

## PERSONNEL GOALS

The Board of Education recognizes that the school district's central goal – the education of children – is wholly dependent on the dedication and work provided by the school district's employees. The Board seeks to develop and implement personnel policies that will allow and enhance the ability of staff to educate children.

The specific goals that will guide the Board as it develops personnel policies are:

1. To hire and retain the best and most qualified staff available
2. To ensure staff are evaluated in a rigorous and meaningful manner
3. To grant tenure to staff who have performed at the highest level and
4. To provide professional development and training to staff to improve their skills.

Although the Board is the employer of all staff in the district, the Board recognizes that the Taylor Law requires the district to negotiate in good faith with recognized or certified employee organizations over wages, hours, and all other terms and conditions of employment as defined by the Taylor Law or as interpreted by the Public Employment Relations Board. The school district will fully comply with the requirements of the Taylor Law.

All other employees in the district who are not represented by a recognized or certified employee organization will receive fair compensation and benefits for the work they provide.

In return for the compensation and benefits provided to district staff, the Board expects employees to render the quality of service that enables children to learn at the highest level possible and seek continuous improvement in the service they provide.

Ref: Education Law §§ 1604(8), 1709(16), 2503(3), 2554(2), 3012(1)(a)  
(Board's authority to hire employees)  
Education Law § 3012(2) (Board's authority to grant tenure to teachers)  
Civil Service Law § 204 ("Taylor Law" requires school district to negotiate with unions)  
8 NYCRR § 100.2(o)(2) (school district required to evaluate teachers)  
8 NYCRR § 100.2(dd)(2)(ii)(a) (school district required to provide professional development)

Cross-ref: 0100, Equal Opportunity

Adoption date: June 18, 2014

## STAFF COMPLAINTS AND GRIEVANCES

The Board of Education recognizes that staff complaints and grievances regarding work rules arise from time to time. In many instances the complaint process is covered by collective bargaining agreements, and in those instances, the grievance procedure outlined in the agreement shall be used. In order to address staff complaints not covered by bargaining agreements, and/or for those employees not covered by such an agreement, the Board establishes this policy. The Board acknowledges that staff members have the right to present complaints and grievances in accordance with these procedures free from coercion, interference, restraint, discrimination or reprisal.

The district shall implement a multi-stage grievance procedure and an appellate stage for the settlement of grievances pursuant to the General Municipal Law.

This policy and regulation shall be filed with the District Clerk and the State Civil Service Commission entity within 15 days of adoption and/or amendment, as required by law.

Staff complaints that are not covered under the General Municipal Law, or cannot be resolved under procedures of policies 0100, Equal Opportunity and Nondiscrimination or 0110, Sexual Harassment, shall be subject to the discretion of the Board of Education as to the method by which the complaint may be brought.

Cross-ref: 0100, Equal Opportunity and Nondiscrimination  
0110, Sexual Harassment

Ref: General Municipal Law, Article 15-c  
Civil Service Law, Article 14  
*Matter of Gatje*, 24 EDR 191 (1984)

Adoption date: June 18, 2014

## STAFF COMPLAINTS AND GRIEVANCES REGULATION

It is the Board's intention to work toward resolving complaints at the level closest to their origin and to take reasonable steps to avoid litigation. Generally, the procedure outlined below should be followed.

### *Definitions*

1. *Grievant* shall mean an employee who alleges a grievance.
2. *Grievance* shall mean any alleged violation of laws, regulations, rules or governing procedures which relates to employee health or safety, physical facilities, materials or equipment furnished. It does not include complaints regarding compensation or benefits.

This regulation and accompanying policy (9140.1) provide grievance procedures for those employees not covered by collective bargaining agreements or whose negotiated agreements do not include grievance procedures. The resolution of staff complaints shall be dealt with in the following manner:

### *Stages*

#### *A. Stage I—Supervisor*

1. Within 30 days after the events giving rise to the grievance, the grievant shall present the grievance orally to their supervisor. The supervisor may informally discuss the grievance with the grievant. He/She shall promptly investigate the complaint. All employees of the school district shall cooperate with the supervisor in such investigation.
2. Within 10 days of hearing of the grievance, the supervisor shall make a finding in writing that there has or has not been a violation of the applicable work rule or other governing procedure. In the event the supervisor finds that there has been a violation, he/she shall propose a resolution of the complaint.
3. If the grievant is not satisfied with the finding of the supervisor, or with the proposed resolution of the grievance, the grievant may, within 10 days after he/she has received the report of the supervisor, file a written request for review by the Superintendent of Schools.

#### *B. Stage II--Superintendent of Schools*

1. The Superintendent may request that the grievant, the supervisor, or any member of the school district staff present a written statement to him/her setting forth any information that such person has relative to the grievance and the facts surrounding it.
2. The Superintendent shall notify all parties concerned as to the time and place when an informal hearing will be held where such parties may appear and present oral and written statements supplementing their position in the case. The grievant may be accompanied by representation. Such hearing shall be held within 10 school days of the receipt of the appeal by the Superintendent.
3. Within 10 days of the hearing, the Superintendent shall render his/her determination in writing. Such determination shall include a finding that there has or has not been a violation of the applicable work rule or other governing procedure and a proposal for equitably resolving the complaint.

4. If the grievant is not satisfied with the determination of the Superintendent, the grievant may, within 10 days after its receipt, file with the Clerk of the Board of Education, a written request for review by the Board.

*C. Stage III--Board of Education*

1. When a request for review by the Board has been made, the Superintendent shall submit all written statements and other materials concerning the case to the President of the Board.
2. The Board shall notify all parties concerned of the time and place when a hearing will be held. Such hearing will be held within 10 school days of the receipt of the request of the grievant. All parties concerned shall have the right to present further statements and testimony at such hearing.
3. The Board shall render a decision in writing within 10 days after the hearing has been concluded.

Adoption date: June 18, 2014

### **MEALS AND REFRESHMENTS**

The Board of Education recognizes that, occasionally, it may be appropriate to provide refreshments and/or meals at district meetings or events, which are being held for a district or educational purpose. Any expenditure on such refreshments and/or meals must be approved in advance by the appropriate Building Administrator. Meal requests may be approved when:

- officers and/or employees of the district will be prevented from taking time off for food consumption due to a pressing need to complete the business at hand;
- the district is faced with business of an immediate nature and meetings of district employees are essential at mealtime;
- the district wishes to recognize the services provided by volunteers or other unsalaried members of the district (in such cases, however, only the meals of those being recognized may be reimbursed and the cost of the meals must be reasonable).

An example of an authorized expenditure would be refreshments and/or meals for staff assigned to participate in assessment day grading of standardized tests.

All expenses must be appropriately documented, including the date, purpose of the meeting and the group in attendance, and submitted to the district's Business office for the purposes of audit and possible reimbursement.

Ref: NY Constitution, Art. VIII, §1 (constitutional prohibition against gifts)  
Education Law §2118  
Ops. St. Compt. 77-667; 79-522; 82-66; 82-213 82-298; 83-57; 98-2

Adoption date: June 18, 2014

## **STAFF USE OF PERSONAL ELECTRONIC DEVICES FOR WORK-RELATED DUTIES**

The Board of Education authorizes staff use of personal electronic devices to access the district's computer network to carry out job duties in accordance with this policy. Any other staff use of personal electronic devices must not interfere with performance of work responsibilities or disrupt school operations.

If a staff member wishes to use his/her personal device the following is required:

- Abide by the rules of acceptable network use outlined in policy 8630, Computer Resources and Data Management and its associated regulation.
- Use only the district's network to access the Internet or district applications while on school grounds; do not use other gateways to the Internet to conduct district business.

Staff members who choose to use their own personal device will not be reimbursed or will not receive an annual/monthly allowance

Maintenance and repair of personal devices is the staff person's responsibility. The district's technology department will not service or repair any personal device.

### *Privacy*

To ensure district compliance with federal and state confidentiality requirements, the district's technology department will monitor district computer network activity. The district maintains its right to access and monitor the district's network. In order to avoid an invasion of privacy of personal devices, staff is advised to keep all district files separate from personal files by properly using the district's computer network to perform work functions and maintain district records. Employees should not have an expectation of privacy if the district's network is used for personal purposes.

### *Violations of Policy*

Violation of this policy may result in revocation of permission to use a personal electronic device for work purposes and/or discipline of the employee in accordance with applicable negotiated agreements.

### *Separation from Employment*

When staff leaves district employment access to the district's network will be discontinued. The Superintendent, or his/her designee, will develop procedures and maintain records to implement and monitor this policy.

Cross-ref:      1120, District Records  
                     5500, Student Records  
                     8630, Computer Resources and Data Management

Adoption date:      June 18, 2014

## RECRUITING AND HIRING

The Board of Education believes that the quality of the district's employees in large part determines the quality of the education offered to the district's students. As the employer for the school district, the Board will provide and maintain qualified and certified instructional and support personnel to carry out the educational programs of the district.

The Superintendent of Schools or designee shall implement and maintain a high-quality recruiting and hiring program to attract, secure and retain the best-qualified staff to meet the needs of students and the district.

### New or Revised Positions

The Superintendent of Schools or designee will develop recommended qualifications for all new positions in the district and review the qualifications for all existing positions as necessary. The Board must approve the qualifications for all new positions in the district and revisions of the qualifications for existing positions.

The Superintendent of Schools or designee shall refer all proposals for the creation or reclassification of all unclassified (non-instructional) positions and a statement of the duties for these positions to Columbia County Civil Service for classification.

The Superintendent of Schools or designee shall develop job descriptions that incorporate the qualifications and job duties for all positions in the school district.

### Recruiting

The district will seek the most qualified candidates for vacant positions by recruiting from a variety of sources, including present staff. District employees may apply for all positions for which they meet the certification and other stated qualifications.

The Board and its employees will adhere to the practice of recruiting and hiring personnel without regard to age, color, creed, disability, marital status, national origin, race, religion, sex or any other status protected by federal or state law. The Board will practice due diligence in finding the most qualified persons for any open positions. The Board recognizes that some specialized positions are difficult to fill because of shortages of qualified candidates. In rare instances, the Board may need to hire a retired public employee, in which case it will follow the Commissioner's regulations for securing a §211 waiver. When recruiting for an open position the Board will first undertake a thorough and good faith search for a certified and qualified individual who will not require such a waiver for employment

Hiring

Through standard recruiting and hiring procedures, the Superintendent of Schools or designee will ensure that candidates for district employment meet all the qualifications set for the position sought. The district will comply with all the requirements of the Education and Civil Service laws, including any fingerprinting requirements.

The Superintendent will recommend individuals for employment in the school district. The Board must approve of all individuals who are employed by the school district.

Ref: Age Discrimination in Employment Act (ADEA), 29 USC §§ 621 *et seq.*  
(prohibiting discrimination on the basis of age)  
Americans with Disabilities Act (ADA), 42 USC §§ 12101 *et seq.*  
(prohibiting discrimination on the basis of disability)  
Civil Rights Act of 1964 (Title VII), 42 USC §§ 2000e *et seq.* (prohibiting  
discrimination on the basis of color, national origin, race, religion and sex)  
Rehabilitation Act of 1973 (Section 504), 29 USC § 794 (prohibiting  
discrimination on the basis of disability)  
Title IX, 20 USC §§ 1681 *et seq.* (prohibiting discrimination on the basis  
of sex)  
New York State Constitution, article V, § 6 (requiring public employees  
be appointed on the basis of merit and fitness)  
Civil Service Law §§ 22, 40-44, 61(1) (rules on classified positions)  
Education Law §§ 1604(8), 1709(16), 2503(3), 2554(2), 3012(1)(a)  
(board's authority to hire employees)  
Education Law §§ 1604(39), 1709(39), 1804(9), 1950(4), 2503(18),  
2554(25) (fingerprinting requirements)  
Executive Law §§ 290 *et seq.* (prohibiting discrimination on the basis of  
age, color, creed, disability, marital status, national origin, race or sex)  
8 NYCRR § 80-5.5 (§211 waiver process)

Adoption date: June 18, 2014

### CONDITIONAL APPOINTMENT - STUDENT SAFETY

The Board of Education recognizes that there may be instances in which it is necessary, upon recommendation of the Superintendent of Schools, for the Board to conditionally appoint or to make an emergency conditional appointment of a prospective employee. To provide for the safety of students who have contact with an employee holding a conditional appointment or an emergency conditional appointment, the Board adopts the following policy.

No district employee who holds a conditional or emergency conditional appointment shall be in contact with students other than to provide instruction and/or other required services.

The Building Principal or his/her designee shall, at least twice a week, monitor the activities of such employees while on school district property during the period of their conditional or emergency conditional appointment.

In addition, the district will ensure that all personnel, including conditional and emergency conditional appointed employees, are aware of and receive training regarding the prohibition against child abuse in an educational setting and of their responsibility for reporting any such abuse. All conditionally appointed and emergency conditionally appointed employees receive this training at the time of their initial contingency appointment.

For purposes of this policy, the terms “conditionally appointed” and “emergency conditional appointment” shall refer to any employee holding conditional or emergency conditional appointment, as defined in Section 1709 of the Education Law.

Cross-ref: 9620, Child Abuse in an Educational Setting

**9260**

Ref: Education Law §§1125-1133; 1604(39); 1709(30); 1804(9); 1950(4)(II); 2503(18); 2554(25); 2854(3)(a-2) (As extended by L.2001, c. 147; L.2003, c. 100; L.2005, c. 127; L.2007, c. 90)  
8 NYCRR §§100.2(hh); Part 87

Adoption date: June 18, 2014

**STAFF REQUESTS FOR ACCOMMODATIONS  
UNDER THE AMERICAN WITH DISABILITIES ACT AS AMENDED  
(ADAAA)**

The Board of Education is committed to equal opportunity and nondiscrimination (0100, Equal Opportunity and Nondiscrimination) for staff and students. The Superintendent or his/her designee is authorized to provide reasonable accommodations for qualified employees who require such in order to perform the essential functions of their job under the provisions of federal and state law.

Under the law, employees are responsible for notifying the district that an accommodation is needed.

In order to expedite the process, requests for such accommodations should be made in writing to the supervisor who will then contact the Superintendent and include the following:

- reasonable documentation showing that the employee has a disability as defined by the ADAAA,
- a statement describing how this disability impacts job performance ability, and
- a statement of the accommodation the employee is seeking and explanation of how the accommodation will impact or benefit the disability.

It should be noted that while efforts will be made to comply with specific accommodation requests, some requests may impose an undue hardship on the district. The district will collaborate with the employee to attempt to find a suitable accommodation. The district will respond to requests for accommodation in a timely manner.

If an employee is dissatisfied with the district's response, complaints or grievances related to this matter shall be pursued in accordance with policy 0100, Equal Opportunity and Nondiscrimination.

Cross-ref: 0100, Equal Opportunity and Nondiscrimination

Ref: Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*  
Rehabilitation Act of 1973, 29 USC §§705, 794 *et seq.* (Section 504)  
Executive Law §290 *et seq.* (New York State Human Rights Law)

Adoption date: June 18, 2014

**EVALUATION OF STAFF  
(NOT COVERED BY 3012-c OF EDUCATION LAW)**

The Board of Education believes that the regular, rigorous and meaningful evaluation of all staff is necessary to continuously improve the achievement of students and the operation of the district. To this end, the Superintendent of Schools shall be responsible for ensuring that all district employees are evaluated annually and receive appropriate levels of support based upon that evaluation, if necessary, to improve their skills.

Administrators

All administrators, other than building principals who are covered by policy 9240.1, shall be evaluated annually by the Superintendent in accordance with this policy, applicable state law, regulation and collective bargaining agreements..

Professional Employees (not covered by 3012-c)

All professional employees (non-classroom teachers providing instructional services or pupil personnel services, counselors, school psychologists and social workers) shall be evaluated annually in accordance with state law and regulation, as well as any applicable collective bargaining agreement and the district's Part 100.2(o) Professional Performance Review Plan. The plan shall include the required regulatory elements such as: (a) criteria for evaluating teachers and other professional employees, (b) assessment methods, (c) how quality rating categories/criteria will be used to differentiate professional development, compensation and promotion; (d) how timely and constructive feedback from evaluations will be provided; (e) plans to improve teacher performance for those rated ineffective, and; (f) training for evaluators.

The Superintendent shall collaborate with teachers, pupil personnel professionals, administrators and parents in developing the plan, which may be a multi-year plan. The Superintendent shall be responsible for selecting those individuals with whom he or she will collaborate in the development of the plan. The Superintendent shall meet with a group of such individuals at least once each year to determine if changes are necessary after its initial adoption.

The Superintendent shall submit the district's Professional Performance Review Plan, with any recommended changes, to the Board at its organizational meeting. At that meeting, the Board may request that the Superintendent reconsider or reexamine certain aspects of the plan, in which case, the Superintendent will resubmit the plan at the Board's first regular meeting in August.

The Board will provide members of parent organizations and the president of the applicable bargaining units the opportunity to comment on the plan, prior to its adoption, at a meeting at which the plan is considered. The Board must

approve the plan before it becomes effective. The approved plan for each school year will be available in the district offices by September 10 of each year.

Each year, the Superintendent shall provide a report to the State Education Department on information related to the district's efforts to address the performance of non-classroom teachers rated ineffective.

Support Staff

Support staff (those staff not required to be evaluated under the Professional Performance Review Plan) shall be evaluated annually in accordance with any applicable collective bargaining agreement and this policy.

Training

The Superintendent shall ensure that all staff that are required to evaluate other staff are provided appropriate and sufficient training in assessment and evaluation, in accordance with state law and regulation.

Cross-ref: 9160, Personnel Records  
9420.1, Building Principal and Classroom Teacher  
Evaluation9700, Staff Development

Ref: Education Law §3012-c  
8 NYCRR § 100.2(o) (Professional Performance Review Plans)

Adoption date: June 18, 2014

## **BUILDING PRINCIPAL AND CLASSROOM TEACHER EVALUATION**

In accordance with state law and regulation, it is the goal of the Board of Education to have a high quality evaluation program for staff including building principals and classroom teachers which results in an effective teacher in every classroom and an effective leader in every building in the district. In order to achieve that goal, the Superintendent of Schools shall be responsible for ensuring that building principals and classroom teachers are evaluated annually, in accordance with state law and regulation. Evaluations will be a significant factor in employment decisions, including, but not limited to, promotion, retention, tenure determination, termination and supplemental compensation.

### Annual Professional Performance Review Plan

The district will submit the required annual professional performance review plan to the State Education Department in a timely manner, in conformance with state law, Regents Rules and Commissioner's Regulations. The Superintendent will provide periodic reports to the Board of Education on the progress of negotiations regarding the negotiable parts of the plan, salient information about the preparation of the plan, present the plan for Board approval and apprise the Board when the plan has been approved by the State.

The plan shall include a description of the required elements, including the following:

- (a) the process for transmitting accurate data to the State Education Department,
- (b) scoring methods that ensures the integrity of the testing process,
- (c) how quality rating categories/criteria will be used to differentiate professional development, compensation and promotion;
- (d) how timely and constructive feedback from evaluations will be provided;
- (e) plans to improve teacher performance for those rated ineffective, and
- (f) training for evaluators.

Once the district has received approval of the plan by the State Education Department, the plan will be posted on the district's website within 10 days, or by September 10<sup>th</sup>, whichever is later.

### Classroom Teachers and Principals (covered by Education Law §3012-c)

Classroom teachers and buildings principals will receive a composite performance rating as part of the annual professional performance review, in accordance with state law, by September 1<sup>st</sup> of the following school year. The composite performance rating will fall into one of four categories: highly effective; effective; developing and ineffective. This composite rating will be made up of multiple measures of effectiveness and will include student performance on state and local tests, in accordance with the terms of the annual professional performance review plan.

### Teacher and Principal Improvement Plans

When a teacher or principal is rated as developing or ineffective as a result of the annual performance review, the Superintendent or his/her designee must formulate and commence an improvement plan (TIP/PIP). The improvement plan will be developed in accordance with negotiated agreements, but must be in place no later than 10 school days from the opening of classes in the school year following the school year for which the performance was rated. The Superintendent will prepare an annual summary report for the Board on the number of TIPs/PIPs issued and other relevant data to support assessment of the effectiveness of the district's approach to improvement plans. In the event that the assessment reveals that progress isn't being made, the administration will recommend changes to the approach.

### Appeals

For classroom teachers and principals, an appeal of an evaluation may be commenced once the composite evaluation score has been received. The right to appeal and the process of the appeal is prescribed by the annual professional performance review plan.

### Training

The Superintendent is the lead evaluator for the district and shall plan his/her own professional development in order to maintain his/her expertise in this area. The Superintendent shall ensure that all staff that are required to evaluate other staff are provided appropriate and sufficient training in assessment and evaluation, in accordance with state law and regulation.

### Reporting and Public Disclosure

In accordance with state law, the district will make aggregate information from the classroom teacher and building principal annual professional performance system available on the district website. This summary information will not include personally identifiable data.

Upon request from a parent or legal guardian, the district will provide the final quality rating and composite effectiveness score for each of the classroom teachers and for the building principal to which the student is assigned. The district will take reasonable steps to review the request to verify that the parent/guardian is entitled to the information. The Superintendent will develop procedures to implement this provision of the policy.

Cross-ref: 9140.1, Employee Complaints and Grievances  
9420, Staff Evaluation  
9160, Personnel Records  
9700, Staff Development

Ref: Education Law §3012-c  
8 NYCRR Subpart 30-2  
8 NYCRR § 100.2(o)(2) (Professional Performance Review Plans)  
*Guidance on New York State's Annual Professional Performance Review  
for Teachers and Principals to Implement Education law §3012-c and the  
Commissioner's Regulations, Updated, August 30, 2013*

Adoption date: June 18, 2014

## **COMPENSATION AND BENEFITS**

The Board of Education believes that the district's employees should receive fair compensation and benefits for the work they provide in serving the children of our community. To this end, the Superintendent of Schools shall be responsible for establishing and administering the compensation and benefits provided to the district's employees, consistent with collective bargaining agreements.

The Board and the school district will comply with all applicable federal and state laws that require minimum compensation, overtime and benefits be provided to certain employees.

### Determination of Employment Status

Before enrolling an individual in the district's compensation and benefits program, the district will determine the individual's employment status. In accordance with regulations issued by the State Comptroller and as set forth by the Internal Revenue Service, the Human Resources Coordinator will determine if the person is an employee and thus entitled to benefits. If the individual is not an employee based on the specified criteria, they will not be enrolled in any of the benefit programs offered by the district or the State. When the district hires an attorney, physician, engineer, architect, accountant or auditor as an employee and not an independent contractor, the Board of Education President must certify to the applicable New York State Retirement System the factors supporting that determination using the form prescribed by the State Comptroller.

The Board of Education President shall be responsible for reporting to the appropriate retirement system those individuals eligible for membership. This reporting shall take place at the time of an individual's employment, and at the intervals required by the appropriate retirement system.

### Employees Covered by Collectively Negotiated Agreements

The compensation and benefits (except for State Retirement System benefits) for employees who are represented by recognized or certified employee organizations are established by collectively negotiated agreements between the employee organizations and the district. The district will negotiate in good faith over these issues, as required by law, and will fully comply with the requirements of the Taylor Law and the applicable collectively negotiated agreements.

The Board reserves its right to approve all additional funding required by the provisions of a tentative collectively negotiated agreement, in addition to any right of ratification that is secured by the district's negotiation representative(s).

Employees Not Covered by Collectively Negotiated Agreements

The compensation and benefits for employees who are not represented by recognized or certified employee organizations shall be determined by the Board of Education upon the recommendation of the Superintendent.

Cross-ref: 6741, Contracting for Professional Services  
6800, Payroll Procedures  
9420, Recruiting and Hiring

Ref: Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), 42 USC §§ 300bb-1 *et seq.* (federal law that requires the continuation of health insurance benefits under certain circumstances)  
Fair Labor Standards Act (FLSA), 29 USC §§ 200 *et seq.* (federal law that requires a minimum wage and overtime for non-exempt employees)  
Family and Medical Leave Act of 1993 (FMLA), 29 USC §§ 2610 *et seq.* (federal law that requires an unpaid leave of absence for certain family and medical situations)  
Civil Service Law §§ 200 *et seq.* (“Taylor Law,” requires school districts to negotiate with unions)  
Education Law § 3005-b (requires a minimum sick leave allotment and accumulation for teachers)  
Local Finance Law § 2.00(5)(e) (designates Board of Education President as Chief Fiscal Officer)  
2 NYCRR Part 315.2 and 315.3 (criteria for determining employment status)

Adoption date: June 18, 2014

**COMPENSATION AND BENEFITS REGULATION  
EMPLOYMENT STATUS DETERMINATION**

When making a determination as to whether an individual should be classified as an employee or an independent contractor for purposes of receiving district compensation and benefits, and specifically for reporting to the New York State Employees Retirement System, the district shall utilize the factors listed in the Comptroller's Regulations §315.3. Under § 315.2 of those regulations, the following definitions apply:

- a. Employee means an individual performing services for the district for which the district has the right to control the means and methods of what work will be done and how the work will be done.
- b. Independent Contractor means a consultant or other individual engaged to achieve a certain result who is not subject to the direction of the district as to the means and methods of accomplishing the result.

I. Employees

The following factors shall support a conclusion that an individual is an employee rather than an independent contractor:

- a. The district controls, supervises or directs the individual performing the services, not only as to result but as to how assigned tasks are to be performed;
- b. The individual reports to a certain person or department at the beginning or during each work day;
- c. The individual receives instructions as to what work to perform each day;
- d. The individual's decisions are subject to review by the district;
- e. The district sets hours to be worked;
- f. The individual works at established and fixed hours;
- g. The district maintains time records for the individual;
- h. The district has established a formal job description;
- i. The Board of Education formally created the position with the approval of the local civil service commission where necessary;
- j. The district prepares performance evaluations;
- k. The district requires that the individual attend training;
- l. The district provides permanent workspace and facilities (including, but not limited to, office, furniture and/or utilities);

- m. The district provides the individual with equipment and support services (including, but not limited to, computer, telephone, supplies and/or clerical assistance);
- n. The individual is covered by a contract negotiated between a collective bargaining unit and the district;
- o. The individual is paid salary or wages through the district's payroll system;
- p. Tax withholding and employee benefit deductions are made from the individual's paycheck; and
- q. The individual is entitled to fringe benefits (including, but not limited to, vacation, sick leave, personal leave, health insurance and/or grievance procedures), pursuant to the applicable collective bargaining agreement.

II. Independent Contractor

The following factors shall support a conclusion that an individual is an independent contractor rather than an: employee

- a. The individual has a personal employment contract with the district;
- b. The district pays the individual for the performance of services through the submission of a voucher;
- c. The individual is authorized to hire others, at the expense of the individual or a third party, to assist the individual in performing work for the district;
- d. The individual provides similar services to the public;
- e. The individual is concurrently performing substantially the same services for other public employers; and
- f. The individual is also employed or associated with another entity that provides services to the district by contract, retainer or other agreement.

When an individual is providing services to the district in the capacity of attorney, physician, engineer, architect, accountant or auditor, and is also a partner, associate (including an attorney in an "of counsel" relationship), or employee of another organization or entity that has a contract, retainer or other agreement to provide professional services to the district, it shall be presumed that the individual is an independent contractor and not an employee of the district.

Adoption date: June 18, 2014

## **FAMILY AND MEDICAL LEAVE**

Consistent with the federal Family and Medical Leave Act (FMLA) of 1993 as amended, the Board of Education recognizes the right of eligible employees to unpaid, job protected family and medical leave for up to twelve (12) workweeks during any twelve (12) month period. The Board shall ensure that all eligible employees who use such leave shall have their health benefits continued and shall be returned to an equivalent position according to established Board practices, policies and collective bargaining agreements.

To be eligible for FMLA an employee must have been employed for at least twelve months and have worked at least 1,250 hours during the prior twelve months.

FMLA leave shall be granted for the following reasons:

1. the birth and care of a newborn child of the employee;
2. the adoption or foster placement of a child;
3. to care for an employee's spouse, parent, or son or daughter with a serious health condition;
4. due to a serious health condition that makes the employee unable to perform the essential functions of the employee's job;
5. for a qualifying exigency as defined in law and regulation, arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty).

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a total of 26 workweeks of unpaid, job protected leave in a single 12-month period to care for the service member who is seriously ill or injured in the line of duty.

An employee may elect, or the district may require, an employee to use accrued paid vacation, personal or family leave for purposes of an FMLA leave. An employee may elect, or the district may require, an employee to use accrued vacation, personal, or medical/sick leave for purposes of a medical leave.

The employee shall notify the district of his/her request for leave, if foreseeable, at least 30 days prior to the date when the leave is to begin. If such leave is not foreseeable then the employee shall give such notice as is practical. The district may require a certification from a health care provider if medical leave is requested. When an employee returns following a leave, he/she must be returned to the same or equivalent position of employment. The Superintendent of Schools or designee may reassign a teacher consistent with the teacher's agreement to a different grade level, building or other assignment consistent with the employee's certification and tenure area.

The Board shall ensure that FMLA is provided to all eligible employees, unless they are covered by a collective bargaining agreement, which provides greater leave benefits than this Act.

The district shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of the Family and Medical Leave Act, including information concerning enforcement of the law.

Ref: 29 U.S.C. §§ 207, 2601, 2611, 2612, 2613, 2614, 2618, 2619.  
29 CFR §§ 825.110, 825.309, 825.600, 825.603, 825.800.

Adoption date: June 18, 2014

## **FAMILY AND MEDICAL LEAVE REGULATION**

Consistent with the federal Family and Medical Leave Act of 1993 (FMLA) as amended, the Board of Education shall provide up to twelve (12) workweeks of unpaid, job protected leave in a twelve (12) month period for its eligible employees. In addition, FMLA provides eligible employees with 26 workweeks of leave in a single 12 month period to care for a covered service member with a serious illness or injury incurred in the line of duty.

An eligible employee must have been employed for at least twelve months, have worked at least 1,250 hours during the prior twelve months, and be employed at a worksite where at least 50 employees are employed by that employer within a 75 mile radius of that worksite.

### *Right to Benefits During Leave*

An eligible employee is entitled to a total of twelve workweeks of unpaid, job protected family and medical leave. Any employee who uses the unpaid, job protected leave shall have his/her health benefits continued during the leave, shall not have any previously accrued benefits altered and shall be returned to an equivalent position according to established Board policies and collective bargaining agreements. The employee is not entitled to accrue seniority during the leave.

An employee may elect, or the district may require, an employee to use available paid leave time for purposes of a family or medical leave. However, an employee may only use accrued paid leave in accordance with the applicable collective bargaining agreement.

### *Family and Medical Leave*

Family leave is available when a child is born to the employee, adopted by an employee or one is placed with the employee for foster care. Medical leave is available in order for the employee to take care of a spouse, child, parent who has a serious health condition, when the employee has a serious health condition rendering him/her unable to perform the functions of the employee's job. Military caregiver leave is available to employees who are family members of covered service members with a serious illness or injury incurred in the line of duty on active duty. Additionally, this applies to covered veterans who require care and have been other than dishonorably discharged from service within the last five (5) years.

Military caregiver leave is a special entitlement that allows the employee to extend FMLA leave to 26 workweeks. Qualifying exigency leave is available to employees when a family member is notified of impending call or called to active duty.

A child shall include any individual whether biological, adopted, a foster child, a stepchild, a legal ward, or a child standing in loco parentis who is under eighteen years of age or, if over eighteen, is incapable of self-care due to a mental or physical disability. A parent shall include the biological parent of the employee or an individual who stood in loco parentis to the employee when he/she was a child. Next of kin shall mean the nearest blood relative other than spouse, parent, son, daughter, as defined in federal regulation.

A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Family leave must be taken within one year of the birth or placement of the employee's child. If both spouses are employed by the district, the combined amount of leave for family leave or medical leave may be limited to twelve weeks.

#### *Notice to Take Leave*

The employee shall notify the district of his/her request for family or medical leave at least 30 days prior to the date when the leave is to begin, when such leave is foreseeable. If such leave is not foreseeable then notice shall be given as early as is practical. If the employee requests medical leave, reasonable attempts shall be made to schedule treatment so as not to disrupt the district's operations.

Employees, absent unusual circumstance, must comply with the district's usual and customary notice and procedural requirements for requesting leave.

#### *Intermittent Leave*

An employee, who requests family leave, shall not be provided intermittent leave or a reduced leave schedule unless the employee and district mutually agree. Intermittent leave may be provided for medical leave, however, the district may transfer the employee to a comparable position if it will better accommodate such intermittent periods of leave. For instructional employees who request medical leave and it is foreseeable that the medical treatment shall cause the employee to be on leave for more than 20% of the total number of working days in the period of leave, the district may require the employee to take a block of time or to transfer to an equivalent position for which the employee is qualified, but which better accommodates intermittent periods of leave.

#### *Military Leave: Leave Related to Active Duty or a Call to Active Duty*

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on active duty or has been notified of an impending

call to active duty is foreseeable, the employee shall give such notice to the district as soon as is reasonable and practicable.

The School Board may require that a request for leave because of a qualified exigency arising from the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call to active duty be supported by a certification issued in accordance with regulations.

#### *Certification*

The district may require the employee requesting medical leave to present a certification from the health care provider of the person for whom the employee is taking the leave. Upon request by the district, the employee must provide the certification within 15 days. The certificate shall include:

1. the date on which the serious health condition commenced;
2. the probable duration of the condition;
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition;
4. a statement that the employee is needed to care for the family member and an estimate of the amount of time that such employee shall be needed or a statement that the employee is unable to perform the functions of the employee's position; and
5. the dates and duration of medical treatment if the request for intermittent leave is for a planned medical treatment.

If the district doubts the validity of the certification, then, at the district's expense, a second opinion may be required from a health care provider selected by the district. The school physician cannot give this opinion. If the two opinions conflict, a third health care provider, at the district's expense, may be chosen by the two parties to render a final opinion.

#### *Restoration*

An instructional employee, who begins any type of leave at least five (5) weeks before the end of an academic term, may be required not to return until the new term begins if the leave is at least three (3) weeks long and the employee would return during the last three (3) weeks of the term.

An instructional employee who begins leave, for any purpose other than personal illness, less than three (3) weeks prior to the end of the term and the leave is longer than five (5) working days, may be required not to return until the new term begins.

*Failure to Return*

The district may recover the health care premiums paid during the leave if the employee fails to return from the leave. However, recovery cannot occur if

the employee fails to return because of the continuation, recurrence, or onset of a serious health condition or due to circumstances beyond the control of the employee.

*Effect on Existing Laws or Agreements*

The Board shall ensure that family and medical leave, consistent with the Family and Medical Leave Act, is provided to all eligible employees, whether or not they are covered by a collective bargaining agreement. Any collective bargaining agreement which contains greater leave benefits than this policy shall remain in force.

*Notice of Policy*

The district shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of the Family and Medical Leave Act, including information concerning enforcement of the law.

Adoption date: June 18, 2014

### STAFF-STUDENT RELATIONS (FRATERNIZATION)

The Board of Education requires that all School District employees maintain a professional, ethical relationship with students that is conducive to an effective, safe learning environment. Staff members should act as role models for students at all times, whether on or off school property, both during and outside of school hours, and when using publicly accessible electronic and social media. Staff must establish appropriate personal boundaries with students and not engage in any behavior that could reasonably lead to even the appearance of impropriety or offering an unfair advantage to an individual student.

Staff members are prohibited, under any circumstances, to date or engage in any improper fraternization or undue familiarity with students, regardless of the student's age and/or regardless of whether the student may have "consented" to such conduct. Further, employees shall not entertain students or socialize with students in such a manner as to create the perception that a dating relationship exists. Similarly, any action or comment by a staff member which invites romantic or sexual involvement with a student is considered highly unethical, in violation of District policy, and may result in the notification of law enforcement officials, the State Education Department and/or Child Protective Services and the filing of criminal charges and/or disciplinary action by the District up to and including termination of employment.

Inappropriate employee behavior includes, but is not limited to, flirting; making suggestive comments; dating; requests for sexual activity; giving inappropriate personal gifts; providing alcohol or drugs to students; inappropriate touching; engaging in sexual contact and/or sexual relations; private or frequent personal communication with a student (via phone, e-mail, social media, letters, notes, etc.) unrelated to course work or official school matters. In order to avoid the perception of impropriety, electronic communications should not take place via private accounts, but should only occur in group or public forums that can be monitored by other adults. E-mail communications should be through the District's email system.

This policy applies regardless of whether the student or the school employee initiated the behavior, and whether or not the student welcomes the behavior and/or reciprocates the attention. Inappropriate fraternization of staff with students (regardless of the student's age or gender) is against District policy and may be in violation of professional standards of conduct and New York State Law. However, inappropriate employee conduct does not need to rise to the level of criminal activity for such conduct to be in violation of District rules and subject to appropriate disciplinary sanctions.

Any student who believes that he/she has been subjected to inappropriate staff behavior as enumerated in this policy, as well as students, school employees, parents or others who have knowledge of or witness any possible occurrence of inappropriate staff-student relations, shall report the incident to any staff member or either the employee's supervisor, the student's principal or the District's designated complaint officer. In all events such reports shall be forwarded to the designated complaint officer for further investigation. Anonymous complaints of inappropriate fraternization of staff members with students shall also be recorded and investigated as appropriate by the District. Investigations of allegations of inappropriate staff-student relations shall follow the procedures utilized for complaints of harassment within the School District. Allegations of inappropriate staff-student behavior shall be promptly investigated and will be treated as confidential and private to the extent possible within legal constraints.

**#9610**

Any employee having knowledge of or reasonable suspicion that another employee may have engaged in inappropriate conduct with a student that may constitute child abuse (specifically, child abuse in an educational setting) must also follow the District's reporting procedures for such allegations; and such information will be reported by the designated administrator as required by state law to law enforcement officials, the State Education Department and/or Child Protective Services as may be applicable.

If a student initiates inappropriate behavior toward a staff member, that employee shall document the incident and report it to his/her building principal or supervisor.

The District shall promptly investigate all complaints of inappropriate staff-student relations, according to the appropriate policy, regulation or law, and take prompt corrective action to stop such conduct if it occurs.

The Board of Education prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of allegations of inappropriate staff-student relations.

The District's policy (or a summary thereof) shall be disseminated as appropriate to staff, students, parents and volunteers. Further, this topic shall be addressed in the District Code of Conduct.

References: 0110 Sexual Harassment 5460 Suspected Child Abuse and Maltreatment 9620 Suspected Child Abuse By District Personnel

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq. Education Law Article 23-B Social Services Law Sections 411-428 8 New York Code of Rules and Regulations (NYCRR) Part 83 Civil Service Law Section 75 Education Law §3020-a. Disciplinary procedures and penalties

Adopted: September 17, 2014

## **CHILD ABUSE IN AN 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 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
- school board member

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

### Definitions

“Educational setting” means the buildings and grounds of the district, the vehicles provided by the district to transport 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 and volunteer and a child has allegedly occurred.

“Child” means a person under the age of 21 enrolled in a New York State school district, other than New York City.

“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.

### 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).

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.

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 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 \$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 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 all the elements specified in Commissioner's regulations.

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: June 18, 2014

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

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

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

<b>ALLEGED PERPETRATOR (EMPLOYEE OR VOLUNTEER)</b>
Name _____ School District _____
School Building _____ School Position _____

<b>SPECIFIC ALLEGATION</b>
Use this space to provide information to describe or explain the circumstances surrounding the allegation. (attach additional sheets if necessary)

<b>REPORTER INFORMATION</b>
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 _____

<b>FOR ADMINISTRATOR USE ONLY</b>	<b>FOR SUPERINTENDENT OF SCHOOL USE ONLY</b>
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

Definitions 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 235 of the Penal Law.
2. “Child” shall mean a person under the age of 21 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, 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 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.

Adoption date: June 18, 2014

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

The law imposes reporting requirements on teachers, administrators, school nurses, school guidance counselors, school psychologists, school social workers, school board members and all other school personnel required to hold a teaching or administrative license or certificate. When these employees receive an allegation of child abuse by an employee or volunteer in an educational setting, they must take the following steps:

- a. Upon receipt of an oral or written allegation of child abuse in an educational setting, the employee must promptly complete the “Child Abuse in an Educational Setting” report form (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 (8NYCRR §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.

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 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.

Adoption date: June 18, 2014

**DISCLOSURE OF WRONGFUL CONDUCT  
(Whistleblower Policy)**

The Board of Education expects officers and employees of the district to fulfill the public's trust and to conduct themselves in an honorable manner, abiding by all district policies and regulations and by all applicable state and federal laws and regulations.

However, when district officers or employees know or have reasonable cause to believe that serious instances of wrongful conduct (e.g., mismanagement of district resources, unethical behavior, violations of law or regulation, and/or abuse of authority) have occurred, they should report such wrongful conduct to the Board or one of its designated officers.

For purposes of this policy, the term "wrongful conduct" shall be defined to include:

- theft of district money, property, or resources;
- misuse of authority for personal gain or other non-district purpose;
- fraud;
- actions that compromise the security and integrity of the district's or state's testing program;
- violations of applicable federal and state laws and regulations; and/or
- serious violations of district policy, regulation, and/or procedure.

Disclosure and Investigation

Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred shall report such mismanagement, fraud or abuse to the Superintendent of Schools, the School Attorney or the Independent Auditor. Each of these Board-designated officers, upon receiving a report of alleged wrongful conduct, shall take immediate steps to conduct an investigation.

Staff members who suspect that a violation of state testing procedures has occurred by a certified educator, or non-certified individual involved in the state testing program, must report their concerns to the State Education Department (SED) in the manner prescribed by the Commissioner of Education, and must also report concerns to the Superintendent or Board of Education. Any Building Principal receiving such a report shall relay this information to the Superintendent.

The Superintendent, School Attorney or the Independent Auditor shall maintain a written record of the allegation, conduct an investigation to ensure that the appropriate unit (auditors, police, SED, etc.) investigates the disclosure, and notify the Board when appropriate to do so.

Except as otherwise provided in either state and/or federal law, the Board-designated officer shall make all reasonable attempts to protect the identity of the employee making the disclosure in a confidential manner, as long as doing so does not interfere with conducting an investigation of the specific allegations or taking corrective action.

The district shall not take adverse employment action against an employee who has notified the district of wrongdoing, allowing the district the opportunity to investigate and correct the misconduct. The district shall not take adverse action against an employee who has reported misconduct when mandated to do so by federal or state law or regulation.

#### Complaints of Reprisal

An employee who has been subject to an adverse employment action based on his or her prior disclosure of alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the Board President. The Board President, or his/her designee, will review the complaint expeditiously to determine:

- whether the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken;
- whether the responding party could reasonably have been construed to have had knowledge of the disclosure and the identity of the disclosing employee;
- whether the complainant has in fact suffered an adverse employment action after having made the disclosure; and
- whether the complainant alleges that adverse employment action occurred as a result of the disclosure.

If the designee determines that all of the above elements are present, he or she shall appoint a review officer or panel to investigate the claim and make a recommendation to the Board. At the time of appointment, the designee shall inform the complainant and the respondent, in writing, of:

- the intent to proceed with an investigation;
- the specific allegations to be investigated;
- the appointment of the review officer or panel; and
- the opportunity of each party to support or respond, in writing, to the allegation.

Once the review officer or panel has conducted a review and considers the investigation to be complete, the officer or panel will notify the designee of its completion. From the date of that notice, the review officer has 30 days to report his or her findings and make any recommendations he or she deems appropriate to the designee. The designee, in conferral with the appropriate administrator shall issue a letter of findings to both the complainant and the respondent.

The decision of the review officer or panel is binding.

Nothing in this policy is intended to interfere with legitimate employment decisions.

The Superintendent of Schools shall establish regulations necessary to implement this policy.

This policy and accompanying regulations shall be published in employee handbooks, posted in employee lounges and given to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

The Superintendent of Schools, the Auditor, the School Attorney and others involved in implementing this policy shall meet with the Board once a year to evaluate the effectiveness of this policy and to make appropriate adjustments, if any, to the policy and accompanying regulations.

Ref: Civil Service Law §75-b  
Labor Law §740  
8 NYCRR §§102.3, 102.4 (testing misconduct)  
*Garrity v. University at Albany*, 301 A.D. 2d 1015 (3<sup>rd</sup> Dept. 2003) (Article 75-b protections only apply if employee first discloses wrongdoing to employer, allowing for investigation and correction prior to disclosure to outside agencies)  
*Matter of Brey v. Bd. of Educ.*, 245 A.D. 2d 613 (3<sup>rd</sup> Dept. 1997) (termination based on work deficiency, not retaliation)

Adoption date: July 7, 2015

## STAFF DEVELOPMENT

The Board of Education believes that staff training and development help ensure the success of educational programs and improve the efficiency of the district. Therefore, the district will provide development opportunities to staff to increase their effectiveness and job performance. The Superintendent of Schools shall be responsible for implementing and administering staff development programs for the district's employees.

### Administrators

All administrators in the school district will receive appropriate training and professional development in accordance with law, regulation or any applicable collective bargaining agreement. The Superintendent will be responsible for providing such training and development.

### Teachers

All teachers will be provided with substantial professional development opportunities directly related to student learning in accordance with any applicable collective bargaining agreement and the district's Professional Development Plan. The plan shall include:

- A needs analysis, goals, objectives, strategies, activities and evaluation standards for professional development in the district and a description of how the district will provide all teachers substantial professional development activities directly related to student learning needs identified in school report cards and other sources.
- A description of how the professional development provided will align with New York standards and assessments, teacher capacities and student needs, including linguistic, cultural diversity and special needs. Activities must be articulated across grade levels and subject areas and show how they will be provided and measured in a continuous manner.
- A description of how it will provide teachers holding a professional certificate with opportunities to maintain their certificate in good standing by successfully completing 175 hours of professional development every five years.
- A mentoring program to provide support for new teachers in order to ease the transition from teacher preparation to practice, thereby increasing retention of teachers in the public schools, and to increase the skills of new teachers in order to improve student achievement.

The Superintendent shall establish a Professional Development Team to review and revise the district's Professional Development Plan annually. The Superintendent shall appoint members to the team at the first regular board meeting in September.

The Professional Development Team shall meet on or before October 1. The Superintendent or his/her designee will serve as the chair of the team and will be responsible for ensuring the timely review and revision of the district's Professional Development Plan.

The Professional Development Team will submit any recommended revisions to the Professional Development Plan to the Board as necessary. The Board will consider the recommendations at its first regular meeting thereafter. The Board may accept or reject the recommendations of the team in whole or in part. The Board may also request any additional information or data needed to evaluate the success of the program in achieving its objectives.

Any further changes in the plan must be submitted to the Board by June 1. The Board will consider and act on the revised plan by August 31<sup>st</sup>. The Board reserves the right to make changes to the revised plan.

#### Other Professional Staff and Support Staff

The district will provide staff development activities for other professional staff and support staff within the financial constraints of the district budget and in accordance with applicable collective bargaining agreements.

#### Other Staff Development Opportunities

The Board recognizes that many staff development opportunities are provided through non-school district sources. Within budgetary restraints, district employees may attend conferences, workshops, study councils, in-service courses, summer study grants, school visitations, and other relevant staff development opportunities.

Released time and reimbursement for such activities will be available upon approval of the Superintendent and in accordance with applicable collective bargaining agreements. The Superintendent may establish regulations pursuant to this policy to establish the circumstances under which such released time and reimbursement may be available. Staff members who attend such activities will be required to prepare a report or summary of the activity attended.

Cross-ref: 9420, Staff Evaluation

Ref: Education Law § 3604(8) (Superintendent conference days)  
8 NYCRR §100.2(dd) (Professional Development Plans)  
8 NYCRR §100.2(o)(2)(iii)(b)(5) (required training on conducting staff evaluations)

Adoption date: June 18, 2014