



## POLICY 5600

### PROTECTION OF MINORS ON CAMPUS

**Policy Category:** Students

**Area of Administrative Responsibility:** Academic Affairs

**Board of Trustees Approval Date:** February 14, 2017

**Effective Date:** February 15, 2017

**Amendment History:** N/A

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## PURPOSE

To ensure that individuals conduct themselves appropriately with children who participate in College-related programs and know their obligation to immediately address and report instances or suspicion of physical or sexual abuse of children.

## SCOPE

This policy is effective throughout the College and is also binding on third parties.

## DEFINITIONS

- A. **Covered Activity:** A program or activity sponsored or approved by Nassau Community College or by a College-affiliated organization, or an activity conducted by a vendor, licensee or permittee for which a license or permit for use of College facilities has been issued, occurring on or off campus, for the duration of which the responsibility for custody, control and supervision of children is vested in the College, College-affiliated organization or the vendor, licensee or permittee so utilizing College facilities. This policy is not applicable to the on-campus child care center, the Greenhouse.
- B. **Covered Person:** A person who is responsible for the custody, control or supervision of children participating in the Covered Activity and who is:

1. an employee of the College or employee of the College-affiliated organization (i.e., Nassau Community College Student Faculty Association, Nassau Community College Foundation, the NEST Food Pantry, etc.);
  2. a College student;
  3. a volunteer of the College or College-affiliated organization;
  4. a vendor, licensee, permittee or other person, who is given permission to come onto Campus or to use College facilities for Covered Activities; or
  5. an employee, agent or volunteer of (4) above.
- C. **Child:** An individual under the age of seventeen years, who is participating in a Covered Activity. The term “child” shall not include a matriculated student of the College or a person accepted for matriculation.
- D. **Children’s Camp:** A camp defined under New York Public Health Law §1392, a portion of which is reprinted below for reference:
1. **Summer Day Camp:** Shall mean a property consisting of a tract of land and any tents, vehicles, buildings or other structures that may be pertinent to its use, any part of which may be occupied on a scheduled basis at any time between June first and September fifteenth in any year by children under sixteen years of age under general supervision, primarily for the purpose of outdoor organized group activities, for a period of less than twenty-four hours on any day the property is so occupied, and on which no provisions are made for overnight occupancy by such children.
  2. **Traveling Summer Day Camp:** Shall mean a summer day camp which regularly operates in the period between May fifteenth and September fifteenth and which regularly transports children under the age of sixteen on a regular schedule to a facility, site, or property, including any tract of land, beach, park, stadium, building, tents or other structures pertinent to its use and primarily for the purposes of organized group activity.
- E. **Physical Abuse:** Physical contact with a child by a covered person which is intended to cause, or causes, pain or physical injury, including, but not limited to, punching, beating, shaking, throwing, kicking, biting and burning, or directing a child, outside the norm of the supervised activity, to perform physical activity which is intended to cause physical injury.
- F. **Sexual Abuse:** Engaging in a sexual offense with a child and/or encouraging or promoting sexual performance by a child. Pursuant to the NYS Penal Law Articles 130, 263, and Sections 260.10 and 260.25, sexual offenses include: sexual misconduct, rape, criminal sex acts, forcible touching, persistent sexual abuse, sexual abuse, aggravated sexual abuse, course of sexual conduct against a child, facilitating a sex offense with a controlled substance, sexually motivated felony, predatory sexual assault against a child, and sexual performance by a child. This also includes Penal Law offenses relating to children including endangering the welfare of a child and unlawfully dealing with a child in the first degree. Sexual performance by a child, as defined by the Penal Law, is any behavior which

results in touching of the sexual or other intimate parts of a child for the purpose of sexual gratification of the child and/or adult, including touching by the child and/or adult with or without clothing, and all acts as defined by New York State Penal Law Articles 130, 263 and Section 260.10.

- G. **Responsible College Official:** The employee of the College or College-affiliated organization, who has been designated by the College to oversee, organize, supervise and/or conduct Covered Activities involving minors.
- H. **College-affiliated Organization:** The Nassau Community College Foundation, the Nassau Community College Faculty Student Association, the Nassau Community College Alumni Association, the NEST Food Pantry, the Long Island Writing Project, or any other entity so designated by the College President.

## POLICY

Nassau Community College is committed to protecting the safety and well-being of children who participate in College-related programs and activities, whether on or off Campus, or utilize Campus facilities for activities including, but not limited to, sports camps, academic and personal enrichment programs and research studies.

### A. **Prohibited Conduct:**

Covered Person shall not:

1. Be alone with a child, unless the Covered Person is a relative or guardian of the child, unless one-on-one contact is approved in accordance with a determination made based on the factors listed below. In no event shall a Covered Person, who is not a relative or guardian of a child, be alone with the child in a rest room, locker room, shower, sleeping area or vehicle.
2. A Covered Person may be alone with a child in the event that pedagogical or health-related nature of the Covered Activity requires such one-on-one contact with a child. Examples include, but are not limited to, individual tutoring, music lessons, speech therapy, and medical services.
3. Engage in physical abuse or sexual abuse of a child.
4. Engage in the use of alcohol or illegal drugs, or be under the influence of alcohol or illegal drugs during Covered Activities.
5. Enable, facilitate or fail to address a child's use of alcohol or illegal/non-prescribed drugs.
6. Contact a child through electronic media, including social media, for the purpose of engaging in any prohibited conduct, including sexual conduct.
7. Offer or make a gift to a child for the purpose of engaging in any prohibited conduct, including sexual conduct.
8. Release a child from a Covered Activity without a written authorization from the child's parent or guardian. (Permission slips/waivers signed by the parent prior to activity, which addresses how a child may be released, and to whom, shall

constitute sufficient written authorization. This paragraph should not be interpreted to mean that a written authorization must be obtained for each day of the activity).

9. Leave a child unattended while waiting for a parent/guardian to pick them up, if the activity in question, based on the child's age and particular arrangement, requires a child to be picked up by a parent.

**B. Required Conduct:**

Covered Person shall:

1. Take all reasonable measures to prevent physical and sexual abuse of a child, including immediately removing a child from potential physical abuse, sexual abuse or prohibited conduct as defined herein.
2. Report immediately any suspected physical abuse or sexual abuse of a child to the Campus Public Safety Department, and provide to the Public Safety Department a written report of suspected physical or sexual abuse of a child. Other reporting requirements not addressed in this Policy may apply, such as the obligations of "mandated reporters" under New York Social Services Law, who are required to report suspected child abuse or maltreatment directly to the New York State Central Register of Child Abuse and Maltreatment when they are presented with a reasonable cause to suspect such abuse or maltreatment has occurred.
  - a. At the time of this policy's adoption, College faculty, administrators, athletic coaches, etc. were not specifically listed as "mandatory reporters" under New York Social Services Law.
  - b. However, if you are a "mandatory reporter", a report of suspected child abuse must be made to the following Mandated Reporter Hotline: 1-800-635-1522.
  - c. If you are not a "mandatory reporter" within the current definition of the law, you nevertheless may report suspected child abuse to the Public Hotline: 1-800-342-3720.
  - d. Regardless of your responsibilities under the State's Social Services Law, under this policy, you must report suspected abuse of a child to the Public Safety Department.
3. Complete all required training developed pursuant to this policy.
4. Wear and display prominently at all times during the Covered Activity a lanyard or a name tag which prominently describes the individual's title as it concerns the Covered Activity, or other form of identification that identifies the individual as having the responsibilities of a Covered Person.

**C. Responsible College Official:**

Responsible College Official shall:

1. Confirm that the requirements of this policy have been communicated to Covered Persons (1) – (3) prior to the commencement of a Covered Activity.

2. Confirm that New York Sex Offender Registry and National Sex Offender Public Registry searches (as described in Campus Responsibilities, below) have been obtained and reviewed for Covered Persons (1) – (3) prior to the commencement of a Covered Activity.
3. Confirm that the completed Acknowledgement of the College’s Protection of Minors on Campus Policy form has been obtained from Covered Persons (1) – (3) prior to the commencement of a Covered Activity.
4. Immediately report allegations of physical abuse or sexual abuse of a child to the Public Safety Department, and complete and provide to the Public Safety Department a written report for each allegation of physical abuse or sexual abuse of a child. Other reporting requirements not addressed in this policy may apply, such as the obligations of “mandated reporters” under New York Social Services Law, who are required to report suspected child abuse or maltreatment directly to the New York State Central Register of Child Abuse and Maltreatment when they are presented with a reasonable cause to suspect such abuse or maltreatment has occurred.
  - a. At the time of this policy’s adoption, College faculty, administrators, athletic coaches, etc. were not specifically listed as “mandatory reporters” under New York Social Services Law.
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  - c. If you are not a “mandatory reporter” within the current definition of the law, you nevertheless may report suspected child abuse to the Public Hotline: 1-800-342-3720.
  - d. Regardless of your responsibilities under the State’s Social Services Law, under this policy, you must report suspected abuse of a child to the Public Safety Department.
5. Notify and coordinate with appropriate Campus offices to ensure that allegations of suspected physical abuse or sexual abuse are addressed appropriately.
6. Confirm that required training on this policy has occurred prior to the commencement of a Covered Activity for all Covered Persons who are employees, volunteers, students or agents of the College or a College-affiliated organization.

**D. Campus Responsibilities:**

The College shall develop procedures to:

1. Designate a Responsible College Official for each Covered Activity.
2. Determine on a limited basis that the first sentence of Section (A)(1) of this policy, which prohibits a Covered Person from being alone with a child, shall not apply to certain Covered Activities when the pedagogical or health-related nature of the

Covered Activity requires such one-on-one contact with a child. Examples may include tutoring, music lessons, speech therapy, and medical services.

3. Communicate the requirements of this policy to Covered Persons (4) – (5).
4. Provide for and require training on this policy for all Covered Persons who are employees, volunteers, students or agents of the College or a College-affiliated organization prior to the commencement of a Covered Activity, and on a biannual basis thereafter.
5. Obtain New York Sex Offender Registry and National Sex Offender Public Registry searches for Covered Persons who are employees, volunteers, students or agents of the College or a College-affiliated organization and complete a review of such searches not more than ninety (90) days prior to the commencement of a Covered Activity
  - a. A search of the NY Sex Offender Registry means:
    - i. a search of the file of persons required to register pursuant to Article 6-C of the Correction Law maintained by the NY Division of Criminal Justice Services pursuant to NY Correction Law § 168-b for every level of sex offender (Level 1 through Level 3), which requires an email, CD or hard copy submission of names and identifiers to DCJS as described on the [DCJS website](http://www.criminaljustice.ny.gov/nsor/800info_cdsu_bmit.htm) [url: [http://www.criminaljustice.ny.gov/nsor/800info\\_cdsu\\_bmit.htm](http://www.criminaljustice.ny.gov/nsor/800info_cdsu_bmit.htm)]; and
    - ii. retention of the records of the results of such search. Note that an internet search alone will not meet the requirements of this policy.
  - b. A search of the National Sex Offender Public Registry means:
    - i. a search by first and last name of the National Sex Offender Public Website maintained by the United States Department of Justice at this link: <http://www.nsopw.gov/>; and
    - ii. retention of the records of the results of such search.
6. Provide for the prompt investigation and preparation of written findings by the Public Safety Department of reports of suspected physical abuse or sexual abuse, and if there is reasonable cause to believe a crime has been committed, coordination by the Public Safety Department with other law enforcement officials.
7. Provide a mechanism to report and respond to allegations of retaliation (as described below).
8. Retain documentation of the search results from the New York and National Sex Offender registries for Covered Persons who are employees, volunteers, students or agents of the College or a College-affiliated organization for six (6) years after the covered person has separated from employment.

**E. Retaliation:**

Retaliatory action against anyone acting in good faith, who has reported alleged physical abuse or sexual abuse in accordance with this policy, or who has been involved in investigating or responding to allegations of physical or sexual abuse, or who has reported a failure to comply with this policy, is a violation of this policy and may subject the individual responsible for retaliation to discipline. Retaliatory acts may include, but are not limited to:

1. employment actions affecting salary, promotion, job duties, work schedules and/or work locations;
2. actions negatively impacting a student's academic record or progress; and
3. any action affecting the Campus environment, including harassment and intimidation.

Any individuals who feel that they have been subjected to retaliation for reporting alleged abuse under this policy may bring a complaint to the Office of General Counsel. Such complaints will be investigated by the Office of General Counsel.

**F. Third Party Use of College Facilities:**

The use of College facilities by vendors, licensees or permittees for commercial and non-commercial Covered Activities shall be accomplished pursuant to a revocable permit. The following minimum terms shall be included in all such revocable permits:

1. A specific definition of the areas accessible to the Covered Activity. For example, revocable permits for sporting events held on athletic fields should include the athletic field, as well as any ancillary areas or structures where minors will be permitted, such as adjacent grounds, parking lots, rest rooms, locker rooms, accessory structures, etc.
2. A provision requiring insurance coverage in the types and amounts listed below, naming Nassau Community College as an additional insured, and requiring that evidence of such insurance be provided to the College within five (5) business days of execution of the revocable permit or at minimum two weeks (14 days) prior to the scheduled use of College facilities.
  - a. General Liability insurance two million dollars (\$2,000,000) each occurrence and two million dollars (\$2,000,000) in the aggregate;
  - b. New York State Workers' Compensation insurance during the term of the revocable permit for the benefit of permittee's employees required to be covered under the NYS Workers' Compensation Law.
  - c. For those instances in which the activity is so long or substantial and that the obtaining of such insurance will not unduly preclude beneficial use of the Campus' facilities, the College will require additional insurance in the form of: Sexual Abuse and Molestation insurance, either under the above-described general liability policy or in a separate policy, with coverage not

less than one million dollars (\$1,000,000). Any insurance coverage for sexual abuse and molestation insurance written on a claims made basis shall remain in effect for a minimum of six (6) months following the use of College facilities.

3. If the Covered Activity is a Children's Camp as defined in Section D of this policy, a provision requiring permittee to provide the College with a copy of its camp operator permit issued by the New York State Commissioner of Health, either upon execution of the permit or not later than two weeks (14 days) before the scheduled use of College facilities.
4. A representation and warranty from permittee that for all of its employees and volunteers, and employees and volunteers of its sub-permittees, who shall enter upon College facilities for purposes related to Covered Activity, permittee has conducted within the ninety (90) day period preceding the use of College facilities (a) a search of the NY Sex Offender Registry; and (b) a search of the National Sex Offender Public website.
5. A representation and warranty from permittee that for all Covered Activities: (a) it shall adhere to the American Camp Association standards for minimum staff-to-child supervision ratios, minimum staff age and minimum staff accreditation requirements available at: <http://www.acacamps.org/accreditation/stdsglance>; and (b) that the overall supervisor for each Covered Activity is an adult with certification or documented training and experience in the Covered Activity.
6. A representation and warranty from permittee that any transportation it provides for participating minors to and from the College grounds shall conform to the American Camp Association's transportation standards available at: <http://www.acacamps.org/accreditation/stdsglance>.
7. A provision requiring written acknowledgement from permittee that it has received a copy of the College's Protection of Minors on Campus Policy and agrees to abide by all of its terms, including its requirement that any suspected physical or sexual abuse be immediately reported to the Public Safety Department and/or the local law enforcement authorities.

## ENFORCEMENT

Violation of this policy will result in disciplinary action as follows:

- A. Students will be subject to disciplinary charges brought under the Student Code of Conduct.
- B. Employees who are part of a bargaining unit will be subject to disciplinary action brought under their respective collective bargaining agreement.
- C. Employees who are not members of a bargaining unit will be subject to discipline by their supervisor.
- D. Vendors, licensees or permittees will be subject to revocation of their permit or agreement and may no longer be allowed to continue conducting programs on Campus.