welfare and safety of its students and takes all allegations of child abuse seriously. You are receiving this letter because a formal allegation of abuse that occurred within the school setting concerning your child has been documented and forwarded to the appropriate law enforcement authorities. Please read the following to understand your rights and the procedures that the school is required to follow so that you know what you may expect.

DUTIES OF SCHOOL EMPLOYEES

The law requires all physicians, social services workers, licensed therapists, physical therapists, occupational therapists, speech-language pathologists, mental health professionals, full or part-time compensated school employees required to hold a temporary coaching license or professional coaching certificate, school officials, school teachers, school guidance counselors, school psychologists, school social workers, school nurses, school administrators, or other school personnel required to hold a teaching or administrative license or certificate, as well as teacher aides, school resource officers, school bus drivers, and school bus driver's supervisors to complete a written report when that individual has learned of an allegation that a child has intentionally or recklessly been harmed by a school employee or volunteer.

All Mandated Reporters must complete the State's "Child Abuse in an Educational Setting Confidential Report of Allegation." The submitted report must include the full name of the child, the name of the child's parents or guardians, the name of the person making the allegation and his or her relationship to the child, the name of the employee or volunteer against whom the allegation was made, and the details of the allegation. The completed report must be personally delivered to the designated school administrator, unless the allegation is against the school administrator, then the report must be delivered to a designated alternate school administrator.

If the allegations are made against an employee or volunteer from a school outside the one where the child attends school, the completed report must be forwarded to both the school where the child attends school and the school/district where the alleged harm occurred.

DUTIES OF SCHOOL ADMINISTRATORS AND SUPERINTENDENTS

When a school administrator receives a completed report and has reasonable suspicion to believe that an act of child abuse has occurred, the school administrator must promptly notify the child's parents. The school administrator or head of school must also promptly forward the report to appropriate law enforcement authorities. When the allegation is made by someone other than the child or the child's parents, the school administrator must learn from the person making the report the source and the basis for the allegation. The school must provide parents with this copy of parental rights, responsibilities, and procedures.

ADDITIONAL DUTIES

When the school administrator forwards a report to appropriate law enforcement authorities, he or she must also refer the report to the Commissioner of Education when the accused employee or volunteer holds an educational certificate or license. When a report does not lead to a criminal conviction, the school must remove the report from all school records within five years.

NOTIFICATION BY DISTRICT ATTORNEY

The district attorney must notify the school administrator of the status of the investigation, if delayed or terminated, whether criminal charges will be filed, and the outcome of the criminal case.

ACTIONS TO BE TAKEN UPON A CRIMINAL CONVICTION

When a report leads to a criminal conviction of a licensed or certified employee, the district attorney must notify the Commissioner and the school superintendent. The Commissioner must then promptly make an official finding as to whether the individual meets the definition of possessing good moral character according to state regulations.

A school is not permitted to take action against an employee or volunteer when there is no reasonable suspicion to believe that the report was true. A school employee or volunteer who does have action taken against them because of a report is entitled to receive a copy of the report and to respond to the allegations.

DUTIES OF THE COMMISSIONER OF EDUCATION

The Commissioner must prepare a form for schools to complete when allegations have been made. The form should include the applicable legal definitions and enough space so that the person completing the form can include any and all information that would be helpful in explaining the allegations being made.

The Commissioner must also create rules concerning training school personnel and other applicable individuals about reporting and procedural requirements.

CONFIDENTIALITY OF RECORDS

Reports and any additional materials included with the report are confidential. The report may not be shared with unauthorized persons, but may be shared with law enforcement authorities investigating the allegations or by a court-ordered subpoena. School administrators must take reasonable care to prevent the report from being inappropriately disclosed. Willful disclosure of a report is a Class A misdemeanor.

PENALTIES FOR FAILURE TO COMPLY

Willful failure by an employee to prepare and submit a report of an allegation of child abuse is a Class A misdemeanor. Willful failure by a school administrator to submit a written report to appropriate law enforcement authorities is a Class A misdemeanor and subject to a civil penalty not to exceed five thousand dollars upon an administrative determination by the Commissioner.

PROHIBITION AND PENALTY AGAINST UNREPORTED EMPLOYEE OR VOLUNTEER RESIGNATION

An accused employee or volunteer may not agree to resign or be suspended in exchange for a report of alleged child abuse being withheld from law enforcement authorities. Violation of this rule is a felony and subject to a monetary fine.

For more information, please contact [INSERT SCHOOL CONTACT INFORMATION]



Charter Schools Institute
The State University of New York

www.newyorkcharters.org

State University Plaza
353 Broadway
Albany, New York 12246
518-445-4250