

The **SPECIAL BUSINESS/POLICY MEETING** of the Board of Education West Hempstead Union Free School District was called to order in the High School Video Conference Room on December 3, 2019 at 7:38 p.m.

PRESENT: Ms. Brohm, who presided, and six other members of the Board: Ms. Greaves, Mr. Hoffman, Mr. Katrakazis, Mr. Magaraci, Ms. Shinsato and Mr. Trocchia. Also present were Mr. Rehman, Ms. Reilly, Mr. Press, Mr. Mestecky, Ms. Casamassa, Ms. Girolamo and members of the community.

Under **SPECIAL BUSINESS** the following dockets were discussed:

Docket #9-171: Upon the motion of Mr. Katrakazis, seconded by Mr. Magaraci and carried by seven, the Board approved the following:

Topic: Leave(s) of Absence

<u>Name</u>	<u>Position</u>	<u>Effective</u>
Marconi, Amanda	Foreign Language Teacher Middle School	12/4/2019 – 6/30/2020

Topic: Leave Replacement Appointment(s)

<u>Name</u>	<u>Position</u>	<u>Certification</u>	<u>Salary</u>	<u>Effective</u>
Rincon, Juan	Spanish Teacher Middle School	Spanish 5-9	\$70,072 2MA+60	12/4/19 – 6/30/20

Upon the motion of Ms. Brohm, seconded by Ms. Shinsato and carried by seven, the following dockets were motioned to be adopted at the December 17, 2019 Business Meeting:

Docket #9-163: **Policy 5159 – Child Abuse, Maltreatment or Neglect in a Domestic Setting with Administrative Regulations as follows:**

Under A, 2nd paragraph addschool social workers, full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate.....

Under A, after 3rd paragraph add the following:

The report shall be made by telephone or by telephone facsimile machine on a form supplied by the Commissioner of Social Services. A written report shall be made within forty-eight (48) hours to appropriate local child protective service, and to the statewide Central Register.

Under A, after 5th paragraph add:

School employees or officials may not contact the child's family or any other person to determine the cause of the suspected abuse or maltreatment. It is not the responsibility of the school official or employee to prove that the child has been abused or maltreated.

Any school official or employee who has cause to suspect that the death of any child is a result of child abuse or maltreatment must report that fact to the appropriate medical examiner or coroner.

Under A, after 8th paragraph add:

The Board recognizes that knowingly reporting a false claim of child abuse is a violation of state law and this policy acknowledges that it is a crime to do so. The District will make every reasonable effort to ensure the integrity of the District's child abuse reporting process and procedure.

School employees will not be subject to retaliatory action, as defined in state law, as a result of making a report when they reasonably suspect that a child has been abused or maltreated.

Under 5159 Administrative Regulations the following changes were made:

Under #2 a.impaired or is in imminent danger.....

#1 addmeans to do so; or in the case of an alleged failure of the parent or other person legally responsible for a child's care to provide education to the child, notwithstanding the efforts of the school district or local educational agency and child protective agency to ameliorate such alleged failure prior to the filing of the petition; or

#2 addthe aid of the court; provided, however, that where the parent or other person legally responsible for a child's care is voluntarily and regularly participating in a rehabilitative program, evidence that the he has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired; or

Add c) who has had serious physical injury inflicted upon him or her by other than accidental means.

After c) add the following:

In order for a report of educational neglect to be accepted, three elements need to be established:

- a. Excessive absence from school by the child;
- b. Reasonable cause to suspect that the parent is aware or should have been aware of the excessive absenteeism and the parent has contributed to the problem or is failing to take steps to effectively address the problem, and;
- c. Reasonable cause to suspect educational impairment or harm to the child or imminent danger of such impairment or harm.

#5 add after School Administrator add:

- Full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate, or

Under Reporting, procedures and related information, #1 add the following to the end of the paragraph:

Personnel have the right to request that information which would identify the individual making the report be withheld if furnishing such data might prove detrimental to the safety or interest of that individual.

#5 add to the end of paragraph: if necessary, which may include a radiological examination if medically indicated. When appropriate, physical evidence and/or photographs may be taken of any injuries or bruises. Such actions may be performed at public expense if they will provide appropriate documentation when filing the report. A school official, such as a school nurse, may use a digital camera provided by the District to photograph injuries related to suspected cases of child abuse or maltreatment. 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. The written report that must be filed shall include all information which the Commissioner of Social Services may require.

#6 to read:

If a child is to be interviewed by Child Protective Services at school to ascertain whether he/she has been abused or maltreated, or to obtain documentation of such acts, the Principal or his/her designee, or other school official shall be present during the interview, unless circumstances require otherwise. The school official shall examine and verify the credentials of Child Protective Services worker(s) before allowing such worker(s) to either interview the child or to examine the child's records. If sexual abuse is indicated, the presence of a same-sex staff

member during the interview is appropriate. The Building Principal shall request a summary report of the investigation of a case referred to Child Protective Services so the district can take appropriate next steps.

Add #9 to read: Only one report of any suspected abuse is required.

Add #14 to read: Any school employee who fails to comply with this policy is subject to discipline in accordance with collective bargaining agreements and/or policy.

#15 to read: The District shall post the toll-free number for the Central Register (800-342-3720) and directions for accessing the NYS Office of Children and Family Services (<http://ocfs.ny.gov/main/cps/>), in both English and Spanish, on the District website and in highly visible areas of school buildings so it is accessible to students and staff. The District shall post the toll-free number for the Central Register (800-342-3720) and directions for accessing the NYS Office of Children and Family Services (<http://ocfs.ny.gov/main/cps/>), in both English and Spanish, on the District website and in highly visible areas of school buildings so it is accessible to students and staff. The District shall make such information available at the District and school building-level administrative offices and also provide such information to parents/persons in parental relation at least once per school year in a manner as determined by the District (including electronically and/or sent home with students), and provide all teachers and administrators with such information. also provide such information to parents/persons in parental relation at least once per school year in a manner as determined by the District (including electronically and/or sent home with students), and provide all teachers and administrators with such information.

New Policy – Child Abuse in an Educational Setting with Administrative Regulations as follows:

Child Abuse in and Educational Setting

The Board of Education recognizes that children have the right to an educational setting that does not threaten their physical and emotional health and development. Child abuse by school personnel and school volunteers violates this right and therefore is strictly prohibited.

Allegations of child abuse by school personnel and school volunteers shall be reported in accordance with the requirements of Article 23-B of the Education Law.

Required Reporters

Any person holding any of the following positions shall be required to promptly report written and oral allegations of child abuse by an employee or volunteer in an educational setting:

- school administrator
- teacher
- school nurse
- school guidance counselor
- school psychologist

- school social worker
- other school personnel required to hold a teaching or administrative license or certificate
- licensed and registered physical therapist,
- licensed and registered occupational therapist,
- licensed and registered speech-language pathologist,
- teacher aide,
- school resource officer,
- school board member, and
- any staff whose duties involve direct student contact and who is paid either by a school district or contracted to provide transportation services to children; or
- who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law.

For purposes of this policy, persons holding these positions shall be referred to as “required reporters.”

Definitions

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

“Child” means a person under the age of 21 enrolled in a school.

“Child abuse” means any one of the following acts committed in an educational setting by an employee or volunteer against a child:

- intentionally or recklessly inflicting physical injury, serious physical injury or death; or
- intentionally or recklessly engaging in conduct that creates a substantial risk of physical injury, serious physical injury or death; or
- any child sexual abuse as prohibited by sections 130 or 235 of the Penal Law; or
- the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to Article 235 of the Penal Law.

“Educational setting” means the buildings and grounds of the school, the vehicles provided by directly or by contract the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee and volunteer and a child has allegedly occurred.

"Employee" means any person who is receiving compensation from a school district. Additionally, for the purpose of this policy, one whose duties involve direct student contact and is receiving compensation from any person or entity that contracts with a school to provide transportation services to children or is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B

of article five of the social services law, whereby such services performed by such person involve direct student contact.

“Law enforcement authorities” means any officer or office of municipal, sheriffs, or division of the state police department.

“Parent” means either both of a child’s parents or other persons legally responsible for the child.

“School” generally means any school district, public school, charter school, non-public school board of cooperative educational series or special act school district and additional entities as defined by section 1125(10) of Education Law.

"Volunteer" means any person, other than an employee, who has direct student contact and provides services to a school or school district, which involve direct student contact and who provides services to any person or entity which contracts with a school to provide transportation services to children.

Reporting Requirements

In any case where a written or oral allegation of child abuse by an employee or volunteer in an educational setting is made to a required reporter, the required reporter shall:

1. promptly complete the required State Education Department report form; and
2. personally deliver it to the Principal of the school in which the child abuse allegedly occurred.

If the allegation involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the required reporter must promptly forward the report form to the Superintendent of the district of attendance and the Superintendent of the school district where the abuse allegedly occurred (if different).

If an allegation is made to a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such driver shall promptly report to his or her supervisor.

If an allegation is made to a supervisor of a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall promptly complete a written report on the attached form (9620-E.1) and shall personally deliver it to the school district superintendent employed by the school district where the child abuse occurred.

If an allegation is made, which involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, shall be notified if the allegation.

Upon receiving a written report, the principal shall determine whether there is reasonable suspicion to believe that an act of child abuse has occurred. In those circumstances where the superintendent receives the written report directly, he or she will be responsible for making the reasonable suspicion determination.

In any case where the employee the allegation is being made against is the superintendent or the administrator, the report of such allegations shall be made to the Assistant Superintendent for Business.

If the principal/superintendent determines there is reasonable suspicion to believe that an act of child abuse has occurred, he or she shall promptly notify the parent of the alleged child victim (assuming that the parent is not the person who originally reported the alleged abuse) that an allegation of child abuse in an educational setting has been made and promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Regulations of the Commissioner of Education.

If the person making the allegation of abuse is someone other than the child or the child's parent, the principal/superintendent shall contact the person making the report to learn the source and basis for the allegation.

The principal shall also promptly provide a copy of the written report to the superintendent and send a copy to the appropriate law enforcement authorities. In no event shall the principal delay in sending the report to law enforcement because of an inability to contact the superintendent.

The superintendent shall send to the Commissioner of Education any written report forwarded to the local law enforcement authorities where the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the department.

Rights of Employees and Volunteers

Any employee or volunteer against whom an allegation of child abuse has been made and against whom the District intends to take adverse action shall be entitled to receive a copy of the report and to respond to the allegations. In addition, such persons are entitled to seek disclosure of reports involving them under the Freedom of Information Law.

Confidentiality

All reports, photographs and other written material submitted pursuant to this policy and Article 23-B of the Education Law shall be confidential and may not be redisclosed except to law enforcement authorities involved in investigating the alleged abuse or except as expressly authorized by law or pursuant to a court-ordered subpoena. The principal and superintendent shall exercise reasonable care to prevent unauthorized disclosure.

Willful disclosure of a written record required to be kept confidential to a person not authorized to receive or review such record is a Class A misdemeanor.

Penalties

Willful failure of an employee to prepare and submit a written report of alleged child abuse required by Article 23-B of the Education Law shall be a Class A misdemeanor.

Willful failure of any principal or superintendent to submit a written report of alleged child abuse to an appropriate law enforcement authority, as required by Article 23-B of the Education Law, shall be a Class A misdemeanor. In addition, the Commissioner of Education may, following an administrative determination, impose a civil penalty of up to five thousand dollars (\$5,000) on any administrator who fails to submit a report of child abuse to an appropriate law enforcement authority.

The law further prohibits any principal or superintendent 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 twenty thousand dollars (\$20,000).

Record Retention

Any report of child abuse by an employee or volunteer that does not result in a criminal conviction shall be expunged from the records kept by the District with respect to the subject of the report after five (5) years from the date the report was made.

Training

The superintendent shall be responsible for establishing and implementing on an ongoing basis a training program for all current and new required reporters on the procedures required under Article 23-B. The program shall include at a minimum information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including, but not limited to, when and how a report must be made, what other actions the reporter can and should take, the legal protections afforded reporters, and the consequences for failing to report, and any other elements as specified in Commissioner's regulations.

Further, all persons employed on or after July 1, 2019 as a school bus driver employed by any person or entity that contracts with a school to provide transportation services to children shall be required to complete two (2) hours of coursework or training (from an approved provider) regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including, but not limited to, when and how a report must be made, what other actions the reporter is can and should take, the legal protections afforded reporters, and the consequences for failing to report. Each employee in such titles shall provide the school administrator of the school with documentation showing that he or she completed the required training. In addition, each school bus driver shall provide such contracting person or entity with documentation showing that he or she completed the required training. The department shall be authorized to request such records on a periodic basis and may

publish a list of any persons or schools who are not in compliance with this subdivision on its website.

The coursework or training required by this section shall not apply to those persons already required to undergo coursework or training regarding the identification and reporting of child abuse and maltreatment pursuant to sections three thousand three and three thousand four of this chapter.

Ref: Education Law §§1125-1133
Penal Law §§130, 235, 263
8 NYCRR §100.2 (hh) (Reporting of Child Abuse in an Educational Setting)
Appeal of S.S., 42 EDR 273 (2003)

Adoption date: [DATE]

Exhibit E.1

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

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

Child Abuse in an Educational Setting Definitions

Full definitions as contained in §1125 of Article 23-B, Title I of the Education Law

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” means a person under the age of 21 enrolled in a school.
3. “Employee” shall mean any person: (i) who is receiving compensation from a school or (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children, or (b) who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such school, its students or employees directly or through contract.
4. "Volunteer" shall mean any person, other than an employee, who has direct student contact and: (i) provides services to a school, or (ii) provides services to any person or entity that contracts with a school to provide transportation services to children.
5. “Educational setting” shall mean the building and grounds of a school, the vehicles provided directly or by contract by the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off schoolgrounds, 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 school, or other chief school officer.
7. "School" shall include a school district, public school, charter school, nonpublic school, board of cooperative educational services, special act school district as defined in section four thousand one of this chapter, approved preschool special education program pursuant to section forty-four hundred ten of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the laws of nineteen

hundred seventy-six, or state-operated or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

8. "Law enforcement authorities" shall mean a municipal police department, sheriff's department, the division of state police or any officer thereof. Notwithstanding any other provision of law, law enforcement authorities shall not include any child protective service or any society for the prevention of cruelty to children as such terms are defined in section four hundred twenty-three of the social services law.
9. "Parent" shall mean either or both of a child's parents or other persons legally responsible for the child.
10. "Child sexual abuse" shall mean conduct prohibited by article one hundred thirty or two hundred sixty-three of the penal law.

**CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT -
NOTICE/REPORTING REQUIREMENTS**

Duties of Employees

The law imposes reporting requirements on school administrators, teacher, school nurse, school guidance counselors, school psychologists, school social workers, other school personnel required to hold a teaching or administrative license or certificate, licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered, speech-language pathologists, teacher aides, school resource officers, school board members, any staff whose duties involve direct student contact and who is paid either by a school district or contracted to provide transportation services to children, or who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law.

When these employees of the District or to a school bus driver employed by a person or entity that contracts with a school to provide transportation services receive an allegation of child abuse by an employee or volunteer in an educational setting, they must take the following steps:

- a. Upon receipt of an oral or written allegation of child abuse in an educational setting, the employee must promptly complete the “Child Abuse in an Educational Setting” report form (attached).
- b. Upon completion of the report form, the employee must personally deliver it to the school building administrator of the school in which the child abuse allegedly occurred.
- c. If the allegation(s) involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the employee must promptly forward the report form to the superintendent of schools of the school district of attendance and the school district where the abuse allegedly occurred.

Duties of School Building Administrators

In all cases, upon receipt of a report form, the school building administrator must review the form and determine if there is reasonable suspicion to believe that an act of child abuse, as defined by law, has occurred. If he or she finds reasonable suspicion to believe that an act of child abuse has occurred, additional steps must be taken, which differ depending upon the individual who has made the allegation.

Child makes the Allegation

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

- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Promptly provide a copy of the completed report form to the superintendent.
- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Parent Makes the Allegation

- a. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly provide a copy of the completed report form to the superintendent.
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the report form.
- d. Promptly provide a copy of the completed report form to the superintendent.
- e. Promptly forward a copy of the completed report form to appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Duties of Superintendents

In most cases, the school building administrator will receive the completed report form from an employee and make the reasonable suspicion determination. However, there are situations in which the superintendent will receive the report form directly and he or she will be responsible for making the reasonable suspicion determination such as:

- a. Where the school building administrator receives the oral or written allegation and is required to complete the report form;
- b. Where it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district where the child attends.

In addition, a superintendent may receive an oral or written allegation of child abuse in an educational setting from local law enforcement officials or from child protective services. In

these cases, the superintendent would be responsible for completing the report form and, subsequently, making the reasonable suspicion determination.

If the superintendent finds reasonable suspicion to believe that an act of child abuse has occurred, as defined by law, additional steps must be taken which differ depending on the individual who has made the allegation.

Child makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

Parent Makes the Allegation

- a. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the form.
- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

NYSSBA Sample Exhibit 9620-E.2

In all cases where a completed report is forwarded to the appropriate law enforcement authorities and the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the Department, the superintendent must also refer such report to the Commissioner of Education.

Expungement

A report that does not, after investigation, result in a criminal conviction shall be expunged from any record, which may be kept by a school or school district with respect to the subject of such a report after a period of five (5) 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 also fine a school building administrator or a superintendent up to \$5,000 for failure to forward a copy of the completed report form to the appropriate law enforcement authorities.

Immunity Provisions

The law provides immunity from civil liability for employees, volunteers, school building administrators and superintendents who reasonably and in good faith make a report of child abuse in an educational setting in the manner described in the law. The law also provides immunity from civil liability to school building administrators and superintendents who reasonably and in good faith forward a copy of the report form to a person or agency as required by law and in the manner described in the law.

Confidentiality of Records

In general, the only persons authorized to receive the written report form and any related materials are the school building administrator and the superintendent. The law requires that all reports, records, photographs and other material submitted remain confidential and may not be disclosed except to law enforcement authorities involved in the criminal investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. Willful disclosure of a written record required to be confidential, to a person not authorized to receive or review such record is a Class A misdemeanor. The law requires that school building administrators and superintendents exercise reasonable care to prevent unauthorized disclosure.

Duties of District Attorneys

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

- an indictment;
- the filing of an accusatory instrument;
- the disposition of the criminal case; or,

- the suspension or termination of the investigation.

Where a criminal conviction is obtained for a crime involving child abuse in an educational setting by a licensed or certified school employee, the district attorney is required to notify the Commissioner of Education, as well as the superintendent of the school district in which the acts of child abuse occurred and the superintendent of the school district where the child attends, if different.

Duties of the Commissioner of Education

Upon receiving notification of conviction from a district attorney, the Commissioner of Education must begin proceedings against the convicted individual pursuant to Part 83 of the Commissioner's regulations to determine whether the individual possesses good moral character. The determination may result in additional action taken against the individual related to his or her license or certification.

The Commissioner has also issued the attached form that must be used for the recording and transmission of allegations of child abuse in educational settings.

The Commissioner and the Board of Regents also promulgated §100.2(hh)(2), which sets forth the training requirements relating to child abuse in an educational setting.

Unreported Resignations or Voluntary Suspensions

The law prohibits school building administrators or superintendents from agreeing to withhold from the appropriate law enforcement authorities, a superintendent or the Commissioner of Education, where appropriate, an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by law, in return for the resignation or voluntary suspension of the alleged perpetrator. Violation of this prohibition can result in a Class E felony charge and a civil penalty of up to \$20,000.

Docket #9-164: New Policy – Uniform Guidance Compliance for Federal Awards:

Procurement, Suspension and Debarment as follows:

2 CFR Part 200, Subparts A-F (*Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*) (hereinafter "Uniform Guidance") requires organizations receiving federal awards to establish and maintain effective internal controls when procuring goods and services needed to carry out such federal awards.

General Policy Statement

The requirements for procurements using federal awards are contained in the Uniform Guidance, program legislation, federal awarding agency regulations and the terms and conditions of the award.

To comply with Uniform Guidance, the District implements policies and procedures including, but not limited to:

1. The District will use its own documented procurement procedures, which reflect applicable state, local and tribal laws and regulations, provided that the procurements conform to applicable federal law and Uniform Guidance. As such, the District procurements related to federal grants will be subject to New York State General Municipal Law, this policy and Uniform Guidance Requirements.
2. Contract files will document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis of contract price.
3. The District will utilize one of the five (5) acceptable procurement methodologies detailed in §200.320, which include:
 - a. micro purchases
 - b. small purchase procedures
 - c. sealed bids
 - d. competitive proposals, and
 - e. non-competitive proposals (sole source)
4. Procurements will provide for full and open competition as set forth in the Uniform Guidance and state and local procurement thresholds.
5. No employee, officer or agent may participate in the selection, award or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization, which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees and agents can neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. If the financial interest is not substantial or the gift is an unsolicited item of nominal value, no further action will be taken. Otherwise, however, disciplinary actions may be pursued for violations of this section.
6. The District will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical procurement approach. The District will also analyze other means, as described in §200.318 of the Uniform Guidance, to ensure appropriate and economical acquisitions.

7. The District will enter into state and local inter-governmental agreements or inter-entity agreements, where appropriate.
8. The District will utilize Time and Materials contracts only when it has been determined, in writing, that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk.
9. Vendors/Contractors that develop or draft specifications, requirements, statements of work or invitation to bids or requests for proposals must be excluded from competing for such procurements.
10. The District will make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.
11. The District is prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended, debarred or otherwise excluded from or ineligible for participation in federal assistance programs or activities, or whose principals are suspended or debarred. "Covered Transactions" include those procurement contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000. All non-procurement transactions, irrespective of award amount, are considered covered transactions, except for those transactions identified in 2 CFR § 180.215.
12. The District will include a suspension/debarment clause in all written contracts in which the vendor/contractor will certify that it is not suspended or debarred. The contract will also contain language requiring the vendor/contractor to notify the District immediately upon becoming suspended or debarred. This will serve as adequate documentation as long as the contract remains in effect.
13. The District's departments will be required to notify the Assistant Superintendent for Business that federal funding will be used for a certain procurement/contract. When requesting a written contract and prior to the issuance of a purchase order using federal funds, the Assistant Superintendent for Business or his/her designee (under the supervision of the Assistant Superintendent for Business) will be responsible for running the name of the vendor/contractor through the System for Award Management (SAM) to determine any exclusions. A copy of the SAM search will be included with the contract request. If a vendor/contractor is found to be suspended or debarred, the District will immediately cease to do business with the vendor/contractor.
14. The District will not use statutorily or administratively imposed state, local or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographical preference.

15. The District will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor area surplus firms are used when possible. Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed (1) through (5).
16. The District will procure recovered materials in compliance with §200.322.
17. The District will perform a cost or price analysis relating to every procurement more than the Simplified Acquisition Threshold as defined in §200.88 and will otherwise comply with §200.323 as necessary.
18. The District will require appropriate bonding requirements as per §200.325.
19. The District will only award contracts to responsible vendors/contractors capable of performing successfully under the terms and conditions of a proposed procurement and will document, in writing, such determination.
20. The District contracts will contain the applicable provisions described in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts under Federal Awards.
21. The District will maintain oversight to ensure that contractors perform in accordance with the contract terms, conditions and specifications, as well as applicable federal requirements and performance expectations under the federal award for each program, function or activity.
22. Copies of executed contracts will be maintained in the Purchasing Department and purchase orders will be maintained in the District's financial management system.
23. The District's financial management system will provide for the following in accordance with §200.302: (1) Identification, in its accounts, of all federal awards received and expended and the federal programs under which they were received, and, as applicable, the CFDA title and number, federal award identification number and year, name of the federal agency, and name of the pass-through entity, if any; (2) accurate, current and complete disclosure of the financial results of each federal award

24. In order to implement the requirements of § 200.305 “Payments,” the District adopts the following written procedures:

- a. The District’s payment method will minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the District whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants or payment by other means.

- b. The District will require recipients to use only OMB–approved standard government-wide information collection requests to request payment. The District will be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that: (i) minimize the time elapsing between the transfer of funds and disbursement by the District; (ii) financial management systems that meet the standards for fund control and accountability as established in this part, advanced payments will be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the District in carrying out the purpose of the approved program or project; (iii) The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the District for direct program or project costs and the proportionate share of any allowable indirect costs; and (iv) The District must make timely payment to contractors in accordance with the contract provisions.

- c. Whenever possible, advance payments will be consolidated to cover anticipated cash needs for all federal awards made by the District to recipients.
- d. To the extent available, the District will disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.
- e. Pursuant to § 200.305(b)(6), unless otherwise required by federal statutes, payments for allowable costs by the District will not be withheld at any time during the period of performance unless the conditions of § 200.207, § 200.338, or one or more of the following applies: (i) The District has failed to comply with the project objectives, federal statutes, regulations or the terms and conditions of the federal award; (ii) The District is delinquent in a debt to the United States as defined in OMB Guidance A-129, "Policies for Federal Credit Programs and Non-Tax Receivables" (under such conditions, the federal awarding agency or pass-through entity may, upon reasonable notice, inform the District that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the federal government is liquidated); (iii) A payment withheld for failure to comply with federal award conditions, but without suspension of the federal award, must be released to the District upon subsequent compliance (when a federal award is suspended, payment adjustments will be made in accordance with § 200.342); (iv) A payment will not be made to the District for amounts that are withheld by the District from payment to contractors to assure satisfactory completion of work. A payment must be made when the District actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- f. Pursuant to §200.305(7), the District will not maintain separate depository accounts for funds provided to the District or establish any eligibility requirements for depositories for funds provided to the District. However, the District will account for the receipt, obligation and expenditure of funds. Advance payments of federal funds will be deposited and maintained in insured accounts whenever possible.
- g. The District will maintain advance payments of federal awards in interest-bearing accounts, unless the following apply: (i) The District receives less than \$120,000 in federal awards per year; (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances; (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources; (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.
- h. Interest earned amounts up to \$500 per year may be retained by the District for administrative expense. Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House

25. In order to implement the requirements of § 200.302(b)(7), the District adopts the following written procedures to determine the allowability of costs in accordance with 2 CFR Part 200, Subpart E Cost Principle:
- a. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under a federal award: (i) Be necessary and reasonable for the performance of the federal award and be allocable thereto under these principles; (ii) Conform to any limitations or exclusions set forth in these principles or in the federal award as to types or amount of cost items; (iii) Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the District; (iv) Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost; (v) Be determined in accordance with generally accepted accounting principles (GAAP); (vi) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period; (vii) Be adequately documented.
 - b. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to: (i) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the federal award; (ii) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal and other laws and regulations; and terms and conditions of the federal award; (iii) Market prices for comparable goods or services for the geographic area; (iv) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the District, its employees, where applicable its students or membership, the public at large, and the federal government; (v) Whether the District significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost.
 - c. A cost is allocable to a particular federal award or other cost objective if the goods or services involved are chargeable or assignable to that federal award or cost objective in accordance with relative benefits received. This standard is met if the cost: (i) Is incurred specifically for the federal award; (ii) Benefits both the federal award and other work of the District and can be distributed in proportions that may be approximated using reasonable methods; and (iii) Is necessary to the overall operation of the District and is assignable in part to the federal award.

26. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under a federal award, including but not necessarily limited to, wages and salaries. Compensation for personal services may also include fringe benefits, which are addressed in § 200.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of 2 CFR Part 200, including but not limited to § 200.430.
27. The District will take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the District considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

Reference: General Municipal Law, §§103 (1)(5) and 104-b; Federal Register 2 CFR §200 (Subparts A-F) – General Procurement Standards

Docket #9-165: **Policy 1140 – Use of Students for Distribution of Materials** – No changes.

Docket #9-166: **Policy 1350 – Contest of Outside Organizations** – No changes.

Docket #9-167: **Policy 1520 – Cooperation with Community Groups on Substance Abuse** – No changes.

Docket #9-168: **Policy 3120 – Planning Calendar for Preparation of School Budget**
No changes.

Docket #9-169: **Policy 3441 – Inventory of Textbooks** – No changes.

Docket #9-170: **Policy 6135 – Repair and Maintenance Charges for Musical Instruments** – No changes.

At 7:50 p.m. upon the motion of Mr. Magaraci, seconded by Ms. Shinsato and carried by seven, the Policy Meeting was adjourned back to the Special Business Meeting.

Docket #9-172: Upon the motion of Ms. Shinsato, seconded by Mr. Magaraci and carried by seven, the Board denied the late transportation request from the student listed in Confidential Schedule “A.”

At 7:51 p.m. upon the motion of Mr. Magaraci, seconded by Ms. Shinsato and carried by seven, the Special Business Meeting was adjourned to Executive Session for the purpose of discussing personnel and receiving advice from counsel.

At 8:05 p.m. upon the motion of Mr. Magaraci, seconded by Ms. Greaves and carried by seven, Executive Session was adjourned.

Kathryn Girolamo, District Clerk