

HERKIMER COUNTY COMMUNITY COLLEGE BOARD POLICY

TITLE: Child Protection Policy

POLICY #: HR 15-16

DATE OF BOARD OF TRUSTEES APPROVAL: June 22, 2016

RESOLUTION #: 15-16

POLICY STATEMENT:

A. Summary - Individuals must conduct themselves appropriately with children who participate in college-related programs and report instances or suspicion of physical or sexual abuse of children.

B. Policy - Herkimer County 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. For purposes of this policy, the applicable definitions of child sexual abuse are those used in the NYS Penal Law in Articles 130 and 263 and Section 260.10 and “child” is defined as an individual under the age of 17.

C. Definitions

Covered Activity: A program or activity sponsored or approved by the college or 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 approved, 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 approved. This policy is not applicable to on-campus child care centers.

Covered Person: A person who is responsible for the custody, control or supervision of children participating in the Covered Activity and who is:

- i. an employee of the college or college-affiliated organization;
- ii. a Herkimer College student;
- iii. a volunteer of the college or college-affiliated organization; or
- iv. a vendor, licensee, permittee or other person, who is given permission to come onto campus or to use college facilities for Covered Activities; or
- v. an employee, agent or volunteer of (iv) above.

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.

Children’s Camp: A camp defined under New York Public Health Law §1392.

Physical Abuse: Physical contact with a child by a covered person which is intended to cause, or causes, pain or physical injury, including 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.

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.

Responsible College Official: The employee of the College or College-affiliated organization, who has been designated by the Campus under Section G, Campus Responsibilities.

College-affiliated organization: The Herkimer College foundation, campus alumni association, Faculty Student Association, HCCC Housing Corporation, or any other entity so designated by the Campus President or his/her designee.

D. Prohibited Conduct - A 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 pursuant to Section G.2 of this policy. 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. Engage in physical abuse or sexual abuse of a child.
3. Engage in the use of alcohol or illegal drugs, or be under the influence of alcohol or illegal drugs during Covered Activities.
4. Enable, facilitate or fail to address a child's use of alcohol or illegal/non-prescribed drugs.
5. Contact a child through electronic media, including social media, for the purpose of engaging in any prohibited conduct, including sexual conduct.
6. Offer or make a gift to a child for the purpose of engaging in any prohibited conduct, including sexual conduct.

E. Required Conduct - A 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 Safety Department of Herkimer College, or to another appropriate law enforcement agency, as well as the Responsible College Official. 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 when they are presented with a reasonable cause to suspect such abuse or maltreatment has occurred
3. Complete training developed pursuant to this Policy.
4. Wear and display prominently at all times during the Covered Activity a lanyard or other form of identification that identifies the individual as having the responsibilities of a Covered Person.
5. It is recommended that at least 80% of staff are eighteen (18) years of age or older and that all staff are at least sixteen (16) years of age. In addition, it is recommended that there be a 1:10 staff to participant ratio.

F. Responsible College Official - A Responsible College Official shall:

1. Confirm that the requirements of this Policy have been communicated to Covered Persons 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 prior to the commencement of a Covered Activity.
3. Confirm that the completed Acknowledgement of the College's Child Protection form has been obtained from Covered Persons prior to the commencement of a Covered Activity.
4. Immediately report allegations of physical abuse or sexual abuse of a child to the Campus Safety Department of Herkimer College, or to another appropriate law enforcement agency, as well as the Responsible College Official. 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 when they are presented with a reasonable cause to suspect such abuse or maltreatment has occurred.
5. Notify and coordinate with appropriate campus offices to ensure that allegations of suspected physical abuse or sexual abuse are investigated and 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 Herkimer College or a College-affiliated organization.

G. College Responsibilities - The College Shall:

1. Designate a Responsible College Official for each Covered Activity.

2. Determine on a limited basis that the first sentence of section D.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, coaching, music lessons, speech therapy, and medical, dental or optical services (parent/guardian permission is recommended).
3. Communicate the requirements of this Policy to Covered Persons.
4. Provide for and require training on this Policy for all Covered Persons who are employees, volunteers, students or agents of Herkimer college or a College-affiliated organization prior to the commencement of a Covered Activity (and Biennially, 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 Herkimer 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 [url: http://www.criminaljustice.ny.gov/nsor/800info_cdsubmit.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 Campus 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 Campus 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. The Dean of Students office will store such records.

H. 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. Retaliatory acts may include, but are not limited to:

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

I. 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.
 - a. A provision requiring insurance coverage in the types and amounts listed below, naming the 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.
 - b. General Liability insurance two million dollars (\$2,000,000) each occurrence and two million dollars (\$2,000,000) in the aggregate;
 - c. 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.
 - d. For those instances in which a campus believes that 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 campus should 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.
2. If the Covered Activity is a Children's Camp as defined in Section C 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.

3. 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 (i) a search of the NY Sex Offender Registry; and (ii) a search of the National Sex Offender Public website.
4. A provision requiring written acknowledgement from permittee that it has received a copy of the College's Child Protection 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 College's Campus Safety Department.

BACKGROUND: By implementing campus policies and procedures that seek to protect children from sexual abuse, as well as educating others on proper reporting and response, the campus of Herkimer County Community College will be more prepared in the prevention of crimes against children. (For purposes of this policy, the applicable definitions of child sexual abuse are those in the NYS Penal Law in Articles 130 and 263 and Section 260.10 and "child" as an individual under the age of 17).