Legal Responsibilities of Administrators as Mandated Reporters

Part II: Your Responsibility When Faced With Child Abuse in the Educational Setting

As discussed in last month’s article, child abuse is an unfortunate reality in our society. The only thing more distressing than making a hotline call on a parent or caregiver of a child is reporting child abuse that occurs in the educational setting. The New York State Legislature has explicitly settled the conduct required once you obtain knowledge of the alleged abuse and there is a reasonable suspicion that abuse has occurred.

Section 1126 of the New York State Education Law explicitly states that whenever an oral or written allegation is made that a child has been subjected to child abuse by an employee or volunteer in an educational setting, the person receiving the complaint must promptly complete a written report. This report shall contain the full name of the child, the name of the child’s parent(s), the identity of the person making the allegation and their relationship to the child, the name of the alleged abuser and their relationship to the child, and a listing of the allegations. The report must be on a specific form contained in Education Law §1132. As a matter of course, employing districts should have these forms readily available and provide training on this topic.

Once you receive a written report, or you have completed the report based on an oral allegation, and there is a reasonable suspicion to believe the abuse occurred, what you must do next is virtually the same. Whether the allegation is made by the child, the parent, or a third party, you must: (a) promptly notify the parent that an allegation of child abuse in an educational setting has been made and promptly provide the parent with a written statement setting forth parental rights, responsibilities, and procedures; (b) promptly provide a copy of such report to the superintendent; AND (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent. In situations where the allegation is raised by a third party, you must also take the intermediary step of ascertaining from the person making such report the source and basis for such allegations.

Any school administrator and or superintendent who reasonably and in good faith makes a report of allegations of child abuse in an educational setting or transmits such a report to a person or agency as required by law shall have immunity from civil liability. Remember the report must be done in good faith and you must have a reasonable suspicion that something happened. This does not mean that every report submitted must result in a finding of fault, but there must be a reasonable suspicion after a timely investigation and the form required by Education Law §1126(1)(a) must be filled out.

September Meeting of the Board of Regents

It will be a busy 2018-19 school year, if the September 2018 meeting of the Board of Regents is any indication of things to come. The two-day meeting saw the final adoption of regulations discussed in the spring and early summer, heard final recommendations from various task forces, and continued discussions on complex issues regarding the definition of equity and potential state aid requests. The following is a summary of the key topics or issues presented during the meeting.

Early Childhood

Final recommendations from the work of the Early Childhood Blue Ribbon Panel were presented to the Regents. The recommendations fall into three categories: Comprehensive Services for Children and Families, Strengthening the Early Childhood Workforce, and Statewide Support and Infrastructure. The recommendations provide the basis for significant changes and improvements in the field of early care and education. In order to enact the recommendations however, an anticipated cost of more than $59 million will be needed. Some of the recommendations include:

• Continue expansion of pre-kindergarten
• Full-day kindergarten
• Increase school leader certification requirement to include completion of eight hours each in special education, multilingual strategies, developmental appropriate practice, and trauma informed support.
• Develop concentrations in early childhood teacher certification.
• Conduct a cost validation per student of the actual cost of high quality pre-kindergarten programs for all four-year-olds.
• Implement a multi-agency comprehensive developmental screening process.
• Develop career pathway for early childhood educators.

The Board of Regents has named extraordinary educator Alhassan Susso, a high school social studies teacher at International Community High School in the Bronx, as the 2019 NYS Teacher of the Year.

“Alhassan Susso has overcome obstacles that might have forced other people to give up. From being one of the top 50 educators in the world, to now being the 2019 Teacher of the Year, Alhassan has earned each of the prestigious awards he has received,” Chancellor Rosa said. “Every day, he focuses on making the school-community connection that is critical to educating the whole child. From being named one of the top 50 educators in the world, to now being the 2019 Teacher of the Year, Alhassan has earned each of the prestigious awards he has received. I’m proud to honor this Bronx teacher as the Teacher of the Year.”

Susso, the 49th NYS Teacher of the Year, has been teaching at the International Community High School since 2012.

Susso, an immigrant from West Africa, lives in Poughkeepsie and commutes to the Bronx. He graduated with honors from the University of Vermont where he earned a BA in political science and History. He earned his MA in secondary education with a specialization in history from Bard College.

In the coming year, Susso will serve as an ambassador for teachers throughout the state and will be the NYS nominee for the National Teacher of the Year.

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SED recently released the 2018 3-8 ELA and math results. Because the 2018 tests were administered over two days the end of this three days as used to be done, SED does not believe it is fair to compare the 2018 results with prior year results. Despite an unwillingness to compare test scores, SED willingly highlighted the decrease in opt-out rates over the past few years. The 2018 opt-out rate was 18 percent, down from 19 percent the year before and 21 percent the year before that. The reduced opt-out rate prompted The Education Trust-New York (an affiliate of The Education Trust led by former commissioner and secretary of education, John King) to issue a statement wherein it stated that it was time to stop giving “disproportionate political sway” to parents who opt-out their children and focus on historical, undeservedly children. Regardless of whether one accepts the characterization of “disproportionate political sway,” the Education Trust-New York statement highlights a source of tension surrounding the state assessments. The opt-outs are seen as a largely suburban act of civil disobedience required in response to the use of state assessments, whereas The Education Trust-New York, a self-described advocate for students of color and those living in poverty, believes the assessments being utilized (among other measures) in teacher evaluations will help ensure that students of color and/or poverty will be taught by an effective teacher. This tension surrounding use of the federally mandated 3-8 ELA and math tests may come to a head in 2019. At the end of the 2018 legislative session a bill passed the assembly that would have de-linked the 3-8 assessments from teacher and principal evaluations and made the identification of the assessments used to establish a growth score negotiable. While certain regents supported this bill, SED opposed it. Despite the same bill having 55 sponsors in the Senate, Majority Leader Flanagan proposed a different bill, one that made the entirety of teacher and principal evaluations negotiable. However that bill also included a significant expansion of available charters, a poison pill that the assembly democrats would not swallow. As a consequence, nothing happened. The fact that nothing happened caused some to back to its earlier stated intention to revise the APPR, ideally before the self-imposed moratorium on the use of test scores in evaluations expires at the end of the 18-19 school year. Given the opposition of SED to the above-referenced assembly bill, I think it is reasonable to assume SED will construct an evaluation system that will still use the state assessments in teacher and principal evaluations, but we don’t know how or to what extent.

If the democrats take back the state senate, the bigger question might be whether the efforts of SED relative to the teacher and principal evaluation system will matter at all. From its very origins in 2010, the APPR system has been as much a political issue as an educational one.

Consequences of Narrowing the Curriculum

Sponsor Opinion Piece by Dr. Bruce H. Crowder, Senior Researcher, Educational Vistas, Inc.

With only a third of our students reading at a proficient level for the past twenty years based on the sampling of National Assessments of Educational Progress (NAEP) results, it is certainly time to examine what barriers are contributing to this critical area of learning. Also, NYS reading results are not that dissimilar. A recent NAEP review of the problem identifies a deep devotion to basic reading skills in the first seven years of elementary school with the elimination of diminution of subjects such as history, science, and the arts. This is not to say that basic reading skills are not essential, with the aim of students reading on level by grade three. However, it is most unlikely that students will acquire knowledge in other subject areas on their own while keeping in mind that state and national assessments use passages from history, science, and the arts. Federal legislation such as No Child Left Behind (2001) and its replacement, the Every Student Succeeds Act (2015) requires states to administer annual reading tests to student in grades three through eight and once in high school. Attached to the legislation are consequences if schools fail to boost reading scores. When these scores do not rise after third grade, there is a disincentive to bring history and science into the reading arena. In addition, there is a tendency to treat reading comprehension as a set of skills which it is not. It depends primarily on what readers already know. Without a common content, test designers provide students with passages on a variety of topics that most often have nothing to do with what they are learning in school. Students practice skills and strategies to “find a main idea” or “draw an inference,” rather than working with a text’s content. It’s the curriculum . . . ! The only way to improve students’ reading comprehension is an expanded curriculum with an emphasis on knowledge and key vocabulary taught by teaching history, science, literature, and the arts. Curricula will have to be revised, particularly at the elementary school level, to boost content learning and all that it does to expand a student’s thinking and experience.

References
National Assessment of Educational Progress (NAEP) From 1998 to 2018.

Dr. Bruce H. Crowder is a senior researcher for Education Vistas, Inc. His work is primarily focused on creating pathways for deeper learning for all students through a dynamic curriculum replete with strategic performance. Dr. Crowder may be reached at bcrowder@edvistas.com.

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Board of Regents

September Meeting of the Board of Regents continued from page 1

Chancellor Rosa stated that the work of the Blue Ribbon panel is a “call to action.” The panel’s work was a serious study on the current needs of the early care and education delivery system and will need to have a corresponding sense of urgency on the part of state agencies and the legislature to convert the call into action.

Further information on this item can be found by scanning the QR code.

180 Days of Instruction

The board enacted the last set of revisions to the 180 days of instruction regulations. The enacted regulations: clarify that:

• BOCES are not subject to the 180 days of instruction as that:

The board enacted the last set of revisions to the 180 days of instruction index below Level 1 or 2 and that have a participation rate of less than 95 percent. Another key change is that a CSI or TSI school, that has developed a participation rate improvement plan may exit those categories as long as the subgroup for which the plan was required is not performing at a Level 1 on the Weighted Average Achievement index.

Other revisions include:

• Changes to the minimum number required to calculate the Core Subjects Performance Level and Graduation rate.

• Establishment of the year 2020-21 as the year for which out-of-school suspensions will be included in the methodology that determines accountability status. Years 2018-2021 will be used to establish baseline and reporting of data.

• Strengthened language underscoring the need for meaningful participation from parents and secondary students in improvement plans.

• Revision of the Principal Support Report and Needs Assessment to reflect that the report includes a review of needs and support of the administrative team and not just principals.

• Expanded options for the participatory budget process and clarification of the amounts needed for outlying years.

Proposed Action on ESSA Regulations

The Board of Regents voted to amend the regulations implementing ESSA that were previously adopted as emergency action in June. The amendments were revised based upon recommendations from the field following the public comment period.

A key change to the regulations focuses on actions that may result should a school not meet the required 95 percent participation rate on state assessments. The regulatory revisions removed the commissioner’s authority to require that schools, that did not meet the 95 percent participation rate over a number of years, to set aside Title I funds. A second revision would now only require that a participation rate improvement plan be developed for schools that have a subgroup with a Weighted Average Achievement index below Level 1 or 2 and that have a participation rate of less than 95 percent. Another key change is that a CSI or TSI school, that has developed a participation rate improvement plan may exit those categories as long as the subgroup for which the plan was required is not performing at a Level 1 on the Weighted Average Achievement index.

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The revised regulations will again go out for public comment and come back to the Regents in December for possible adoption.

Further information on this item can be found by scanning the QR code.

A number of other regulatory actions were taken at the September meeting to include:

• Revision of regulations that would allow a teacher who holds the Transitional G certificate to obtain an initial certificate by completing 3 years of experience in the school district in which the teacher holds the Transitional G certificate. More information can be found at the following url: https://bit.ly/2Bl1Eo.

• Creating a pathway for candidates that have a graduate degree and at least two years of experience in postsecondary teaching in content areas, other than STEM, to obtain an initial certificate.

• Revisions to professional learning plans that describe how the district’s professional learning will be culturally responsive to the community that the district or BOCES serves, clarifies SED’s expectations regarding the measuring of the impact of professional learning, and includes how professional learning will be provided to staff other than teachers. More information can be found at https://bit.ly/2N6pcBi.

• Proposed regulations establishing P-20 partnerships for principal preparation programs. More information can be found at https://bit.ly/2ORENG.
We hope your school year got off to a great start!

The summer was a whirlwind – here are some highlights:

• For the first time, SAANYS ran three Professional Learning Summer Camps in three regions of the state. We were fortunate to work with three BOCES that hosted these well attended events: Capital Region, Nassau County, and Monroe II. The topics of student mental health and culturally responsive schools drew leaders in a variety of roles from around the state.

• The focus was on equity at the Diversity Symposium of Thought Leaders held at ‘goes’ Ithaca on July 30 and 31. Current President Joyce Carr, incoming president Dr. Regina Huffman, Corporate Services Director Debbie Taylor and I were invited to attend the conference and the wonderful kick-off barbecue held at the home of Dr. Luvelle Brown, one of the co-chairs. Over the two days of this engaging and thought provoking conference, we explored our own implicit biases and delved into topics ranging from culturally responsive classroom management to anti-bias hiring practices. We will share the learning around these topics in the year ahead, beginning with the fall issue of Vanguard magazine.

• SAANYS has developed a strong partnership with the Office of Children and Family Services (OCFS) and has had the opportunity to provide professional learning to their educational leaders who run centers for incarcerated youth over the 2017-2018 year. At the end of the series we were asked to develop a full-day symposium for approximately 200 teachers and leaders from the twelve facilities. The day, which was held at SUNY POLY, featured keynote speakers Dr. Danny Brassell and Dr. Lynette Tannis, who literally wrote the book on teaching incarcerated youth. The accent was on motivation and inspiration for the challenges ahead, and the day concluded with a (very!) spirited Facility Smackdown where each of the twelve locations had two minutes to share what makes them great. You had to be there, but trust me when I say that the songs, skits, videos, and raps that each group presented were inspiring and motivating in every sense of the word.

• SAANYS’ invitation to participate in the NYSED Professional Learning Team (PLT) resulted in the creation of resources to help principals and other school leaders across the state share the NYSED Next Generation Learning Standards in ELA and Math. A powerpoint, one page summary sheet, and an explanatory letter was created and distributed to school leaders around the state through BOCES district superintendents and SAANYS. We hope that these resources are helpful to our members.

In addition to an outstanding annual conference in Lake Placid, some plans taking shape include opportunities to delve more deeply into the idea of trauma informed schools as well as a focus on shifts to meet the needs of diverse learners andthreat assessment and school safety. We hope your school year got off to a great start!

For information on any SAANYS professional development event, contact Karen Bronson at kbronson@saanys.org.

SAANYS at: nyschoolsup.org
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Upda ted Edi tion
Available for Download!

School districts and BOCES may pursue employee termination for either disciplinary or for budgetary and programmatic reasons. This guidebook is designed to describe generally the legal processes involved in termination and members’ related legal rights.

Download a copy of the booklet at the following url:
http://bit.ly/2E3H0KJ

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Learning from and sharing with one another is the best possible way to grow professionally. SAANYS is fortunate to have a wide range of practitioners with proven expertise and experience to support your professional development needs. Let SAANYS help you plan everything from an administrative team meeting during the school day, to an after-school or full-day workshop, to an administrative retreat or superintendent’s conference day for you or your teachers. These are all options that can take shape with SAANYS PD Your Way. Visit https://saanys.org/professional-learning/pd-on-demand/ for more information.

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November 10, 2019 NASSP Assistant Principal Application Deadline
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Legal Responsibilities of Administrators as Mandated Reporters

Part II: Your Responsibility When Faced With Child Abuse in the Educational Setting  
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While procedures for what to do is a fairly standard matter, what constitutes “timely” or “reasonably and in good faith” is less clear. Luckily, the commissioner of education has issued decisions in cases on these topics to provide guidance. When in doubt call the SAANYS Legal Department for guidance on these gray areas.

In Appeal of a Student with a Disability, Dec. No. 15.367, (August 2009), an allegation of abuse of a student placed in an office by the agency was not appropriately documented or addressed for a period of approximately eight months. While the school district avoided liability based upon the parents’ failure to raise the issue within the statute of limitations, it was clearly established that an initial investigation must occur and all of the steps illustrated above must be completed within hours or days after the complaint is made, not weeks or months.

An example of the reasonable suspicion standard was addressed in the Appeal of S.S. on behalf of her son T.K., Dec. No. 14,852, (March 2003). In that matter, the superintendent conducted a thorough investigation into an improper restraint of a student and failed to fill out the statutory form within a matter of days, but the police were not informed based upon the statements of eyewitnesses. Further discussions between the parent and the district, including a meeting with the board of education, occurred and an official finding that no abuse occurred was issued by the superintendent within several weeks. It was at that time that the parent asked that the report be forwarded to the police, which it was. The parent filed an appeal with the commissioner alleging the district’s failure to provide her with a copy of the report and a written statement of her parental rights, responsibilities, and procedures. The district indicated that they did not need to supply her with the above as after an investigation there was no reasonable suspicion to believe that an act of child abuse had occurred. The commissioner agreed with the district, citing its compliance with filling out the report required by statute and the prompt investigation that followed. The commissioner went further to indicate that the district was not required to supply law enforcement with the report or a written statement of parental rights, responsibilities, and procedures to the parent as no reasonable suspicion existed. When in doubt call the SAANYS Legal Department for guidance on this additional gray area.

Penalties for failure to comply with Education Law §1128 are quite severe and could potentially involve a sentence of incarceration.

Penalties for failure to comply with Education Law §1128 are quite severe and could potentially involve a sentence of incarceration. Pursuant to Education Law §1128, willful failure of an employee to prepare and submit a written report of an allegation of child abuse as required by statute shall be a class A misdemeanor. Willful failure of a school administrator or superintendent to submit a written report of child abuse to an appropriate law enforcement authority shall be a class A misdemeanor. Further, any failure to submit a written report of child abuse to an appropriate law enforcement authority as required by law shall be punishable by a civil penalty not to exceed five thousand dollars upon an administrative determination by the commissioner. A class A misdemeanor could carry a sentence of one year if convicted.

The penalty for a district superintendent or school administrator are even more severe if they attempt to have an employee resign quietly in lieu of reporting the alleged abuse. Pursuant to Education Law §1133, a school administrator or superintendent shall not make any agreement or effort to withhold from law enforcement authorities, the superintendent or the commissioner, where appropriate, the fact that an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by law in return for their resignation or voluntary suspension. Any violation of this Section shall constitute a class E felony, and shall also be punishable by a civil penalty up to $20,000. Be very careful in these situations, always fill out the initial report and always notify the supervisor immediately. Always cover yourself and insulate yourself from any potential liability. And as always, contact the SAANYS Legal Department if in doubt.
SAANYS Award Winner
Selected to Participate on Microsoft’s K12 Advisory Board

Microsoft Corporation has selected Rochester City School District Chief Information Officer Annmarie Lehner to serve on Microsoft’s K12 Advisory Board. The Board includes approximately 30 members from across the United States, representing both large and small school districts. The mission of the K12 Advisory Board is to gain insights from leaders in the K12/Ed community to influence Microsoft’s products and services roadmap, with the goal to empower both educators and students alike to achieve more.

Lehner will serve on the K12 Advisory Board for at least a one-year term, with the potential to serve up to six years. As a board member, she is committed to the following:

- Working together as trusted partners within the education community to discuss and address school technology challenges in order to foster deeper relationships.
- Developing a forum to discuss educational challenges and how best to solve them with a focus on product solutions and pedagogy.
- Advocating member priorities to Microsoft leadership.

Lehner was the recipient of the SAANYS 2018 Leader in Digital Education Award. This award recognizes a SAANYS member who has demonstrated exceptional, creative leadership in harnessing the potential of technology to further teaching and student achievement. Lehner has implemented several innovative programs in the district, not the least of which is her mission to provide cost-free home internet access to low income families in the City of Rochester. Her tireless work in this area has since expanded beyond her initial focus, bringing together all the large urban districts across NYS, forming the Coalition for Upstate Broadband (CURB).
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KEY DATES
November 6, 2018: Student application deadline
November 16, 2018: Certification deadline
February 5, 2019: Announcement of state-level judging results
May 4-7, 2019: National recognition events in Washington, D.C.
Learn more at https://bit.ly/2DBPA6Z.

The Prudential Spirit of Community Awards honors middle level and high school students for making meaningful contributions to their communities through volunteer service.

Applications are now open for 2019 awards!

The Prudential Spirit of Community Awards program is the United States’ largest youth recognition program based exclusively on volunteer community service. Created in 1995 by Prudential and the National Association of Secondary School Principals (NASSP), the program honors middle level and high school students for outstanding service to others at the local, state, and national level. Thus far, it has recognized more than 125,000 young people who’ve made a difference and inspired countless others to consider how they might contribute to their communities.

Now through November 6, 2018, students in grades 5-12 are invited to apply if they have volunteered within the past year. Top honorees earn cash awards and all-expense-paid trips to Washington, D.C. Qualifying honorees also receive President’s Volunteer Service Awards.

Key Dates:
November 6, 2018: Student application deadline
November 16, 2018: Certification deadline
February 5, 2019: Announcement of state-level judging results
May 4-7, 2019: National recognition events in Washington, D.C.
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