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:

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

2. "Child" shall mean a person under the age of twenty-one years enrolled in a school district **or public school, including a charter school, private school, including an approved private 853 school established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, state supported school and state operated school, special act school district as defined in section four thousand one of this chapter or board of cooperative educational services** 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 public school, including a charter school, private school, including an approved private 853 school established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, state supported school and state operated school, special act school district as defined in section four thousand one of this chapter or board of cooperative educational services, or any person or entity which contracts with a school district, charter school, private school, special act school district or board of cooperative educational services to provide transportation to children,** 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

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

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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 **or public school, including a charter school, private school, including an approved private 853 school established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, state supported school and state operated school, special act school district as defined in section four thousand one of this chapter or board of cooperative educational services, or any person or entity which contracts with a school district, charter school, private school, special act school district or board of cooperative educational services to provide transportation to children**, which involve direct student contact.

5. "Educational setting" shall mean the building and grounds of a public school district **or public school, including a charter school, private school, including an approved private 853 school established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, state supported school and state operated school, special act school district as defined in section four thousand one of this chapter or board of cooperative educational services**, the vehicles provided **directly or by contract** by the school district **or public school, including a charter school, private school, including an approved private 853 school established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, state supported school and state operated school, special act school district as defined in section four thousand one of this chapter or board of cooperative educational services** 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. [~~Such term shall not include a special act school district as defined in section four thousand one of this chapter which shall be subject to article eleven of the social services law.~~]

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

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

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

1-a. Any employee of a person or entity which contracts with a school district, charter school, private school or board of cooperative educational services to provide transportation to children shall report or cause a report to be made to such person or entity when such employee knows or has reason to believe that any employee, former employee or volunteer of the contracting person or entity subjected a child to child abuse in an educational setting. In any case where an oral or written allegation is made to a person or entity which contracts with a school district, charter school, private school or board of cooperative educational services to provide transportation to children that a child has been subjected to child abuse by an employee, former employee or volunteer in an educational setting, such person or entity shall upon receipt of such allegation promptly complete a written report of such allegation including the full name of the child alleged to be abused; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee, former employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be in the form as prescribed in section eleven hundred thirty-two of this article, and shall be personally delivered to the school district superintendent or the administrator in a private school or charter school or in the event that the employee against whom the allegation is made is the superintendent or the administrator, to another administrator designated by the private school or charter school for reporting purposes under this subdivision.

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

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

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

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

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

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

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

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

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

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