

STATE OF NEW YORK

7372

IN SENATE

January 10, 2018

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

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
26 of the social services law, and consistent with the provisions of such
27 title for the provision of services to such district, its students or

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

LBD13199-01-7

1 employees, directly or through contract, whereby such services performed
2 by such person involve direct student contact.

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

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

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

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

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

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

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

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

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

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

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

43 3. Notwithstanding any other provision of law, the commissioner shall
44 require that all persons employed by a registered private school or
45 charter school in titles equivalent to a teacher or administrator as
46 defined in the regulations of the commissioner, on or after July first,
47 two thousand eighteen, to have completed two hours of coursework or
48 training regarding the identification and reporting of child abuse and
49 maltreatment. The coursework or training shall be obtained from an
50 institution or provider which has been approved by the department to
51 provide such coursework or training. The coursework or training shall
52 include information regarding the physical and behavioral indicators of
53 child abuse and maltreatment and the statutory reporting requirements
54 set out in sections four hundred thirteen through four hundred twenty of
55 the social services law, including but not limited to, when and how a
56 report must be made, what other actions the reporter is mandated or

1 authorized to take, the legal protections afforded reporters, and the
2 consequences for failing to report. Each employee in such titles shall
3 provide the chief of the private school or charter school with documen-
4 tation showing that he or she has completed the required training. The
5 department shall be authorized to request such records on a periodic
6 basis and may publish a list of any persons, private schools or charter
7 schools who are not in compliance with this subdivision on its website.

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

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

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