

## **NY eases schools' concerns over abuse probes**

### **Rules are revised in September by agency**

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ALBANY - A federal court decision led some New York schools to block child-abuse investigators from interviewing students at school without their parents' consent, according to the state Office of Children and Family Services.

The state agency is hoping newly clarified rules — first adopted in June and revised last month — have eased the fears of school officials across the state, some of whom raised concern that they might be held liable if a wrongly accused parent sues.

The rules were spurred in part by an August 2015 decision in Orange County federal court, where U.S. District Judge Sidney Stein found county investigators violated a 5-year-old girl's constitutional protection against unreasonable seizure when they interviewed her at school about a flimsy sexual abuse allegation against her parents.

Following the decision, the fear of a similar lawsuit led some schools to block or restrict access to Child Protective Services investigators, according to the agency and the state Education Department.

In rule-making documents Friday, the Office of Children and Family Services — known as OCFS — said the restricted access has “added dangerous and unnecessary delay and confusion to the investigatory process.”

“These delays are creating danger to the health, safety and welfare of children,” the agency wrote.

Stein's decision concerned the investigation of the Orange County 5-year-old's parents, which was launched in 2010 after a woman phoned in unsubstantiated allegations from an unnamed “family friend” that the parents displayed nude photos of their daughter in their home.

The allegations weren't true.

Stein ruled the investigators did not have probable cause to interview the girl without her parents present, in part because the initial tip was thinly sourced and unsubstantiated. Orange County ultimately settled the case.

In March, the state Association of School Attorneys warned school districts to inquire whether investigators have a court order or if a child is in imminent danger before allowing Child Protective Services to interview a student.

“If school officials allow CPS access to the child without asking any questions, and it is later determined that CPS did not have a lawful basis for questioning the child in school, a court could later rule that the district participated in an unlawful seizure of the student,” the association wrote in *On Board*, a newspaper distributed by the state School Boards Association.

In response, OCFS clarified its rules regarding schools' responsibilities in child-abuse investigations — first in June and again last month. The latest changes were published Friday in the state's official register.

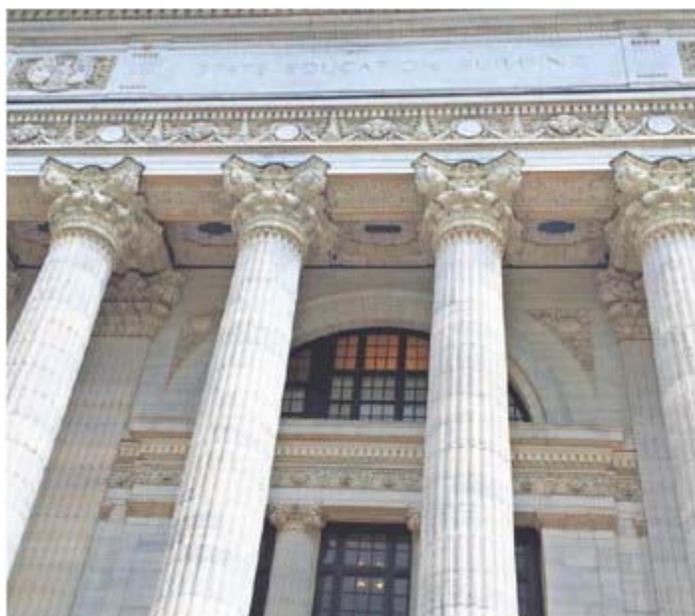
The new rules seek to give schools some legal cover in the event county investigators don't have probable cause to interview a student without their parents present.

Under the new regulations, schools are required to give child-abuse investigators access to "any child named as victim in a report of suspected abuse or maltreatment" and their siblings. School officials, however, can be present for the interview and can check investigators' employment IDs before allowing them in.

The changes appear to have satisfied the state School Boards Association, which consulted with OCFS and Gov. Andrew Cuomo's office as they crafted them.

"Now school districts can work with CPS without a legal sword of Damocles hanging over their heads," School Boards Association Executive Director Timothy Kremer told *On Board*.

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**The New York State Education Building in Albany.**

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