

RELEASE TO SCHOOL DISTRICT OF INFORMATION
CONCERNING A DISCHARGED, PAROLED, OR RELEASED
CONVICTED SEX OFFENDER

I. Statement of Purpose

In light of the enactment in 1994 of “Megan’s Law,” the Sex Offender Registration Act, L. 1995, c. 192, Section 3, the Board of Education of the Berlin Central School District recognizes that, as a result of that statute, the District may receive from law enforcement authorities specific information about discharged, paroled, or released convicted sex offenders. Therefore, in order to ensure the safety of its students and the community it serves, as well as to ensure that such information is maintained and disseminated appropriately, the Board hereby establishes that the rules herein shall govern the uses to which all such information received by the District shall be put.

II. Definitions

In what follows:

- A. Sex offender shall mean a person who has been convicted of any of the offenses set forth in Megan’s Law (N.Y. Corrections Law §168-a(1)) including, but not limited to, committing or attempting to commit rape, sodomy, sexual abuse, incest, or promotion of sexual performance by a child, or of certain kidnapping offenses where the victim of such an offense is less than 17 years old.
- B. Board of Examiners shall mean the Board of Examiners of Sex Offenders, which is established by Section 168-l(5) of the Corrections Law, and which is authorized to develop guidelines and procedures to assess the risk of a repeat offense by a sex offender and the threat posed to public safety.
- C. Level two designation shall mean the court’s designation of a sex offender, based upon a Board of Examiner’s recommendation, whom the Board of Examiners has determined has a moderate risk of repeat offense.
- D. Level three designation shall mean the court’s designation of a sex offender, based upon a Board of Examiners’ recommendation, whom the Board of Examiners has determined has a high risk of repeat offense and poses a threat to the public safety.
- E. Sexually violent predator shall mean a sex offender whom the Board of Examiners has given a level three designation; and/or a person who has been convicted of a sexually violent offense, as defined by the Sex

Offender Registration Act, and/or a sex offender who suffers from a mental abnormality that makes him likely to engage in predatory sexual conduct.

- F. The Act shall mean the Sex Offender Registration Act, 1995 N.Y. Laws c. 192, Section 3.

III. Sex Offender Information That May be Received By the District

Under the Act, the following information may be provided to school Districts as indicated.

A. LEVEL TWO DESIGNATION SEX OFFENDERS

In cases where a sex offender receives a level two designation, the law enforcement agency having jurisdiction, and the law enforcement agency having had jurisdiction at the time of his conviction, shall be notified, and may disseminate to any entity with vulnerable populations related to the nature of the offense he committed, relevant information. Such relevant information may include:

1. the exact name and any alias(s) used by the sex offender;
2. the offender's approximate address based on his zip code;
3. a photograph of the offender;
4. background information including:
 - a. the offender's crime of conviction,
 - b. the offender's modus operandi,
 - c. the type of victim targeted by the offender,
 - d. name, address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides; and
 - e. the description of special conditions imposed on the offender.

B. LEVEL THREE DESIGNATION OFFENDERS

In cases where a sex offender receives a level three designation, or such person is deemed a "sexually violent predator," the law enforcement agency having jurisdiction, and the law enforcement agency having had jurisdiction at the time of his conviction, shall be notified, and may disseminate to any entity with vulnerable populations related to the nature of the offense he committed, relevant information. Such relevant information may include:

1. the offender's exact address;
2. address of the offender's place of employment; and
3. the information described at III.A 1, 3 and 4 above.

IV. District Use of Information Received Under the Act

A. DISSEMINATION OF INFORMATION NOT DESIGNATED BY
STATUTE STRICTLY PROHIBITED

The Act provides limited immunity from liability for school Districts, their officials, or other employees thereof for discretionary decisions whether to release information pursuant to that statute. Therefore, if the District receives information from any law enforcement agency relevant to a sex offender who is designated level two, and such information includes material or information beyond what is described at III.A above, then, in addition to the conditions stated at IV.B, below, the release of such additional information by the District to any person, group, or other entity is strictly prohibited. Furthermore, if the District receives information from any law enforcement agency relevant to a sex offender who is designated level three, or “sexually violent predator,” and such information includes material or information beyond what is described at III.B, above, then, in addition to the conditions stated at IV.C, below, the release of such additional information by the District to any person, group, or other entity is strictly prohibited.

B. USE OF INFORMATION RECEIVED ON LEVEL TWO
DESIGNATION OFFENDERS

1. Information to Go Directly to Superintendent. When the District receives information described in III.A, above, from a law enforcement agency regarding a sex offender who has received a level two designation, that information, if not received first by the Superintendent of Schools, shall be sent immediately and in a secure fashion to the Superintendent. No person shall be deemed authorized to copy or disseminate any documents, photographs, or other information so received except with the express authorization of the Superintendent.
2. Superintendent’s Dissemination of Information. The Superintendent shall disseminate or see to the dissemination of such information that the District received with respect to Level Two sex offenders (as described in III.A, above) to the following persons:
 - a. the person or persons responsible for the security of the District’s buildings and other facilities;
 - b. all building principals;
 - c. through each building principal, to such staff members in the building as may regularly or routinely greet or encounter members of the public who visit the building;

- d. the supervisor of transportation, who shall provide it to all bus drivers;
 - e. the supervisor of custodians and the head custodian or maintenance official in each building, with directions that the custodian on duty at any time when children are in the building also receive such information;
 - f. the District's athletic director and all coaches; and
 - g. other supervisory personnel as designated by the Superintendent.
3. Principal's Maintenance of Files. Each building principal shall maintain and keep a file of such information from law enforcement agencies regarding discharged, paroled, or released sex offenders as she/he receives from the Superintendent. Each principal shall be responsible for notifying the staff in her/his building of the existence of the file. Said file shall be made available upon request to any member of the staff in the principal's school and, with written authorization of the Superintendent, to any other person authorized by law.
 4. Notice to Community Groups and Access to Files. The Superintendent of her/his designee shall identify all groups that make regular use of District facilities with children in attendance (e.g., day care providers) or otherwise. The Superintendent or her/his designee shall notify each such group in writing of the existence of the file described at IV.A.3, above, and of the right of persons responsible for the activities of the group while on school premises to inspect the file under such reasonable conditions as may be established by the building principal.
 5. Notice of Parents. Such information as the District receives on sex offenders receiving a level two designation that has not otherwise been made available to parents or guardians shall be so made available only with the written authorization of the Superintendent, who shall consider all such requests for information on a case-by-case basis. The Superintendent's decision on whether to release such information shall be based upon the stated purposes and requirements of the Act.
 6. Confidentiality of Information Provided to School District Employees. Except as expressly authorized herein or by the Superintendent, or as otherwise required by law, no District employee who receives information pursuant to this policy shall copy, disseminate, or otherwise divulge or publicize such information as she/he receives to another employee or to an individual, group, organization, or enterprise.

7. Superintendent's Determination of Special Risks. The Superintendent of Schools shall review all information received from law enforcement agencies regarding level two designation sex offenders, and shall determine in each case, based on the information provided, whether the offender presents a special risk to any person or group within the District or the school community. If she/he determines that such a special risk is presented, then the Superintendent may disseminate said information to such persons or groups as have been determined to be at special risk.

C. USE OF INFORMATION RECEIVED ON LEVEL THREE DESIGNATION OFFENDERS

1. Level Two Designation Conditions Apply Except As Otherwise Stated. Except as otherwise stated at IV.C.2, below, all conditions set forth at IV.B, above, relating to information received from law enforcement agencies regarding level two designation sex offenders, shall apply to such information regarding level three sex offenders.
2. Special Conditions Applying to Level Three Designation Sex Offenders. When the District receives information from a law enforcement agency regard a "sexually violent predator," then, except as is precluded from release at IV.A, above, the Superintendent shall release by first class mail all information received to all parents or guardians of children attending schools or educational programs operated by the District. Such release shall take place as soon as possible, and not later than seven working days after said information is received by the District.

V. Parental Notification Of District Procedures And Special "900" Telephone Number

The parents or guardians of each child attending schools or educational programs operated by the District shall be notified by the Superintendent or her/his designee annually about the District's procedures concerning information from law enforcement agencies on sexual offenders. Such notification shall state or explain the following:

- A. how the District receives such information from law enforcement agencies;
- B. a summary of the procedures set forth herein for handling such information;
- C. the "special '900' telephone number" operated pursuant to the Act, which members of the public may call to inquire whether a named individual is a listed sex offender; and

- D. the name, business address, and business telephone number of the person or persons whom those receiving the notice may contact with questions about the procedures described therein.

VII. Effective Date of Policy

This policy shall take effect immediately upon its adoption by the Board.

References

Corrections Law, art. 6-C