

STATE OF NEW YORK

8485

2017-2018 Regular Sessions

IN ASSEMBLY

June 16, 2017

Introduced by M. of A. NOLAN, GUNTHER, THIELE -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to child abuse in an educational setting

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 2, 3, 4, 5 and 6 of section 1125 of the educa-
2 tion law, subdivisions 2, 3, 4 and 6 as added by chapter 180 of the laws
3 of 2000 and subdivision 5 as amended by section 1 of part E of chapter
4 501 of the laws of 2012, are amended to read as follows:

5 2. "Child" shall mean a person under the age of twenty-one years
6 enrolled in a school district or public school, including a charter
7 school, private school, including an approved private 853 school estab-
8 lished under chapter eight hundred fifty-three of the laws of nineteen
9 hundred seventy-six, state supported school and state operated school,
10 special act school district as defined in section four thousand one of
11 this chapter or board of cooperative educational services in this
12 state~~[, other than a school district within a city having a population~~
13 ~~of one million or more]~~.

14 3. "Employee" shall mean any person receiving compensation from a
15 school district or public school, including a charter school, private
16 school, including an approved private 853 school established under chap-
17 ter eight hundred fifty-three of the laws of nineteen hundred seventy-
18 six, state supported school and state operated school, special act
19 school district as defined in section four thousand one of this chapter
20 or board of cooperative educational services, or any person or entity
21 which contracts with a school district, charter school, private school,
22 special act school district or board of cooperative educational services
23 to provide transportation to children, or employee of a contracted
24 service provider or worker placed within the school under a public
25 assistance employment program, pursuant to title nine-B of article five

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 of the social services law, and consistent with the provisions of such
2 title for the provision of services to such district, its students or
3 employees, directly or through contract, whereby such services performed
4 by such person involve direct student contact.

5 4. "Volunteer" shall mean any person, other than an employee, who
6 provides services to a ~~[school or]~~ school district or public school,
7 including a charter school, private school, including an approved
8 private 853 school established under chapter eight hundred fifty-three
9 of the laws of nineteen hundred seventy-six, state supported school and
10 state operated school, special act school district as defined in section
11 four thousand one of this chapter or board of cooperative educational
12 services, or any person or entity which contracts with a school
13 district, charter school, private school, special act school district or
14 board of cooperative educational services to provide transportation to
15 children, which involve direct student contact.

16 5. "Educational setting" shall mean the building and grounds of a
17 public school district or public school, including a charter school,
18 private school, including an approved private 853 school established
19 under chapter eight hundred fifty-three of the laws of nineteen hundred
20 seventy-six, state supported school and state operated school, special
21 act school district as defined in section four thousand one of this
22 chapter or board of cooperative educational services, the vehicles
23 provided directly or by contract by the school district or public
24 school, including a charter school, private school, including an
25 approved private 853 school established under chapter eight hundred
26 fifty-three of the laws of nineteen hundred seventy-six, state supported
27 school and state operated school, special act school district as defined
28 in section four thousand one of this chapter or board of cooperative
29 educational services for the transportation of students to and from
30 school buildings, field trips, co-curricular and extra-curricular activ-
31 ities both on and off school district grounds, all co-curricular and
32 extra-curricular activity sites, and any other location where direct
33 contact between an employee or volunteer and a child has allegedly
34 occurred. ~~[Such term shall not include a special act school district as~~
35 ~~defined in section four thousand one of this chapter which shall be~~
36 ~~subject to article eleven of the social services law.]~~

37 6. "Administrator" or "school administrator" shall mean a principal
38 ~~[or]~~, or the equivalent title, in a public school, private school,
39 including an approved private 853 school established under chapter eight
40 hundred fifty-three of the laws of nineteen hundred seventy-six, state
41 supported school and state operated school, special act school district
42 as defined in section four thousand one of this chapter, charter school
43 or board of cooperative educational services, or other chief school
44 officer.

45 § 2. The opening paragraph of subdivision 1 of section 1126 of the
46 education law, as added by chapter 180 of the laws of 2000, is amended
47 and a new subdivision 1-a is added to read as follows:

48 In any case where an oral or written allegation is made to a teacher,
49 school nurse, school guidance counselor, school psychologist, school
50 social worker, school administrator, school board member or other school
51 personnel required to hold a teaching or administrative license or
52 certificate, as well as individuals employed by the public school or
53 private school to provide services to such school including licensed and
54 registered physical therapists, licensed and registered occupational
55 therapists, licensed and registered speech-language pathologists, teach-
56 er aides and school resource officers, that a child has been subjected

1 to child abuse by an employee or volunteer in an educational setting,
2 such person shall upon receipt of such allegation:

3 1-a. Any employee of a person or entity which contracts with a school
4 district, charter school, private school or board of cooperative educa-
5 tional services to provide transportation to children shall report or
6 cause a report to be made to such person or entity when such employee
7 knows or has reason to believe that any employee, former employee or
8 volunteer of the contracting person or entity subjected a child to child
9 abuse in an educational setting. In any case where an oral or written
10 allegation is made to a person or entity which contracts with a school
11 district, charter school, private school or board of cooperative educa-
12 tional services to provide transportation to children that a child has
13 been subjected to child abuse by an employee, former employee or volun-
14 teer in an educational setting, such person or entity shall upon receipt
15 of such allegation promptly complete a written report of such allegation
16 including the full name of the child alleged to be abused; the identity
17 of the person making the allegation and their relationship to the
18 alleged child victim; the name of the employee, former employee or
19 volunteer against whom the allegation was made; and a listing of the
20 specific allegations of child abuse in an educational setting. Such
21 written report shall be in the form as prescribed in section eleven
22 hundred thirty-two of this article, and shall be personally delivered to
23 the school district superintendent or the administrator in a private
24 school or charter school or in the event that the employee against whom
25 the allegation is made is the superintendent or the administrator, to
26 another administrator designated by the private school or charter school
27 for reporting purposes under this subdivision.

28 § 3. The opening paragraph of section 1128 of the education law, as
29 added by chapter 180 of the laws of 2000, is amended to read as follows:

30 Upon receipt of a written report described in paragraph (a) of subdi-
31 vision one or subdivision one-a of section eleven hundred twenty-six of
32 this article alleging that a child has been abused in an educational
33 setting, a school administrator or superintendent shall where there is a
34 reasonable suspicion to believe that an act of child abuse has occurred:

35 § 4. Subdivision 1 of section 1128-a of the education law, as added by
36 chapter 180 of the laws of 2000, is amended to read as follows:

37 1. Where a superintendent of schools forwards to law enforcement a
38 report as described in paragraph (a) of subdivision one or subdivision
39 one-a of section eleven hundred twenty-six of this article, he or she
40 shall refer such report to the commissioner where the employee or volun-
41 teer alleged to have committed an act of child abuse as defined in this
42 article holds a certification or license issued by the department.

43 § 5. Section 1132 of the education law is amended by adding a new
44 subdivision 3 to read as follows:

45 3. Notwithstanding any other provision of law, the commissioner shall
46 require that all persons employed by a registered private school or
47 charter school in titles equivalent to a teacher or administrator as
48 defined in the regulations of the commissioner, on or after July first,
49 two thousand eighteen, to have completed two hours of coursework or
50 training regarding the identification and reporting of child abuse and
51 maltreatment. The coursework or training shall be obtained from an
52 institution or provider which has been approved by the department to
53 provide such coursework or training. The coursework or training shall
54 include information regarding the physical and behavioral indicators of
55 child abuse and maltreatment and the statutory reporting requirements
56 set out in sections four hundred thirteen through four hundred twenty of

1 the social services law, including but not limited to, when and how a
2 report must be made, what other actions the reporter is mandated or
3 authorized to take, the legal protections afforded reporters, and the
4 consequences for failing to report. Each employee in such titles shall
5 provide the chief of the private school or charter school with documen-
6 tation showing that he or she has completed the required training. The
7 department shall be authorized to request such records on a periodic
8 basis and may publish a list of any persons, private schools or charter
9 schools who are not in compliance with this subdivision on its website.

10 § 6. Subdivision 3 of section 1133 of the education law, as added by
11 chapter 180 of the laws of 2000, is amended to read as follows:

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

17 § 7. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law.