



INFORMATION BULLETIN

Child Abuse Mandatory Reporting Requirements for School Employees

Abused and neglected children may be found in any classroom in any school in any community. School personnel are in a unique position to observe children daily over periods of time and may be aware that something is not right with a child long before anyone else notices. Local leaders and members are often faced with questions and problems regarding who must report suspected child abuse to whom and under what circumstances.

This information bulletin provides the legal requirements for school employees and includes changes to New York State Social Services Law as amended by Chapter 193 of the Laws of 2007, effective October 2007. Chapter 193 defines the term school official, requires mandated reporters to directly report instances of suspected child abuse to the Central Register and inform the person in charge of the school, prohibits a school from retaliation against an employee for making a referral and from imposing any conditions, including approval or prior notification, upon an employee specifically required by social services law to make direct reports.

There are two ways school employees may be involved in child abuse reporting.

1. They have a reasonable cause to suspect a child is the victim of abuse or maltreatment by someone in parental relation to the child. (Covered by Social Services Law)
2. They witness or receive allegations of child abuse by an employee or volunteer in an educational setting. (Covered by Education Law)

The contents of this Information Bulletin include:

- An Overview of the Social Services Law as amended October, 2007 (Page 2);
- An Overview of the Education Law (Page 6);
- Side-by-Side Comparison of Both Laws (Page 11);
- Advice to Local Leaders (Page 12);
- Available Resources (Page 13);
- Social Services Law Article VI, Title VI (Page 14)
- Education Law Article 23-B (Page 31);
- Child Abuse in an Educational Setting Report Form (Page 35); and
- Suspected Child Abuse or Maltreatment - Social Services Report Form) (Page 36)

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For further information, contact your regional Labor Relations Specialist or Research & Educational Services

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Social Services Law - Child Protective Services Act
(Abuse or maltreatment by those in parental relation to the child)

New York's Social Services Law (Article VI, Title VI) requires certain school employees to report allegations of child abuse when they have reasonable cause to suspect a child coming before them is abused or maltreated, or if a parent or person legally responsible for the child, comes before the employee in his or her professional capacity and states from personal knowledge facts or conditions which, if correct, would identify the child as an abused or maltreated child.

1. Q. Which school employees are required to report cases of suspected abuse or maltreatment under the Social Services Law?

A. Although anyone may report child abuse or maltreatment, and is encouraged to do so, the following school employees are mandated reporters: teachers, guidance counselors, school psychologists, school social workers, school nurses, school administrators, licensed psychologists, registered nurses, licensed social workers, licensed creative arts therapists, licensed mental health therapists, mental health professionals and other school personnel required to hold a teaching or administrative license or certificate. Teaching Assistants are not listed but would probably be considered mandated reporters.

2. Q. What is an "abused child" under the Social Services Law?

A. For children not living in residential care facilities, the Social Services Law (§412) defines an abused child as a child less than 18 years of age whose parent or other person legally responsible for his/her care:

- Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of a function of any bodily organ; or
- Creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- Commits or allows to be committed a sex offense (as defined in the Penal Law) against such child; or
- Allows, permits or encourages such child to participate in prostitution; or
- Commits an act of incest with the child; or

- Involves a child in sexual performances.

3. Q. What is a “maltreated child” under the Social Services Law?

A. A maltreated child is a child less than 18 years of age (a) who has been abandoned, or (b) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his or her parent or other person legally responsible for his or her care to exercise a minimum degree of care in the following:

- In supplying the child with adequate food, clothing, shelter, education or medical care though financially able to do so or offered other means of doing so; or
- In providing the child with proper supervision by unreasonably inflicting or allowing to be inflicted harm or a substantial risk thereof, including the infliction of excessive corporal punishment, or by misusing drugs or alcoholic beverages to the extent that he or she loses self-control over his or her actions or any other acts of a similarly serious nature requiring the aid of the court.

A maltreated child also includes one who has had serious physical injury inflicted upon him by other than accidental means.

4. Q. What is reasonable cause to suspect child abuse or maltreatment?

A. “Reasonable cause” is not defined in the law. Reporters should use their observations, common sense, professional training, and experience to make their judgments.

5. Q. How can school employees recognize child abuse and maltreatment?

A. Although these indicators are not diagnostic criteria of child abuse, neglect or maltreatment, they illustrate important patterns that may be recorded in the written report when relevant.

Some indicators of abuse can include:

- Injuries to the eyes or both sides of the head or body (accidental injuries typically only affect one side of the body);
- Frequent injuries of any kind (bruises, cuts and/or burns);
- Destructive, aggressive, or disruptive behavior;
- Passive, withdrawn, or emotionless behavior; and
- Fear of going home or fear of parent(s).

Some indicators of maltreatment can include:

- Obvious malnourishment, listlessness, or fatigue;
- Stealing or begging for food;
- Untreated need for glasses, dental care, or other medical attention;
- Child inappropriately left unattended or without supervision; and
- Frequent absence from or tardiness to school.

6. Q. How does a school employee-reporter make a report concerning a child enrolled in the school?

- A. As soon as you have a reasonable cause to suspect abuse or maltreatment, you must report your concerns immediately by telephone to the New York State Central Register of Child Abuse and Maltreatment (SCR). Oral reports to the hotline must be followed within 48 hours by a written report on Form LDSS-2221A to the local Child Protective Service (CPS). A copy of this mandated reporter form (see page 36 of this IB) can be obtained by contacting your local CPS office, or by accessing the New York State Office of Children and Family Services (OCFS) website at www.ocfs.state.ny.us and clicking on the "Forms" and "LDSS-2221A" links. Be sure to ask the SCR specialist for the "Call I.D." assigned to the report you have made.

After making the report to the SCR you must immediately notify the “person in charge” of the school that you have made a report. This notification should be made in a manner that can be verified (e.g. e-mail). Provide them with the “Call I.D.” you were given by the SCR specialist. The person in charge of the school may not prevent you from making a report and the law designates the person in charge of the institution as responsible for all subsequent follow-up administration necessitated by the report.

7. Q. What if your school district has a policy directing employees to report suspected abuse or maltreatment only to a supervisor, and not to make reports directly to the Central Register?

- A. Any such policy has been superseded by the Social Services Law as amended by Chapter 193 of the Laws of 2007 which requires school employee reporters

to report directly to the Central Register. This amendment strictly prohibits the school from retaliatory action against mandated reporters who make a report, and from imposing conditions upon their employees who are mandated reporters, including prior approval or notification.

8. Q. What should the report to the New York State Central Register of Child Abuse and Maltreatment include?

A. The report must include the name, title and contact information for every staff person of the school who is believed to have direct knowledge of the allegations in the report. The report should contain the information listed in § 415 of the Social Services Law, which includes names and addresses of the child and parents, names of alleged abusers, nature of the abuse or injuries, etc.

9. Q. Is a mandated reporter required to report suspected child abuse or maltreatment no matter how it comes to the reporter's attention?

A. As stated above, any person may report suspected abuse or maltreatment. A mandated reporter must make such a report in two instances: (1) where there is reasonable cause to suspect that a child coming before the reporter in the reporter's professional or official capacity is abused or maltreated; and (2) where the parent, guardian, custodian or other person legally responsible for a child comes before the reporter in the reporter's professional or official capacity and states from personal knowledge, facts, conditions or circumstances which fit the definition of abuse or maltreatment.

10. Q. Are reports confidential?

A. Yes. Section 422 (Title VI) of the Social Services Law makes clear that all reports are confidential though written reports can be demanded by law enforcement agencies and courts. The law prohibits "any release, disclosure or identification of the names or identifying descriptions of persons who have reported suspected child abuse or maltreatment to the statewide central register or the agency, institution, organization, program or other entity where such persons are employed ... without such persons' written permission except" to law enforcement agencies and courts. Willful disclosure of confidential written records to a person not authorized to receive or review such record is a Class A misdemeanor.

11. Q. What protection from liability exists if a mandated reporter is sued for making a report?

A. If a mandated reporter makes a report in good faith, he or she is protected from any criminal or civil liability that might otherwise result by reason of such actions. The good faith of a mandated reporter is presumed, so long as he or

she acted in the discharge of his or her duties and within the scope of employment.

12. Q. Are there penalties for failure to report?

- A. Anyone who is mandated to report suspected child abuse or maltreatment - and fails to do so - could be charged with a Class A misdemeanor. Further, mandated reporters can be sued in a civil court for monetary damages for any harm caused by their failure to make a report to the New York State Central Register of Child Abuse and Maltreatment.

13. Q. How can mandated school employees contact the Central Register?

- A. An oral telephone report can be made to the New York State Central Register of Child Abuse and Maltreatment by calling the toll-free telephone number: 1-800-635-1522. Telephone reports must be followed by a written report, on the official form, within 48 hours, made to the local Child Protective Service.

Education Law - Project SAVE

(Abuse by employee or volunteer in an educational setting)

New York State's school violence prevention law, entitled Project SAVE (Safe Schools Against Violence in Education), prescribes specific procedures to promote a safer learning environment. The Education Law (Article 23-B) requires all school districts to develop, maintain, and disseminate written policies and procedures on reporting of child abuse. In addition, every school board is required to offer training for all current and new school employees regarding these policies and procedures. A component of this law requires school employees to report allegations of child abuse in an educational setting.

1. Q. Which school employees are required to report allegations of child abuse in an educational setting?

- A. 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, who receive an oral or written allegation that a school employee or volunteer has engaged in child abuse in an educational setting.

2. Q. What is child abuse in an educational setting?

- A. The Education Law (§ 1125) defines "child abuse" as any of the following acts committed in an educational setting by an employee or volunteer against a child:

- intentional or reckless infliction of physical injury, serious physical injury or death, or
- engaging in conduct creating a substantial risk of above injury, or death, or
- child sexual abuse (sex with a child or use of children in sexually explicit films, photos, or other performances), or
- dissemination of indecent materials to minors.

3. Q. What is an educational setting?

A. The law defines “educational setting” as the building and grounds of a public school district, the vehicles provided by the school district for the 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.

4. Q. How does the Education Law define “child”?

A. The Education Law defines a child as a person under the age of 21, enrolled in a school district in this state, other than New York City which has its own reporting requirements.

5. Q. How does the Education Law define “employee”?

A. The Education Law defines an employee as any person receiving compensation from a school district or 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, 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.

6. Q. How does the Education Law define “volunteer”?

A. The Education Law defines a volunteer as any person, other than an employee, who provides services to a school or school district, which involve direct student contact.

7. Q. Are mandated reporters required to report only those incidents they witness?

A. No. Mandated reporters must also report oral or written allegations they receive, of child abuse by an employee or volunteer in an educational setting.

8. Q. What protection from liability attaches if a mandated reporter is sued for making an allegation of abuse or maltreatment?

A. A mandated reporter reporting an allegation reasonably and in good faith is protected from civil liability.

9. Q. What are the reporting requirements?

A. Mandated reporters must promptly complete the “Child Abuse in an Educational Setting” report form. (Forms can be obtained from the building principal.) Upon completion of the report form, the employee must personally deliver it to the administrator (usually the principal) of the school in which the abuse allegedly occurred. The principal and the superintendent are the only persons in the school district authorized by the law to receive these written report forms. If the allegation involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the reporter must promptly forward the report form to the superintendent of the school district where the act(s) of child abuse allegedly occurred and the superintendent of the school district where the child attends, if different.

10. Q. What happens if the mandated reporter does not report the allegation of abuse?

A. Willful failure of a mandated reporter to prepare and submit a report form is a Class A misdemeanor (punishable by a fine of up to one thousand dollars or a term of imprisonment for a period of up to one year, or both).

Child Abuse in an Educational Setting: More on Reporting Requirements

Expunging the File

A report that does not, after investigation by law enforcement, 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 such school or school district determines.

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 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.

Provisions Protecting Reporters from Liability

The law provides protection 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 protection 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 not be disclosed except to law enforcement authorities involved in the criminal investigation of child abuse in an educational setting, as expressly authorized by law, or pursuant to a court-ordered subpoena. Willful disclosure of confidential written records 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, and after the district attorney is asked for assistance, he or she 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 or filing of any accusatory instrument against the employee or volunteer;
- 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.

Duties of the Commissioner of Education

Upon receiving a district attorney's notification of the conviction of a certificated individual, 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.

The Commissioner has also issued a special 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 have also promulgated a regulation 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.

Child Abuse Reporting – Mandated Actions		
	Social Services Law	Education Law
Allegations Against	Someone in parental relation to the child.	A school employee or volunteer in an educational setting.
NYSUT members likely to be identified as Mandated Reporters	Teachers, teaching assistants, guidance counselors, school psychologists, school social workers, school nurses, school administrators, and other school personnel required to hold a teaching or administrative license or certificate; licensed psychologists, registered nurses, licensed social workers, licensed creative arts therapists, licensed mental health therapists, mental health professionals.	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.
Acts That Must be Reported	<p>For children not living in residential care facilities, the Social Services Law (§412) defines an abused child as a child less than 18 years of age whose parent or other person legally responsible for his/her care:</p> <ul style="list-style-type: none"> ➤ Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of a function of any bodily organ; or ➤ Creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted 	<p>Acts committed in an educational setting by an employee or volunteer against a child:</p> <ul style="list-style-type: none"> ➤ intentional or reckless infliction of physical injury, serious physical injury or death, or ➤ engaging in conduct creating a substantial risk of above injury, or death, or ➤ child sexual abuse (sex with a child or use of children in sexually explicit films, photos, or other performances), or ➤ dissemination of indecent materials to minors.

	<p>impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or</p> <ul style="list-style-type: none"> ➤ Commits or allows to be committed a sex offense (as defined in the Penal Law) against such child; or ➤ Allows, permits or encourages such child to participate in prostitution; or ➤ Commits an act of incest with the child; or ➤ Involves a child in sexual performances. 	
Where to Report	<p>Notify the NYS Central Register of Child Abuse and Maltreatment hotline: 1-800-635-1522. Report to the individual in charge of the school (usually the school principal) or institution.</p>	School Principal
Confidentiality	<p>All reports are confidential and information about the reporter cannot be released, except to authorized persons, without the reporter's written permission. Disclosure of records to unauthorized persons is a Class A misdemeanor.</p>	<p>All reports are confidential and disclosure of records to unauthorized persons is a Class A misdemeanor.</p>
Liability for Reporting in Good Faith	None	None
Liability for Not Reporting	<p>Class A Misdemeanor and can be sued in a civil court for monetary damages for any harm caused by their failure to make a report.</p>	<p>Class A Misdemeanor - punishable by a fine of up to one thousand dollars or a term of imprisonment for a period of up to one year or both.</p>

Advice to Local Leaders

- Urge members to notify the union president or designated union representative of the report and/or phone contact. The purpose of this notification is to keep a record of such reports.

- Urge members to err on the side of caution and make a report if they suspect a child is the victim of abuse or maltreatment in accordance with the procedures outlined by the applicable law.
- Urge members to request CPS case # for their file when contacting CPS and consider checking with the person in charge to verify that they have followed-up with CPS.
- Remind members that reports are confidential and that no one can prevent them from reporting their suspicions to CPS. Also, social services law prevents employers from retaliatory action against employees that are mandatory reporters.
- Every district is required to develop and disseminate written policies regarding the mandatory reporting of child abuse or maltreatment. These issues may be dealt with in the district's safety plan, so local leaders should ensure that teachers and other school personnel are represented on the district-wide and building level school safety teams.
- Education Law §3209-a requires the establishment, maintenance and dissemination of district child abuse reporting policies, and requires on-going training of all personnel in those policies.

Resources

- NYSUT's Education and Learning Trust (ELT) offers programs on working with victims of child abuse, and bully prevention. Contact www.nysut.org to find out more about what is offered.
- New York State Center for School Safety has developed training materials entitled "Setting the Stage for Safer Schools."
- NYSUT Information Bulletin # 200102 - *Safe Schools Against Violence in Education Act*.
- NYSUT Briefing Bulletin # 7-17 - *Safe Schools Against Violence in Education Act (Project SAVE)*

Social Services Law (Chapter 193, Laws of 2007 changes appear in bold.)

Title 6 - CHILD PROTECTIVE SERVICES

411 - Findings and purpose.

412 - Definitions.

413 - Persons and officials required to report cases of suspected child abuse or maltreatment.

414 - Any person permitted to report.

415 - Reporting procedure.

416 - Obligations of persons required to report.

417 - Taking a child into protective custody.

418 - Mandatory reporting to and post-mortem investigation of deaths by medical examiner or coroner.

Effective Date: 12/14/2006

419 - Immunity from liability.

420 - Penalties for failure to report.

421 - Responsibility of the department.

422 - Statewide central register of child abuse and maltreatment.

422-A - Child abuse and neglect investigations; disclosure.

§ 411. Findings and purpose. Abused and maltreated children in this state are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment. It is the purpose of this title to encourage more complete reporting of suspected child abuse and maltreatment and to establish in each county of the state a child protective service capable of investigating such reports swiftly and competently and capable of providing protection for the child or children from further abuse or maltreatment and rehabilitative services for the child or children and parents involved.

§ 412. Definitions. When used in this title and unless the specific context indicates otherwise:

1. An "abused child" means:

(a) a child under eighteen years of age defined as an abused child by the family court act;

(b) a child under the age of eighteen years who is defined as an abused child in residential care pursuant to subdivision eight of this section; or

(c) a child with a handicapping condition, as defined in subdivision one of section forty-four hundred one of the education law, who is eighteen years of age or older, is in residential care in a school or facility described in paragraph (c), (d), (e) or (f) of subdivision seven of this section, and is defined as an abused child pursuant to subdivision eight of this section; provided that such term shall include a pupil with a handicapping condition in residential care in such a school or facility who is defined as an abused child pursuant to subdivision eight of this section, is twenty-one years of age, and is entitled, pursuant to subdivision five of section forty-four hundred two of the education law, to remain in such school or facility until either the termination of the school year or the termination of the summer program, as applicable;

2. A "maltreated child" includes:

(a) a child under eighteen years of age not in "residential care" as defined in subdivision seven of this section:

(i) defined as a neglected child by the family court act, or

(ii) who has had serious physical injury inflicted upon him by other than accidental means; or

(b) a child in residential care as defined in subdivision seven of this section who is: (i) under eighteen years of age, except that a child with a handicapping condition, as defined in subdivision one of section forty-four hundred one of the education law, who is eighteen years of

age or older, is in residential care in a school or facility described in paragraph (c), (d), (e) or (f) of subdivision seven of this section, provided that such term shall include a pupil with a handicapping condition in residential care in such a school or facility who is twenty-one years of age, and is entitled, pursuant to subdivision five of section forty-four hundred two of the education law, to remain in such school or facility until either the termination of the school year or the termination of the summer program, as applicable; and (ii) is a neglected child in residential care as defined in subdivision nine of this section;

3. "Person legally responsible" for a child means a person legally responsible as defined by the family court act;

4. "Subject of the report" means any parent of, guardian of, custodian of or other person eighteen years of age or older legally responsible for, as defined in subdivision (g) of section one thousand twelve of the family court act, a child reported to the central register of child abuse and maltreatment who is allegedly responsible for causing injury, abuse or maltreatment to such child or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child, or a director or an operator of or employee or volunteer in a home operated or supervised by an authorized agency, the division for youth, or an office of the department of mental hygiene or in a family day-care home, a day-care center, a group family day care home or a day-services program, or a consultant or any person who is an employee or volunteer of a corporation, partnership, organization or any governmental entity which provides goods or services pursuant to a contract or other arrangement which provides for such consultant or person to have regular and substantial contact with children in residential care who is allegedly responsible for causing injury, abuse or maltreatment to a child who is reported to the central register of child abuse or maltreatment or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child;

5. "Other persons named in the report" shall mean and be limited to the following persons who are named in a report of child abuse or maltreatment other than the subject of the report: the child who is reported to the central register of child abuse and maltreatment; and such child's parent, guardian, custodian or other person legally responsible for the child who have not been named in the report as allegedly responsible for causing injury, abuse or maltreatment to the child or as allegedly allowing such injury, abuse or maltreatment to be inflicted on such child; in the case of a report involving abuse or maltreatment of a child in residential care, such term shall be deemed to include the child's parent, guardian or other person legally responsible for the child who is not named in such report;

6. "Custodian" means a director, operator, employee or volunteer of a residential care facility or program;

7. "Residential care" means:

(a) care provided to a child who has been placed by the family court with a social services official or the state division for youth, or whose care and custody or custody and guardianship has been transferred or committed to, a social services official, another authorized agency, or the state division for youth and such care is provided in an agency operated boarding home, a group home or child care institution;

(b) care provided a child in a facility or program operated or certified by the state division for youth pursuant to article nineteen-G or nineteen-H of the executive law, excluding foster family care;

(c) care provided a child in the New York state school for the blind or the New York state school for the deaf, pursuant to the provisions of articles eighty-seven and eighty-eight of the education law;

(d) care provided a child in a private residential school which is within the state and which has been approved by the commissioner of education for special education services or programs;

(e) care provided in institutions for the instruction of the deaf and the blind which have a residential component, and which are subject to the visitation of the commissioner of education pursuant to article eighty-five of the education law;

(f) care provided through a residential placement of a child with a special act school district listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended; or

(g) care provided a child in a residential facility licensed or operated by the office of mental health or the office of mental retardation and developmental disabilities, excluding family care homes;

(h) care provided by an authorized agency licensed to provide both care enumerated in paragraph (a) of this subdivision and care provided a child in a residential facility licensed or operated by the office of mental health or the office of mental retardation and developmental disabilities, excluding family care homes.

8. "Abused child in residential care" means a child whose custodian:

(a) (i) inflicts any injury upon such child by other than accidental means which causes death, serious or protracted disfigurement, serious or protracted impairment of physical health, serious or protracted loss or impairment of the function of any organ, or a serious emotional injury; or (ii) by their conduct and with knowledge or deliberate indifference allows any such injury to be inflicted upon such child; or

(b) (i) creates a substantial risk of any injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, protracted impairment of physical health, protracted loss or impairment of the function of any organ, or a serious emotional injury; or

(ii) by his or her conduct and with knowledge or deliberate indifference creates a substantial risk of such injury to such child; or

(c) commits, promotes or knowingly permits the commission of a sex offense against such child, as described in article one hundred thirty of the penal law; allows, permits or encourages such child to engage in any act described in article two hundred thirty of the penal law; commits any of the acts described in section 255.25, 255.26 or 255.27 of the penal law; or allows or promotes or uses such child to engage in acts or conduct described in article two hundred sixty-three of the penal law, provided, however, that (i) the corroboration requirements in the penal law and (ii) the age requirements for the application of articles one hundred thirty, two hundred thirty and two hundred sixty-three of such law and any age based element of any crime described therein shall not apply to the provisions of this title; or

(d) fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying or supervising a residential facility or program, and such failure to comply results in death, serious or protracted disfigurement, serious or protracted impairment of physical health, or serious or protracted loss or impairment of the function of any organ where such result was reasonably foreseeable.

9. "Neglected child in residential care" means a child whose custodian:

(a) inflicts by act or omission physical injury, excluding minor injury, to such child by other than accidental means;

(b) creates a substantial risk of physical injury, excluding minor injury, to such child by other than accidental means; or

(c) fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying, or supervising a residential facility or program, and such failure to comply results in physical injury, excluding minor injury, or serious emotional injury to such child where such result was reasonably foreseeable; or

(d) fails to meet a personal duty imposed by an agreed upon plan of prevention and remediation pursuant to this chapter or the mental hygiene law, the executive law or the education law,

arising from abuse or neglect of a child in residential care and such failure results in physical injury, excluding minor injury, or serious emotional injury or the risk thereof to the child; or (e) intentionally administers to the child any prescription drug other than in substantial compliance with a physician's, physician's assistant's or nurse practitioner's prescription.

10. "Institutionally neglected child in residential care" means a child whose health, safety or welfare is harmed or placed in imminent danger of harm as a result of a lack of compliance with applicable standards of the state agency operating, certifying or supervising such facility or program for the care and treatment of such child or an agreed upon plan of prevention and remediation pursuant to this chapter or the mental hygiene law, the executive law or the education law, arising from abuse or neglect of a child in residential care, including, but not limited to, the provision of supervision, food, clothing, shelter, education, medical, dental, optometric or surgical care.

11. An "unfounded report" means any report made pursuant to this title unless an investigation determines that some credible evidence of the alleged abuse or maltreatment exists;

12. An "indicated report" means a report made pursuant to this title if an investigation determines that some credible evidence of the alleged abuse or maltreatment exists.

13. "Substance abuse counselor" or "alcoholism counselor" means any person who has been issued a credential therefore by the office of alcoholism and substance abuse services, pursuant to paragraphs one and two of subdivision (d) of section 19.07 of the mental hygiene law.

§ 413. Persons and officials required to report cases of suspected child abuse or maltreatment.

1. * (a) The following persons and officials are required to report or cause a report to be made in accordance with this title 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 when they have reasonable cause to suspect 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: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, **which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate**; social services worker; day care center worker; provider of family or group family day care; employee or volunteer in a residential care facility defined in subdivision seven of section four hundred twelve of this title or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

* NB There are 2 §(a)'s

* (a) Whenever such person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall **make the report as required by this title and** immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent. **Such person in charge, or the designated agent of such person, shall be responsible for all subsequent administration necessitated by the report. Any report shall include the name, title and contact information for every staff person of the institution who is believed to have direct knowledge**

of the allegations in the report. Nothing in this section or title is intended to require more than one report from any such institution, school or agency.

* NB There are 2 §(a)'s

*** (b) A medical or other public or private institution, school, facility or agency shall not take any retaliatory personnel action, as such term is defined in paragraph (e) of subdivision one of section seven hundred forty of the labor law, against an employee because such employee believes that he or she has reasonable cause to suspect that a child is an abused or maltreated child and that employee therefore makes a report in accordance with this title. No school, school official, child care provider, foster care provider, residential care facility provider, hospital, medical institution provider or mental health facility provider shall impose any conditions, including prior approval or prior notification, upon a member of their staff specifically required to report under this title. At the time of the making of a report, or at any time thereafter, such person or official may exercise the right to request, pursuant to paragraph (A) of subdivision four of section four hundred twenty-two of this title, the findings of an investigation made pursuant to this title or section 45.07 of the mental hygiene law.**

* NB There are 2 §(b)'s

* (b) Social services workers are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child is an abused or maltreated child where a person 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.

* NB There are 2 §(b)'s

2. Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section shall provide consistent with section four hundred twenty-one of this chapter, all such current and new employees with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title. The employers shall be responsible for the costs associated with printing and distributing the written information.

3. Any state or local governmental agency or authorized agency which issues a license, certificate or permit to an individual to operate a family day care home or group family day care home shall provide each person currently holding or seeking such a license, certificate or permit with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title.

4. Any person, institution, school, facility, agency, organization, partnership or corporation, which employs persons who are mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section and whose employees, in the normal course of their employment, travel to locations where children reside, shall provide, consistent with section four hundred twenty-one of this title, all such current and new employees with information on recognizing the signs of an unlawful methamphetamine laboratory. Pursuant to section 19.27 of the mental hygiene law, the office of alcoholism and substance abuse services shall make available to such employers information on recognizing the signs of unlawful methamphetamine laboratories.

§ 414. Any person permitted to report. In addition to those persons and officials required to report suspected child abuse or maltreatment, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child.

§ 415. Reporting procedure. Reports of suspected child abuse or maltreatment made pursuant to this title shall be made immediately by telephone or by telephone facsimile machine on a form supplied by the commissioner of the office of children and family services. Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Oral

reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service. In those localities in which oral reports are made initially to the local child protective service, the child protective service shall immediately make an oral or electronic report to the statewide central register. Written reports shall be made to the appropriate local child protective service except that written reports involving children in residential care, as defined in subdivision seven of section four hundred twelve of this title, or being cared for in a home operated or supervised by an authorized agency, office of children and family services, or an office of the department of mental hygiene, shall be made to the statewide central register of child abuse and maltreatment which shall transmit the reports to the agency responsible for investigating the report, in accordance with paragraph (a) or (c) of subdivision eleven of section four hundred twenty-two or section four hundred twenty-four-b of this title, as applicable. Written reports shall be made in a manner prescribed and on forms supplied by the commissioner of the office of children and family services and shall include the following information: the names and addresses of the child and his or her parents or other person responsible for his or her care, if known, and, as the case may be, the name and address of the residential care facility or program in which the child resides or is receiving care; the child's age, sex and race; the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or, as the case may be, his or her siblings; the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, if known; family composition, where appropriate; the source of the report; the person making the report and where he or she can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and any other information which the commissioner of the office of children and family services may, by regulation, require, or the person making the report believes might be helpful, in the furtherance of the purposes of this title. Notwithstanding the privileges set forth in article forty-five of the civil practice law and rules, and any other provision of law to the contrary, mandated reporters who make a report which initiates an investigation of an allegation of child abuse or maltreatment are required to comply with all requests for records made by a child protective service relating to such report, including records relating to diagnosis, prognosis or treatment, and clinical records, of any patient or client that are essential for a full investigation of allegations of child abuse or maltreatment pursuant to this title; provided, however, that disclosure of substance abuse treatment records shall be made pursuant to the standards and procedures for disclosure of such records delineated in federal law. Written reports from persons or officials required by this title to report shall be admissible in evidence in any proceedings relating to child abuse or maltreatment.

§ 416. Obligations of persons required to report. Any person or official required to report cases of suspected child abuse and maltreatment may take or cause to be taken at public expense photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Any photographs or x-rays taken shall be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible. Whenever such person is required to report under this title in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility or agency, or his designated agent, who shall then take or cause to be taken at public expense color photographs of visible trauma and shall, if medically indicated, cause to be performed a radiological examination on the child.

§ 419. Immunity from liability. Any person, official, or institution participating in good faith in the providing of a service pursuant to section four hundred twenty-four of this title, the making of a report, the taking of photographs, the removal or keeping of a child pursuant to this title, or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment or providing a service pursuant to section four hundred twenty-four or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

§ 420. Penalties for failure to report. 1. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.

2. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

§ 422. Statewide central register of child abuse and maltreatment. 1. There shall be established in the department a statewide central register of child abuse and maltreatment reports made pursuant to this title.

2. (a) The central register shall be capable of receiving telephone calls alleging child abuse or maltreatment and of immediately identifying prior reports of child abuse or maltreatment and capable of monitoring the provision of child protective service twenty-four hours a day, seven days a week. To effectuate this purpose, but subject to the provisions of the appropriate local plan for the provision of child protective services, there shall be a single statewide telephone number that all persons, whether mandated by the law or not, may use to make telephone calls alleging child abuse or maltreatment and that all persons so authorized by this title may use for determining the existence of prior reports in order to evaluate the condition or circumstances of a child. In addition to the single statewide telephone number, there shall be a special unlisted express telephone number and a telephone facsimile number for use only by persons mandated by law to make telephone calls, or to transmit telephone facsimile information on a form provided by the commissioner, alleging child abuse or maltreatment, and for use by all persons so authorized by this title for determining the existence of prior reports in order to evaluate the condition or circumstances of a child. When any allegations contained in such telephone calls could reasonably constitute a report of child abuse or maltreatment, such allegations shall be immediately transmitted orally or electronically by the department to the appropriate local child protective service for investigation. The inability of the person calling the register to identify the alleged perpetrator shall, in no circumstance, constitute the sole cause for the register to reject such allegation or fail to transmit such allegation for investigation. If the records indicate a previous report concerning a subject of the report, the child alleged to be abused or maltreated, a sibling, other children in the household, other persons named in the report or other pertinent information, the appropriate local child protective service shall be immediately notified of the fact, except as provided in subdivision eleven of this section. If the report involves either (i) suspected physical injury as described in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act or sexual abuse of a child or the death of a child or (ii) suspected maltreatment which alleges any physical harm when the report is made by a person required to report pursuant to section four hundred thirteen of this title within six

months of any other two reports that were indicated, or may still be pending, involving the same child, sibling, or other children in the household or the subject of the report, the department shall identify the report as such and note any prior reports when transmitting the report to the local child protective services for investigation. * NB Effective December 14, 2006

(b) Any telephone call made by a person required to report cases of suspected child abuse or maltreatment pursuant to section four hundred thirteen of this chapter containing allegations, which if true would constitute child abuse or maltreatment shall constitute a report and shall be immediately transmitted orally or electronically by the department to the appropriate local child protective service for investigation.

(c) Whenever a telephone call to the statewide central register described in this section is received by the department, and the department finds that the person allegedly responsible for abuse or maltreatment of a child cannot be a subject of a report as defined in subdivision four of section four hundred twelve of this chapter, but believes that the alleged acts or circumstances against a child described in the telephone call may constitute a crime or an immediate threat to the child's health or safety, the department shall convey by the most expedient means available the information contained in such telephone call to the appropriate law enforcement agency, district attorney or other public official empowered to provide necessary aid or assistance. (d) A telephone call made to the statewide central register described in this section alleging facts that support a finding of the institutional neglect of a child in residential care pursuant to subdivision ten of section four hundred twelve of this article and that, if true, clearly could not support a finding that the child is an abused or neglected child in residential care, shall not constitute a report, and shall immediately be transmitted to the state agency responsible for the operation or supervision of the residential facility or program and, in the case of a facility operated or certified by an office of the state department of mental hygiene, to the state commission on quality of care for the mentally disabled, for appropriate action.

3. The central register shall include but not be limited to the following information: all the information in the written report; a record of the final disposition of the report, including services offered and services accepted; the plan for rehabilitative treatment; the names and identifying data, dates and circumstances of any person requesting or receiving information from the register; and any other information which the commissioner believes might be helpful in the furtherance of the purposes of this chapter. 4. (A) Reports made pursuant to this title as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the department, local departments, or the commission on quality of care for the mentally disabled, shall be confidential and shall only be made available to:

(a) a physician who has before him or her a child whom he or she reasonably suspects may be abused or maltreated; (b) a person authorized to place a child in protective custody when such person has before him or her a child whom he or she reasonably suspects may be abused or maltreated and such person requires the information in the record to determine whether to place the child in protective custody; (c) a duly authorized agency having the responsibility for the care or supervision of a child who is reported to the central register of abuse and maltreatment; (d) any person who is the subject of the report or other persons named in the report; (e) a court, upon a finding that the information in the record is necessary for the determination of an issue before the court; (f) a grand jury, upon a finding that the information in the record is necessary for the determination of charges before the grand jury; (g) any appropriate state legislative committee responsible for child protective legislation; (h) any person engaged in a bona fide research purpose provided, however, that no information identifying the subjects of the report or other persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and the department gives prior approval; (i) a

provider agency as defined by subdivision three of section four hundred twenty-four-a of this chapter, or a licensing agency as defined by subdivision four of section four hundred twenty-four-a of this chapter, subject to the provisions of such section; (j) the state commission on quality of care for the mentally disabled in connection with an investigation being conducted by the commission pursuant to article forty-five of the mental hygiene law; (k) a probation service conducting an investigation pursuant to article three or seven or section six hundred fifty-three of the family court act where there is reason to suspect the child or the child's sibling may have been abused or maltreated and such child or sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and that such information is necessary for the making of a determination or recommendation to the court; or a probation service regarding a person about whom it is conducting an investigation pursuant to article three hundred ninety of the criminal procedure law, or a probation service or the state division of parole regarding a person to whom the service or division is providing supervision pursuant to article sixty of the penal law or section two hundred fifty-nine-a of the executive law, where the subject of investigation or supervision has been convicted of a felony under article one hundred twenty, one hundred twenty-five or one hundred thirty-five of the penal law or any felony or misdemeanor under article one hundred thirty, two hundred thirty-five, two hundred forty-five, two hundred sixty or two hundred sixty-three of the penal law, or has been indicted for any such felony and, as a result, has been convicted of a crime under the penal law, where the service or division requests the information upon a certification that such information is necessary to conduct its investigation, that there is reasonable cause to believe that the subject of an investigation is the subject of an indicated report and that there is reasonable cause to believe that such records are necessary to the investigation by the probation service or the state division of parole, provided, however, that only indicated reports shall be furnished pursuant to this subdivision; (l) a district attorney, an assistant district attorney or investigator employed in the office of a district attorney, a sworn officer of the division of state police, of the regional state park police, of a city police department, or of a county, town or village police department or county sheriff's office or department when such official requests such information stating that such information is necessary to conduct a criminal investigation or criminal prosecution of a person, that there is reasonable cause to believe that such person is the subject of a report, and that it is reasonable to believe that due to the nature of the crime under investigation or prosecution, such person is the subject of a report, and that it is reasonable to believe that due to that nature of the crime under investigation or prosecution, such records may be related to the criminal investigation or prosecution; (m) the New York city department of investigation provided however, that no information identifying the subjects of the report or other persons named in the report shall be made available to the department of investigation unless such information is essential to an investigation within the legal authority of the department of investigation and the state department of social services gives prior approval; (n) chief executive officers of authorized agencies, directors of day care centers and directors of facilities operated or supervised by the department of education, the division for youth, the office of mental health or the office of mental retardation and developmental disabilities, in connection with a disciplinary investigation, action, or administrative or judicial proceeding instituted by any of such officers or directors against an employee of any such agency, center or facility who is the subject of an indicated report when the incident of abuse or maltreatment contained in the report occurred in the agency, center, facility or program, and the purpose of such proceeding is to determine whether the employee should be retained or discharged; provided, however, a person given access to information pursuant to this subparagraph (n) shall, notwithstanding any inconsistent provision of law, be authorized to redisclose such information only if the purpose of such redisclosure is to initiate or present evidence in a disciplinary, administrative or judicial

proceeding concerning the continued employment or the terms of employment of an employee of such agency, center or facility who has been named as a subject of an indicated report and, in addition, a person or agency given access to information pursuant to this subparagraph (n) shall also be given information not otherwise provided concerning the subject of an indicated report where the commission of an act or acts by such subject has been determined in proceedings pursuant to article ten of the family court act to constitute abuse or neglect; (o) a provider or coordinator of services to which a child protective service or social services district has referred a child or a child's family or to whom the child or the child's family have referred themselves at the request of the child protective service or social services district, where said child is reported to the register when the records, reports or other information are necessary to enable the provider or coordinator to establish and implement a plan of service for the child or the child's family, or to monitor the provision and coordination of services and the circumstances of the child and the child's family, or to directly provide services; provided, however, that a provider of services may include appropriate health care or school district personnel, as such terms shall be defined by the department; provided however, a provider or coordinator of services given access to information concerning a child pursuant to this subparagraph (o) shall, notwithstanding any inconsistent provision of law, be authorized to redisclose such information to other persons or agencies which also provide services to the child or the child's family only if the consolidated services plan prepared and approved pursuant to section thirty-four-a of this chapter describes the agreement that has been or will be reached between the provider or coordinator of service and the local district. An agreement entered into pursuant to this subparagraph shall include the specific agencies and categories of individuals to whom redisclosure by the provider or coordinator of services is authorized. Persons or agencies given access to information pursuant to this subparagraph may exchange such information in order to facilitate the provision or coordination of services to the child or the child's family; (p) a disinterested person making an investigation pursuant to section one hundred sixteen of the domestic relations law, provided that such disinterested person shall only make this information available to the judge before whom the adoption proceeding is pending; (q) a criminal justice agency conducting an investigation of a missing child where there is reason to suspect such child or such child's sibling, parent, guardian or other person legally responsible for such child is a person named in an indicated report of child abuse or maltreatment and that such information is needed to further such investigation; (r) in relation to a report involving a child in residential care, the director or operator of the residential facility or program and, as appropriate, the local social services commissioner or school district placing the child, the division for youth, the department of education, the commission on quality of care for the mentally disabled, the office of mental health, the office of mental retardation and developmental disabilities, and any law guardian appointed to represent the child whose appointment has been continued by a family court judge during the term of the placement, subject to the limitations contained in subdivisions nine and ten of this section and subdivision five of section four hundred twenty-four-c of this title; (s) a child protective service of another state when such service certifies that the records and reports are necessary in order to conduct a child abuse or maltreatment investigation within its jurisdiction of the subject of the report and shall be used only for purposes of conducting such investigation and will not be redisclosed to any other person or agency; (t) a law guardian, appointed pursuant to the provisions of section ten hundred sixteen of the family court act, at any time such appointment is in effect, in relation to any report in which the respondent in the proceeding in which the law guardian has been appointed is the subject or another person named in the report, pursuant to sections ten hundred thirty-nine-a and ten hundred fifty-two-a of the family court act; (u) a child care resource and referral program subject to the provisions of subdivision six of section four hundred twenty-four-a of this title; (v)(i) officers and employees of the state comptroller or of the city

comptroller of the city of New York, or of the county officer designated by law or charter to perform the auditing function in any county not wholly contained within a city, for purposes of a duly authorized performance audit, provided that such comptroller shall have certified to the keeper of such records that he or she has instituted procedures developed in consultation with the department to limit access to client-identifiable information to persons requiring such information for purposes of the audit and that appropriate controls and prohibitions are imposed on the dissemination of client-identifiable information contained in the conduct of the audit. Information pertaining to the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or like materials or information pertaining to such child or the child's family shall not be made available to such officers and employees unless disclosure of such information is absolutely essential to the specific audit activity and the department gives prior written approval. (ii) any failure to maintain the confidentiality of client-identifiable information shall subject such comptroller or officer to denial of any further access to records until such time as the audit agency has reviewed its procedures concerning controls and prohibitions imposed on the dissemination of such information and has taken all reasonable and appropriate steps to eliminate such lapses in maintaining confidentiality to the satisfaction of the office of children and family services. The office of children and family services shall establish the grounds for denial of access to records contained under this section and shall recommend as necessary a plan of remediation to the audit agency. Except as provided in this section, nothing in this subparagraph shall be construed as limiting the powers of such comptroller or officer to access records which he or she is otherwise authorized to audit or obtain under any other applicable provision of law. Any person given access to information pursuant to this subparagraph who releases data or information to persons or agencies not authorized to receive such information shall be guilty of a class A misdemeanor; (w) members of a local or regional fatality review team approved by the office of children and family services in accordance with section four hundred twenty-two-b of this title; (x) members of a local or regional multidisciplinary investigative team as established pursuant to subdivision six of section four hundred twenty-three of this title; and (y) members of a citizen review panel as established pursuant to section three hundred seventy-one-b of this article; provided, however, members of a citizen review panel shall not disclose to any person or government official any identifying information which the panel has been provided and shall not make public other information unless otherwise authorized by statute. After a child, other than a child in residential care, who is reported to the central register of abuse or maltreatment reaches the age of eighteen years, access to a child's record under subparagraphs (a) and (b) of this paragraph shall be permitted only if a sibling or off-spring of such child is before such person and is a suspected victim of child abuse or maltreatment. In addition, a person or official required to make a report of suspected child abuse or maltreatment pursuant to section four hundred thirteen of this chapter shall receive, upon request, the findings of an investigation made pursuant to this title or section 45.07 of the mental hygiene law. However, no information may be released unless the person or official's identity is confirmed by the department. If the request for such information is made prior to the completion of an investigation of a report, the released information shall be limited to whether the report is "indicated", "unfounded" or "under investigation", whichever the case may be. If the request for such information is made after the completion of an investigation of a report, the released information shall be limited to whether the report is "indicated" or "unfounded", whichever the case may be. A person given access to the names or other information identifying the subjects of the report, or other persons named in the report, except the subject of the report or other persons named in the report, shall not divulge or make public such identifying information unless he or she is a district attorney or other law enforcement official and the purpose is to initiate court action or the disclosure is necessary in connection with the investigation or prosecution of the subject of the report for a

crime alleged to have been committed by the subject against another person named in the report. Nothing in this section shall be construed to permit any release, disclosure or identification of the names or identifying descriptions of persons who have reported suspected child abuse or maltreatment to the statewide central register or the agency, institution, organization, program or other entity where such persons are employed or the agency, institution, organization or program with which they are associated without such persons' written permission except to persons, officials, and agencies enumerated in subparagraphs (e), (f), (h), (j), (l), (m) and (v) of this paragraph. To the extent that persons or agencies are given access to information pursuant to subparagraphs (a), (b), (c), (j), (k), (l), (m), (o) and (q) of this paragraph, such persons or agencies may give and receive such information to each other in order to facilitate an investigation conducted by such persons or agencies.

(B) Notwithstanding any inconsistent provision of law to the contrary, a city or county social services commissioner may withhold, in whole or in part, the release of any information which he or she is authorized to make available to persons or agencies identified in subparagraphs (a), (k), (l), (m), (n), (o), (p) and (q) of paragraph (A) of this subdivision if such commissioner determines that such information is not related to the purposes for which such information is requested or when such disclosure will be detrimental to the child named in the report.

(C) A city or county social services commissioner who denies access by persons or agencies identified in subparagraphs (a), (k), (l), (m), (n), (o), (p) and (q) of paragraph (A) of this subdivision to records, reports or other information or parts thereof maintained by such commissioner in accordance with this title shall, within ten days from the date of receipt of the request fully explain in writing to the person requesting the records, reports or other information the reasons for the denial.

(D) A person or agency identified in subparagraphs (a), (k), (l), (m), (n), (o), (p) and (q) of paragraph (A) of this subdivision who is denied access to records, reports or other information or parts thereof maintained by a local department pursuant to this title may bring a proceeding for review of such denial pursuant to article seventy-eight of the civil practice law and rules.

5. (a) Unless an investigation of a report conducted pursuant to this title or subdivision (c) of section 45.07 of the mental hygiene law determines that there is some credible evidence of the alleged abuse or maltreatment, all information identifying the subjects of the report and other persons named in the report shall be legally sealed forthwith by the central register and any local child protective services or the state agency which investigated the report. Such unfounded reports may only be unsealed and made available:

(i) to the office of children and family services for the purpose of supervising a social services district;

(ii) to the office of children and family services and local or regional fatality review team members for the purpose of preparing a fatality report pursuant to section twenty or four hundred twenty-two-b of this chapter;

(iii) to a local child protective service, the office of children and family services, all members of a local or regional multidisciplinary investigative team, the commission on quality of care for the mentally disabled, or the department of mental hygiene, when investigating a subsequent report of suspected abuse or maltreatment involving a subject of the unfounded report, a child named in the unfounded report, or a child's sibling named in the unfounded report; (iv) to the subject of the report; and (v) to a district attorney, an assistant district attorney, an investigator employed in the office of a district attorney, or to a sworn officer of the division of state police, of a city, county, town or village police department or of a county sheriff's office when such official verifies that the report is necessary to conduct an active investigation or prosecution of a violation of subdivision three of section 240.55 of the penal law.

(b) Persons given access to unfounded reports pursuant to subparagraph (v) of paragraph (a) of this subdivision shall not redisclose such reports except as necessary to conduct such

appropriate investigation or prosecution and shall request of the court that any copies of such reports produced in any court proceeding be redacted to remove the names of the subjects and other persons named in the reports or that the court issue an order protecting the names of the subjects and other persons named in the reports from public disclosure. The local child protective service or state agency shall not indicate the subsequent report solely based upon the existence of the prior unfounded report or reports. Notwithstanding section four hundred fifteen of this title, section one thousand forty-six of the family court act, or, except as set forth herein, any other provision of law to the contrary, an unfounded report shall not be admissible in any judicial or administrative proceeding or action; provided, however, an unfounded report may be introduced into evidence: (i) by the subject of the report where such subject is a respondent in a proceeding under article ten of the family court act or is a plaintiff or petitioner in a civil action or proceeding alleging the false reporting of child abuse or maltreatment; or (ii) in a criminal court for the purpose of prosecuting a violation of subdivision three of section 240.55 of the penal law. Legally sealed unfounded reports shall be expunged ten years after the receipt of the report. Whenever the office of children and family services determines that there is some credible evidence of abuse or maltreatment as a result of an investigation of a report conducted pursuant to subdivision (c) of section 45.07 of the mental hygiene law, the office of children and family services shall notify the commission on quality of care for the mentally disabled.

(c) Notwithstanding any other provision of law, the office of children and family services may, in its discretion, grant a request to expunge an unfounded report where: (i) the source of the report was convicted of a violation of subdivision three of section 240.55 of the penal law in regard to such report; or (ii) the subject of the report presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment; provided however, that the absence of credible evidence supporting the allegation of abuse or maltreatment shall not be the sole basis to expunge the report. Nothing in this paragraph shall require the office of children and family services to hold an administrative hearing in deciding whether to expunge a report. Such office shall make its determination upon reviewing the written evidence submitted by the subject of the report and any records or information obtained from the state or local agency which investigated the allegations of abuse or maltreatment.

6. In all other cases, the record of the report to the central register shall be expunged ten years after the eighteenth birthday of the youngest child named in the report. In the case of a child in residential care as defined in subdivision seven of section four hundred twelve of this chapter, the record of the report to the central register shall be expunged ten years after the reported child's eighteenth birthday. In any case and at any time, the commissioner may amend any record upon good cause shown and notice to the subjects of the report and other persons named in the report.

7. At any time, a subject of a report and other persons named in the report may receive, upon request, a copy of all information contained in the central register; provided, however, that the commissioner is authorized to prohibit the release of data that would identify the person who made the report or who cooperated in a subsequent investigation or the agency, institution, organization, program or other entity where such person is employed or with which he is associated, which he reasonably finds will be detrimental to the safety or interests of such person.

8. (a) (i) At any time subsequent to the completion of the investigation but in no event later than ninety days after the subject of the report is notified that the report is indicated the subject may request the commissioner to amend the record of the report. If the commissioner does not amend the report in accordance with such request within ninety days of receiving the request, the subject shall have the right to a fair hearing, held in accordance with paragraph (b) of this subdivision, to determine whether the record of the report in the central register should

be amended on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this title. (ii) Upon receipt of a request to amend the record of a child abuse and maltreatment report the department shall immediately send a written request to the child protective service or the state agency which was responsible for investigating the allegations of abuse or maltreatment for all records, reports and other information maintained by the service or state agency pertaining to such indicated report. The service or state agency shall as expeditiously as possible but within no more than twenty working days of receiving such request, forward all records, reports and other information it maintains on such indicated report to the department. The department shall as expeditiously as possible but within no more than fifteen working days of receiving such materials from the child protective service or state agency, review all such materials in its possession concerning the indicated report and determine, after affording such service or state agency a reasonable opportunity to present its views, whether there is some credible evidence to find that the subject committed the act or acts of child abuse or maltreatment giving rise to the indicated report and whether, based on guidelines developed by the department pursuant to subdivision five of section four hundred twenty-four-a of this title, such act or acts could be relevant and reasonably related to employment of the subject of the report by a provider agency, as defined by subdivision three of section four hundred twenty-four-a of this title, or relevant and reasonably related to the subject of the report being allowed to have regular and substantial contact with children who are cared for by a provider agency, or relevant and reasonably related to the approval or disapproval of an application submitted by the subject of the report to a licensing agency, as defined by subdivision four of section four hundred twenty-four-a of this title. (iii) If it is determined at the review held pursuant to this paragraph (a) that there is no credible evidence in the record to find that the subject committed an act or acts of child abuse or maltreatment, the department shall amend the record to indicate that the report is "unfounded" and notify the subject forthwith. (iv) If it is determined at the review held pursuant to this paragraph (a) that there is some credible evidence in the record to find that the subject committed such act or acts but that such act or acts could not be relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or disapproval of an application which could be submitted by the subject to a licensing agency, the department shall be precluded from informing a provider or licensing agency which makes an inquiry to the department pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated report of child abuse or maltreatment. The department shall notify forthwith the subject of the report of such determinations and that a fair hearing has been scheduled pursuant to paragraph (b) of this subdivision. The sole issue at such hearing shall be whether the subject has been shown by some credible evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report. (v) If it is determined at the review held pursuant to this paragraph (a) that there is some credible evidence in the record to prove that the subject committed an act or acts of child abuse or maltreatment and that such act or acts could be relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children cared for by a provider agency or the approval or disapproval of an application which could be submitted by the subject to a licensing agency, the department shall notify forthwith the subject of the report of such determinations and that a fair hearing has been scheduled pursuant to paragraph (b) of this subdivision. (b) (i) If the department, within ninety days of receiving a request from the subject that the record of a report be amended, does not amend the record in accordance with such request, the department shall schedule a fair hearing and shall provide notice of the scheduled hearing date to the subject, the statewide central register and, as appropriate, to the

child protective service or the state agency which investigated the report. (ii) The burden of proof in such a hearing shall be on the child protective service or the state agency which investigated the report, as the case may be. In such a hearing, the fact that there is a family court finding of abuse or neglect against the subject in regard to an allegation contained in the report shall create an irrefutable presumption that said allegation is substantiated by some credible evidence.

(c) (i) If it is determined at the fair hearing that there is no credible evidence in the record to find that the subject committed an act or acts of child abuse or maltreatment, the department shall amend the record to reflect that such a finding was made at the administrative hearing, order any child protective service or state agency which investigated the report to similarly amend its records of the report, and shall notify the subject forthwith of the determination. (ii) Upon a determination made at a fair hearing held on or after January first, nineteen hundred eighty-six scheduled pursuant to the provisions of subparagraph (v) of paragraph (a) of this subdivision that the subject has been shown by some credible evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report, the hearing officer shall determine, based on guidelines developed by the department pursuant to subdivision five of section four hundred twenty-four-a of this chapter, whether such act or acts are relevant and reasonably related to employment of the subject by a provider agency, as defined by subdivision three of section four hundred twenty-four-a of this title, or relevant and reasonably related to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or relevant and reasonably related to the approval or disapproval of an application submitted by the subject to a licensing agency, as defined by subdivision four of section four hundred twenty-four-a of this title. Upon a determination made at a fair hearing that the act or acts of abuse or maltreatment are relevant and reasonably related to employment of the subject by a provider agency or the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or denial of an application submitted by the subject to a licensing agency, the department shall notify the subject forthwith. The department shall inform a provider or licensing agency which makes an inquiry to the department pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated child abuse or maltreatment report. The failure to determine at the fair hearing that the act or acts of abuse and maltreatment are relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or denial of an application submitted by the subject to a licensing agency shall preclude the department from informing a provider or licensing agency which makes an inquiry to the department pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated child abuse or maltreatment report.

(d) The commissioner or his or her designated agent is hereby authorized and empowered to make any appropriate order respecting the amendment of a record to make it accurate or consistent with the requirements of this title. (e) Should the department grant the request of the subject of the report pursuant to this subdivision either through an administrative review or fair hearing to amend an indicated report to an unfounded report. Such report shall be legally sealed and shall be released and expunged in accordance with the standards set forth in subdivision five of this section.

9. Written notice of any expungement or amendment of any record, made pursuant to the provisions of this title, shall be served forthwith upon each subject of such record, other persons named in the report, the commissioner, and, as appropriate, the applicable local child protective service, the commission on quality of care for the mentally disabled, the division for

youth, department of education, office of mental health, office of mental retardation and developmental disabilities, the local social services commissioner or school district placing the child, any law guardian appointed to represent the child whose appointment has been continued by a family court judge during the term of a child's placement, and the director or operator of a residential care facility or program. The local child protective service or the state agency which investigated the report, upon receipt of such notice, shall take the appropriate similar action in regard to its child abuse and maltreatment register and records and inform, for the same purpose, any other agency which received such record.

10. Whenever the department determines that there is some credible evidence of abuse or maltreatment as a result of an investigation of a report conducted pursuant to this title or section 45.07 of the mental hygiene law concerning a child in residential care, the department shall notify the child's parent or guardian and transmit copies of reports made pursuant to this title to the director or operator of the residential facility or program and, as applicable, the local social services commissioner or school district placing the child, division for youth, department of education, commission on quality of care for the mentally disabled, office of mental health, office of mental retardation and developmental disabilities, and any law guardian appointed to represent the child whose appointment has been continued by a family court judge during the term of a child's placement.

11. (a) Reports and records made pursuant to this title, including any previous report concerning a subject of the report, other persons named in the report or other pertinent information, involving children who reside in residential facilities or programs enumerated in paragraphs (a), (b), (c), (d), (e), (f) and (h) of subdivision seven of section four hundred twelve of this chapter, shall be transmitted immediately by the central register to the commissioner who shall commence an appropriate investigation consistent with the terms and conditions set forth in section four hundred twenty-four-c of this title. If an investigation determines that some credible evidence of alleged abuse or maltreatment exists, the commissioner shall recommend to the local social services department, the state education department or the division for youth, as the case may be, that appropriate preventive and remedial action including legal action, consistent with applicable collective bargaining agreements and applicable provisions of the civil service law, pursuant to standards and regulations of the department promulgated pursuant to section four hundred sixty-two of this chapter and standards and regulations of the division for youth and the department of education promulgated pursuant to section five hundred one of the executive law, sections forty-four hundred three, forty-three hundred fourteen, forty-three hundred fifty-eight and forty-two hundred twelve of the education law and other applicable provisions of law, be taken with respect to the residential facility or program and/or the subject of the report. However, nothing in this paragraph shall prevent the commissioner from making recommendations, as provided for by this paragraph, even though the investigation may fail to result in a determination that there is some credible evidence of the alleged abuse or maltreatment. (b) The department shall establish standards for the provision of training to its employees charged with the investigation of reports of child abuse and maltreatment in residential care in at least the following: (a) basic training in the principles and techniques of investigation, including relationships with other investigative bodies, (b) legal issues in child protection including the legal rights of children, employees and volunteers, (c) methods of identification, remediation, treatment and prevention, (d) safety and security procedures, and (e) the principles of child development, the characteristics of children in care, and techniques of group and child management including crisis intervention. The department shall take all reasonable and necessary actions to assure that its employees are kept apprised on a current basis of all department policies and procedures relating to the protection of children from abuse and maltreatment.

(c) Reports and records made pursuant to this title, including any previous report concerning a subject of the report, other persons named in the report or other pertinent information, involving children who reside in a residential facility licensed or operated by the offices of mental health or mental retardation and developmental disabilities except those facilities or programs enumerated in paragraph (h) of subdivision seven of section four hundred twelve of this chapter, shall be transmitted immediately by the central register to the commission on quality of care for the mentally disabled, which shall commence an appropriate investigation in accordance with the terms and conditions set forth in section 45.07 of the mental hygiene law.

12. Any person who willfully permits and any person who encourages the release of any data and information contained in the central register to persons or agencies not permitted by this title shall be guilty of a class A misdemeanor.

13. There shall be a single statewide telephone number for use by all persons seeking general information about child abuse, maltreatment or welfare other than for the purpose of making a report of child abuse or maltreatment.

14. The department shall refer suspected cases of falsely reporting child abuse and maltreatment in violation of subdivision three of section 240.55 of the penal law to the appropriate law enforcement agency or district attorney.

EDN – Education Law
Article 23-B - CHILD ABUSE IN AN EDUCATIONAL SETTING

1125 - Definitions.

1126 - Duties of employees specifically enumerated in this section upon receipt of an allegation of child abuse in an educational setting.

1127 - Confidentiality of records.

1128 - Duties of school administrators and superintendents upon receipt of a written report alleging child abuse in an educational setting.

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1131 - Actions upon criminal conviction of a licensed or certified school employee.

1132 - Duties of the commissioner; child abuse in an educational setting.

1133 - Unreported resignation against public policy.

§ 1125. Definitions. For the purposes of this article the following terms shall have the following meanings:

1. "Child abuse" shall mean any of the following acts committed in an educational setting by an employee or volunteer against a child: (a) intentionally or recklessly inflicting physical injury, serious physical injury or death, or (b) intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death, or (c) any child sexual abuse as defined in this section, or (d) the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to article two hundred thirty-five of the penal law.

2. "Child" shall mean a person under the age of twenty-one years enrolled in a school district in this state, other than a school district within a city having a population of one million or more.

3. "Employee" shall mean any person receiving compensation from a school district or 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, 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.

4. "Volunteer" shall mean any person, other than an employee, who provides services to a school or school district, which involve direct student contact.

5. "Educational setting" shall mean the building and grounds of a public school district, the vehicles provided by the school district for the 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.

6. "Administrator" or "school administrator" shall mean a principal of a public school, charter school or board of cooperative educational services, or other chief school officer.

7. "Law enforcement authorities" shall mean a municipal police department, sheriff's department, and 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 four hundred twenty-three of the social services law.

8. "Parent" shall mean either or both of a child's parents or other persons legally responsible for the child.

9. "Child sexual abuse" shall mean conduct prohibited by article one hundred thirty or two hundred sixty-three of the penal law.

§ 1126. Duties of employees specifically enumerated in this section upon receipt of an allegation of child abuse in an educational setting.

1. 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:

(a) 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; 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 upon a form as prescribed in section eleven hundred thirty-two of this article.

(b) except where the school administrator is the person receiving such oral or written allegation, promptly personally deliver a copy of such written report to the school administrator of the school in which the child abuse allegedly occurred.

2. In any case 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 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, whereupon both school superintendents shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article.

3. 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 a manner described in this section shall have immunity from civil liability which might otherwise result by reason of such actions.

§ 1127. Confidentiality of records. Reports and other written material submitted pursuant to this article, and photographs taken concerning such reports in the possession of any person authorized to receive such information, pursuant to this article, 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 pursuant to this section to a person not authorized to receive or review such record is a class A misdemeanor.

§ 1128. Duties of school administrators and superintendents upon receipt of a written report alleging child abuse in an educational setting. Upon receipt of a written report described in paragraph (a) of subdivision one of section eleven hundred twenty-six of this article alleging that a child has been abused in an educational setting, a school administrator or superintendent shall where there is a reasonable suspicion to believe that an act of child abuse has occurred:

1. Where the subject child has made the allegation: (a) promptly notify the parent of such child that an allegation of child abuse in an educational setting has been made regarding such child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate

law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

2. Where a parent of the child has made the allegation: (a) promptly provide the parent of such child with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

3. Where a person other than the subject child or the parent of a subject child has made the allegation: (a) 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 and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) ascertain from the person making such report the source and basis for such allegation; (c) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (d) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

4. 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 this article and in a manner described in section eleven hundred twenty-six of this article and this section shall have immunity from civil liability which might otherwise result by reason of such actions.

§ 1128-a. Additional duties of superintendents. 1. Where a superintendent of schools forwards to law enforcement a report as described in paragraph (a) of subdivision one of section eleven hundred twenty-six of this article, he or she shall refer such report to the commissioner where the employee or volunteer alleged to have committed an act of child abuse as defined in this article holds a certification or license issued by the department.

2. A report which is made pursuant to this article and 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 such school, or school district, as the case may be, determines.

§ 1129. Penalties for failure to comply. 1. Willful failure of an employee to prepare and submit a written report of an allegation of child abuse as required by this article shall be a class A misdemeanor.

2. (a) Willful failure of a school administrator or superintendent to submit a written report of child abuse to an appropriate law enforcement authority, as required by this article, shall be a class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subdivision, any failure to submit a written report of child abuse to an appropriate law enforcement authority as required by this article, shall be punishable by a civil penalty not to exceed five thousand dollars upon an administrative determination by the commissioner.

§ 1130. Notification by district attorney. Where a criminal investigation of an allegation of child abuse by an employee or volunteer is undertaken in response to a report forwarded by a school administrator or superintendent to law enforcement authorities pursuant to section eleven hundred twenty-eight of this article, and where law enforcement authorities have provided such report to the district attorney and have requested assistance, as soon as practicable, it shall be the responsibility of the district attorney to notify the superintendent of

schools of the district where the acts of child abuse allegedly occurred and of the school district where the child is attending, if different, of an indictment or the filing of an accusatory instrument against the employee or volunteer against whom an allegation of child abuse in an educational setting was made. The district attorney shall notify the superintendent of schools of the district where the acts of child abuse allegedly occurred and of the school district, if different, where the child is attending of the disposition of the criminal case against such employee or volunteer or the suspension or termination of the criminal investigation of such employee or volunteer.

§1131. Actions upon criminal conviction of a licensed or certified school employee.

1. In the event that a licensed or certified school employee against whom an allegation of child abuse in an educational setting has been made, is convicted of any crime involving child abuse in an educational setting, the district attorney shall provide notice thereof to the commissioner, the superintendent of schools of the district where the acts of child abuse occurred and to the school district where the child is attending school, if different.

2. Upon receiving notice of a conviction from a district attorney pursuant to subdivision one of this section, the commissioner shall, without delay, proceed to determine whether the individual possesses good moral character, in accordance with the regulations of the commissioner governing such a determination.

3. Nothing in this article shall be construed as creating any authority to take an adverse action against an employee or volunteer by virtue of a report pursuant to this article which has not been substantiated.

4. An employee or volunteer who has adverse action taken against him or her by virtue of or in connection with any report made pursuant to this article shall be entitled to receive a copy of such report and respond to the allegations of child abuse made therein. Any employee or volunteer shall, in addition, be entitled to seek disclosure of such report pursuant to article six of the public officer's law.

§ 1132. Duties of the commissioner; child abuse in an educational setting.

1. The commissioner shall prepare a form for the recording and transmitting of allegations of child abuse in an educational setting. Such form shall include: (i) all definitions set out in section eleven hundred twenty-five of this article; and (ii) adequate space for the inclusion of any other information which the person making or filing the report believes would be helpful in describing or explaining the circumstances surrounding an allegation of child abuse in an educational setting in accordance with the provisions of this article.

2. The commissioner shall promulgate rules and regulations for training necessary for the implementation of this article.

§ 1133. Unreported resignation against public policy. 1. A school administrator or superintendent shall not make any agreement to withhold from law enforcement authorities, the superintendent or the commissioner, where appropriate, the fact that an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by this article in return for the resignation or voluntary suspension from his or her position of such person, against whom the allegation is made.

2. Each violation of subdivision one of this section shall constitute a class E felony, and shall also be punishable by a civil penalty not to exceed twenty thousand dollars.

3. Any superintendent of schools who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required by this article shall have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions.

**CHILD ABUSE IN AN EDUCATIONAL SETTING
CONFIDENTIAL REPORT OF ALLEGATION**

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

SOURCE OF ALLEGATION (Check as Appropriate)
<input type="checkbox"/> Child <input type="checkbox"/> Parent <input type="checkbox"/> Other - Name _____ Relationship to Child (if any) _____

ALLEGED PERPETRATOR (EMPLOYEE OR VOLUNTEER)
Name _____ School District _____
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 _____ School Address _____ _____ School Telephone _____ Relationship to Child (if any) _____
<input type="checkbox"/> Teacher <input type="checkbox"/> School Guidance Counselor <input type="checkbox"/> School Nurse <input type="checkbox"/> School Psychologist <input type="checkbox"/> Administrator <input type="checkbox"/> School Board Member <input type="checkbox"/> School Social Worker <input type="checkbox"/> School personnel required to hold teaching or administrator license or certification
Date Submitted to Administrator ____/____/____ Signature _____

FOR ADMINISTRATOR USE ONLY	FOR SUPERINTENDENT OF SCHOOL USE ONLY
Reasonable Suspicion ____ Yes ____ No	Reasonable Suspicion ____ Yes ____ No
Date Submitted to Superintendent ____/____/____	Date Submitted to Law Enforcement ____/____/____
Name/Signature _____	Name/Signature _____
Date Submitted to Law Enforcement ____/____/____	Date Submitted to Commissioner ____/____/____
Name/Signature _____	Name/Signature _____

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
**REPORT OF SUSPECTED
CHILD ABUSE OR MALTREATMENT**

Report Date	Case ID	Call ID
Time : <input type="checkbox"/> AM <input type="checkbox"/> PM	Local Case #	Local Dist/Agency

SUBJECTS OF REPORT

List all children in household, adults responsible and alleged subjects.										
Line #	Last Name	First Name	Aliases	Sex (M, F, Unk)	Birthday or Age Mo/Day/ Yr	Race Code	Ethnicity (Ck Only If Hispanic/Latino)	Relation Code	Role Code	Lang.
1.							<input type="checkbox"/>			
2.							<input type="checkbox"/>			
3.							<input type="checkbox"/>			
4.							<input type="checkbox"/>			
5.							<input type="checkbox"/>			
6.							<input type="checkbox"/>			
7.							<input type="checkbox"/>			

MORE

List Addresses and Telephone Numbers (Using Line Numbers From Above)	(Area Code) Telephone No.

BASIS OF SUSPICIONS

Alleged suspicions of abuse or maltreatment. Give child(ren)'s line number(s). If all children, write "ALL".

<input type="checkbox"/> DOA/Fatality	<input type="checkbox"/> Child's Drug/Alcohol Use	<input type="checkbox"/> Swelling/Dislocation/ Poisoning/Noxious
<input type="checkbox"/> Fractures	<input type="checkbox"/> Substances	<input type="checkbox"/> Educational Neglect
<input type="checkbox"/> Internal Injuries (e.g., Subdural Hematoma)	<input type="checkbox"/> Choking/Twisting/Shaking	<input type="checkbox"/> Emotional Neglect
<input type="checkbox"/> Lacerations/Bruises/Welts	<input type="checkbox"/> Lack of Medical Care	<input type="checkbox"/> Inadequate Food/Clothing/Sheltes
<input type="checkbox"/> Burns/Scalding	<input type="checkbox"/> Malnutrition/Failure to Thrive	<input type="checkbox"/> Lack of Supervision
<input type="checkbox"/> Excessive Corporal Punishment	<input type="checkbox"/> Sexual Abuse	<input type="checkbox"/> Abandonment
<input type="checkbox"/> Inappropriate Isolation/Restraint (Institutional Abuse Only)	<input type="checkbox"/> Inadequate Guardianship	<input type="checkbox"/> Parent's
<input type="checkbox"/> Inappropriate Custodial Conduct (Institutional Abuse Only)	<input type="checkbox"/> Other (specify) _____	

State reasons for suspicion, including the nature and extent of each child's injuries, abuse or maltreatment, past and present, and any evidence or suspicions of "Parental" behavior contributing to the problem. (If known, give time/date of alleged incident)

MO
DAY
YR

Additional sheet attached with more explanation. The Mandated Reporter Requests Finding of Investigation YES
 NO

CONFIDENTIAL		SOURCE(S) OF REPORT		CONFIDENTIAL	
NAME	(Area Code) TELEPHONE	NAME	(Area Code) TELEPHONE		
ADDRESS		ADDRESS			
AGENCY/INSTITUTION		AGENCY/INSTITUTION			

RELATIONSHIP			
<input type="checkbox"/> Med. Exam/Coroner <input type="checkbox"/> Physician <input type="checkbox"/> Hosp. Staff <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Neighbor <input type="checkbox"/> Relative <input type="checkbox"/> Instit. <input type="checkbox"/> Social Services <input type="checkbox"/> Public Health <input type="checkbox"/> Mental Health <input type="checkbox"/> School Staff <input type="checkbox"/> Other (Specify)			
For Use By Physicians Only	Medical Diagnosis on Child	Signature of Physician who examined/treated child X	(Area Code) Telephone No.
	Hospitalization Required: <input type="checkbox"/> None <input type="checkbox"/> Under 1 week <input type="checkbox"/> 1-2 weeks <input type="checkbox"/> Over 2 weeks		
Actions Taken Or About To Be Taken	<input type="checkbox"/> Medical Exam	<input type="checkbox"/> X-Ray	<input type="checkbox"/> Removal/Keeping <input type="checkbox"/> Not. Med Exam/Coroner
	<input type="checkbox"/> Photographs	<input type="checkbox"/> Hospitalization	<input type="checkbox"/> Returning Home <input type="checkbox"/> Notified DA
Signature of Person Making This Report: X		Title	Date Submitted Yr. Mo. Day

TO ACCESS THE LDSS-2221-A FORMS: Via Internet: <http://www.ocfs.state.ny.us/main/forms/cps/>
Via Intranet: <http://ocfs.state.nyenet/admin/forms/SCR/> or

TO ORDER A SUPPLY OF FORMS: access (OCFS-4627) Request for Forms and Publications, from either site above, fill it out and send to: **Office of Children and Family Services, Resource Distribution Center, 11 Fourth Ave, Rensselaer, NY 12144.**

If you have difficulty accessing this form from either site, you can call **The Forms Hot Line at 518-473-0971.** Leave a detailed message including your name, address, city, state, what form number you need, how many and a phone number in case we need to contact you.

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

RACE CODE	ETHNICITY CODE	RELATION CODES FAMILIAL REPORTS <i>(Choose One)</i>		ROLE CODE <i>(Choose One)</i>	LANGUAGE CODE <i>(Choose One)</i>	
AA: Black or African-	<i>(Check Only If Hispanic/ Latino)</i>	AU: Aunt/Uncle	XX: Other	AB: Abused Child	CH: Chinese	KR: Korean
AL: Alaskan Native		CH: Child	PA: Parent	MA: Maltreated	CR: Creole	MU: Multiple
AS: Asian		GP: Grandparent	PS: Parent Substitute	AS: Alleged Subject <i>(Maltreated)</i>	EN: English	PL: Polish
NA: Native American		FM: Other Family	UH: Unrelated Home	NO: No Role	FR: French	RS: Russian
PI: Native Hawaiian/Pacific		FP: Foster Parent	UK: Unknown	UK: Unknown	GR: German	SI: Sign
WH: White		DC: Daycare Provider	IAB REPORTS ONLY		HI: Hindi	SP: Spanish
XX: Other			AR: Administrator	IN: Instit. Non-Prof	HW: Hebrew	VT: Vietnamese
UNK: Unknown			CW: Child Care	IP: Instit. Pers/Vol.	IT: Italian	XX: Other
			DO: Director/Operator	PI: Psychiatric Staff	JP: Japanese	

**Abstract of Sections from Article 6, Title 6, Social Services Law
Section 412. Definitions**

- Definition of Child Abuse,** (see also N.Y.S. Family Court Act Section 1012(e))
An "abused child" is a child less than eighteen years of age whose parent or other person legally responsible for his care:
 - Inflicts or allows to be inflicted upon the child serious physical injury, or
 - Creates or allows to be created a substantial risk of physical injury, or
 - Commits sexual abuse against the child or allows sexual abuse to be committed.
- Definition of Child Maltreatment,** (see also N.Y.S. Family Court Act, Section 1012(f))
A "maltreated child" is a child under eighteen years of age whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care:
 - in supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
 - in providing the child with proper supervision or guardianship; or
 - by unreasonably inflicting, or allowing to be inflicted, harm or a substantial risk thereof, including the infliction of excessive corporal punishment; or
 - by misusing a drug or drugs; or
 - by misusing alcoholic beverages to the extent that he loses self-control of his actions; or
 - by any other acts of a similarly serious nature requiring the aid of the Family Court; or
 - By abandoning the child.

Section 415. Reporting Procedure. Reports of suspected child abuse or maltreatment shall be made immediately by telephone and in writing within 48 hours after such oral report.

Submit the written paper copy of the LDSS-2221-A form originally signed to: the County Department of Social Services where the abused/maltreated child resides.

Residential Institutional Abuse Reports: Submit a paper copy of form, LDSS 2221A, originally signed. It must be submitted directly to the Office of Children and Family Services (OCFS) Regional Office, associated with the county in which the abused/maltreated child is in care.

NYS CHILD ABUSE AND MALTREATMENT REGISTER: 1-800-635-1522 (FOR MANDATED REPORTERS ONLY)

1-800-342-3720 (FOR PUBLIC CALLERS)

Section 419. Immunity from Liability. Pursuant to Section 419 of the Social Services Law, any person, official, or institution participating in good faith in the making of a report of suspected child abuse or maltreatment, the taking of photographs, or the removal or keeping of a child pursuant to the relevant provisions of the Social Services Law shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

Section 420. Penalties for Failure to Report.

1. Any person, official, or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.
2. Any person, official, or institution required by this title to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

LDSS-2221A (Rev. 9/2007) ATTACHMENT

STAPLE TO LDSS-2221A (IF NEEDED)

**REPORT OF SUSPECTED
CHILD ABUSE OR MALTREATMENT**

(Use only if the space on the LDSS-2221A under "Reasons for Suspicion" is not enough to accommodate your information)

Report Date	Case ID	Call ID
Time : <input type="checkbox"/> AM : <input type="checkbox"/> PM	Local Case #	Local Dist/Agency

**PERSON MAKING
THIS REPORT:** _____

Print clearly if filling out hard copy.

Continued: State reasons for suspicion, including the nature and extent of each child's injuries, abuse or maltreatment, past and present, and any evidence or suspicions of "Parental" behavior contributing to the problem.

(If known, give time/date of alleged incident)

MO

DAY

YR

Time : AM PM