

Special Education Fact Sheet

HOW TO REPORT VERBAL OR PHYSICAL ABUSE BY DEPARTMENT OF EDUCATION (DOE) STAFF AND OBTAIN INVESTIGATION INFORMATION

This fact sheet answers questions you as a parent or guardian might have about how to file a report when your child has been subjected to harassment, verbal abuse, physical abuse or use of physical force by a DOE staff member (such as teachers, paraprofessionals and administrators). This fact sheet will also explain how to obtain information about investigations of such reports from the DOE. For more detailed information, please refer to information provided by the Office of Special Investigations (OSI) on their website at:

<http://schools.nyc.gov/Offices/GeneralCounsel/Investigative/OSI/default.htm>.

If you believe your child has been subjected to verbal or physical abuse by DOE staff, NYLPI can provide you with assistance and advice s you try to get answers and protect your child's rights.

What is the Office of Special Investigations (OSI)?

The Office of Special Investigations (OSI) is a part of the New York City Department of Education (DOE). It investigates reports of incidents of inappropriate and unlawful behavior such as corporal punishment and verbal abuse against students in New York City Department of Education (DOE) schools.

What is Verbal Abuse?

Verbal abuse can be spoken or written. It can be said to your child or about your child to other people. The definition is broad and includes language that makes fun of or embarrasses your child, or makes it hard for him/her to participate in school or school sponsored activities. It includes language from an employee that could be expected to make the child fear of his or her safety or which could be expected to cause emotional harm. It also includes language which has or would affect your child's mental, emotional, or physical well-being or causes or can be expected to cause physical injury or emotional harm to your child.

Some statements are not only verbal abuse, they are also discriminatory. However, if a DOE employee makes statements directed to or about students which are discriminatory based on race, color, creed, ethnicity, religion, age, national origin, alienage/citizenship status, gender, weight, disability or sexual orientation, those statements are a violation of the DOE antidiscrimination policy and must be reported by any staff who hear them and must be investigated by the Office of Equal Opportunity and Diversity Management.

You can file a complaint regarding discrimination by calling the Office of Equal Opportunity and Diversity Management at 718-935-3320 or Toll-Free at 877-332-4845

What is Corporal Punishment?

Corporal Punishment can be any act of physical force used on your child for the purpose of punishment. In general, physical force will be considered to be corporal punishment and less the staff member is using it in self-defense, to protect someone else, to protect school property, or to restrain a child who is being disruptive and who doesn't respond to any other intervention. Whether something is corporal punishment or an appropriate restraint will always be a question of fact in the individual situation.

How do I report verbal abuse or corporal punishment by DOE staff against my child?

You can speak with the principal at your child's school, call OSI at (718) 935-3800, call 311 (outside of NYC call (212) 639-9675/ TTY (212) 504-4115), or visit https://www.nycenet.edu/offices/osi/CPR_Form/form.aspx to file a report online.

Do I need to have a witness in order to report verbal abuse or corporal punishment by DOE staff member against my child?

No. Although having a witness is helpful but there is no requirement to need a witness to file a report.

What kinds of information do I need to know to file a report?

You will need to provide as much detail as possible such as date and time of the incident, the name of the school where the incident took place, witness information if any, whether school personnel was notified, whether police was notified, name and title of the DOE staff member involved and nature of allegation (for example, verbal or physical).

Will my child's name and other information in the report be kept confidential?

Maybe. During the investigation, the accused DOE staff member may be given the opportunity to review witness statements but the accused DOE staff member must sign a privacy acknowledgement that he/she will not disclose the contents of the statements or retaliate against the authors of the statements. Most importantly, the law prohibits that staff member or anyone else from retaliating against your child for filing a complaint.

Who conducts the investigation when a report of verbal abuse or corporal punishment is made?

Allegations of verbal abuse are investigated either by OSI or the school where the incident took place. OSI informs the principal of the school whether OSI will conduct the investigation or whether the principal must conduct a School-Based Investigation (SBI).

What type of investigation is conducted when a report of verbal abuse or corporal punishment is made?

Whether the investigation is handled by OSI or is a SBI, OSI or the school’s principal must take the following measures:

- Separately interview your child and other student/staff witnesses and get written statements.
- Give the accused DOE staff 48-hour written notice of his/her right to appear with a union representative at any investigative interview.
- Meet with the accused DOE staff member and provide them with a description of the allegation of verbal abuse or corporal punishment and give the accused DOE staff member the opportunity to make a statement.
- Evaluate the information gathered and reliability of all witnesses (like your child and the accused DOE staff member).
- Keep a separate file for every complaint.

Will the DOE staff member be removed from the classroom setting/school during the investigation?

During the investigation the DOE staff member **may** be removed from assignment with students. OSI will recommend whether the DOE staff member should be removed pending completion of the investigation. If OSI doesn’t initially request removal, a principal may do so subject to review by Senior Field Counsel and Office of the General Counsel legal staff. It is important to know, however, that removing staff from contact with your child does not happen automatically and often, the principal will not take steps to protect the child and remove the staff. You should ask specifically during the investigation how your child will be protected.

How long does OSI or the principal when conducting a SBI have to respond to my report?

Exact time frames of the investigations may vary depending on the nature of the incident. Not much information is available on how long OSI investigations may take. However, for School-Based Investigations (SBI’s):

1. “Within 10 school days the principal must determine whether the complaint is substantiated (proven) or not, and must complete the Alleged Corporal Punishment and/or Verbal Abuse-Report of Investigation Form, explaining conclusions reached with respect to each allegation.
2. When SBI is complete, principals must scan or fax the completed and signed investigation report, along with interview notes, written statements and investigative findings to their assigned Senior Field Counsel. SBI’s are considered closed only after the principal receives confirmation from Senior Field Counsel.”
**See, Chancellor’s Regulations A-420 & A-421 for more details.*

How will I know that the investigation is complete? Will I receive a copy of the final investigation report?

Once an investigation is complete, the principal or their representative **must** inform the parent/guardian of the alleged victim (child) whether the allegations were or were not

substantiated (proven). The OSI or the school's principal do not have to provide an actual copy of the final report of the investigation to the parent/guardian.

What can I do if I do not receive any details regarding the investigation?

Contact the principal at your child's school or OSI.

Who do I contact to make other types of reports about a DOE staff member or DOE school?

The Office of the Special Commissioner of Investigation (SCI) handles a wide range of investigations related to misconduct in New York City Public Schools, to file a report with SCI, call (212) 510-1500.

TIPS

- **Keep a notebook**
 - **Record all phone conversations and in-person conferences and meetings**
 - **Keep all the papers you received from the DOE**
 - **Keep letters and envelopes**
 - **If documents are not dated, note the date you received the document on the back of the document or envelope**
- **Send all communications by certified mail or hand deliver them, asking the receiver to initial and date your copy**
- **Always**
 - **Keep a copy of everything you give to the DOE**
 - **take the name of the DOE person you're dealing with**
 - **If you can, get title, office, and detailed contact information**
 - **write it all down for future use**

THIS FACT SHEET GIVES ONLY GENERAL INFORMATION. IT IS NOT LEGAL ADVICE.