Educator Discipline Resources

Educator Oversight and Discipline

Board rule in Title 7, Chapter 2, Articles 7 and 13, provide for the adjudication of disciplinary issues and regulation of the conduct of educators.

The Board is responsible for imposing "such disciplinary action, including the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, upon a finding of immoral or unprofessional conduct" pursuant to A.R.S. §§ 15-203(A)(14) and 15-203(A)(20). Rule provides that certificate holders who violate any provision of A.A.C. R7-2-1308 are deemed to have engaged in immoral or unprofessional conduct and may be disciplined by the Board.

Reports of unprofessional conduct are received by the Investigative Unit of the Arizona Department of Education. Investigations are opened for allegations that would constitute unprofessional and immoral conduct. In addition to contacting the certificate holder, the investigation may include documentation from a school district, law enforcement investigative reports, and interviews of witnesses.

At the completion of an investigation, a decision will be made as to whether to file a formal complaint against the person's certification. If a formal complaint—prepared by the Office of the Attorney General—is filed, the certificate holder is accorded due process as provided by law.

Professional Practices Advisory Committees (PPAC)

The PPAC is responsible for conducting hearings related to certification matters. The Board has currently constituted two PPACs, each consisting of seven members – one elementary classroom teacher, one secondary classroom teacher, one principal, one superintendent or assistant/associate superintendent, one local governing board member, and two lay members (one of which must be the parent of a school aged child).

Each PPAC meets every other month, when they may review applications for initial certification or renewals of certification and conduct hearings on complaints filed against existing certified individuals. After each review of an application or at the conclusion of evidence presented at a hearing, members make findings of fact, conclusions of law, and a recommendation to the Board to approve or deny an application for certification; or in the case of a complaint hearing, make a recommendation regarding whether the Board should impose discipline on a certificate. The recommendation is then presented to Board at the next meeting for approval. Sanctions may include a formal letter of censure, a suspension, a suspension with conditions, or a revocation of certification. Any sanction imposed by the State Board becomes part of the certificate holder's permanent record and is reported to a national clearinghouse maintained by the National Association of State Directors of Teacher Education and Certification (NASDTEC).

During this process, an individual's certification remains valid. However, all certificated individuals are required to have a valid fingerprint clearance card, and some discipline that arises out of an arrest may lead to the suspension or revocation of a person's fingerprint clearance card – effectively barring the person from the classroom, school or district office while the fingerprint clearance card is invalid.

Discipline Guidelines on Certification Enforcement Actions

Consistent with A.R.S. §15-203(20), the Board may impose disciplinary action upon a certified individual, including a letter of censure, suspension, suspension with conditions or revocation of a certificate upon a finding of immoral or unprofessional conduct. A flowchart of the processes for imposition of disciplinary action is attached.

The Board adopted a suggested range of disciplinary actions for immoral or unprofessional conduct by certificated individuals. The Board has also adopted a discipline matrix for driving under the influence. Both matrices are attached.

Reciprocal Discipline

HB2163, enacted in the 2017 legislative session, provides authority for the Board to impose reciprocal disciplinary action upon a person who received disciplinary action in another state. If an individual's certificate was revoked in another state, the Board may revoke the certificate of that individual in this state in a manner that is consistent with the terms of revocation. A final adjudication in another jurisdiction that a certificated person has engaged in immoral or unprofessional conduct shall be treated as immoral or unprofessional conduct for purposes of any disciplinary proceeding conducted against that person in this state.

Certification Appeals without Allegations of Immoral or Unprofessional Conduct

The Certification Appeals Advisory Committee (CAAC), as established in A.A.C. R7-2-206, acts in an advisory capacity to the Board and serves as the hearing body for the Board regarding appeals of certification denials pursuant to A.R.S. § 15-534.01 that do not involve allegations of immoral or unprofessional conduct such as an application for certification that is administratively incomplete.

A.R.S. § 15-534. Fingerprinting; review and disciplinary action; violation; classification

A. A person who applies for a certificate as prescribed in section 15-203 shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1. Applicants who possess a certificate pursuant to section 15-203 and who apply for additional certificates or who apply for renewal of any certificate shall meet one of the following requirements:

1. Have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

2. Provide proof of the submission of an application for a fingerprint clearance card. Applicants who have been denied a fingerprint clearance card shall also provide proof that the applicant qualifies for a good cause exception hearing pursuant to section 41-619.55.

B. A person who is certified pursuant to section 15-203 shall maintain a valid fingerprint clearance card during the valid period of the person's certificate or certificates.

C. The state board of education may review and determine whether to renew or not issue a certificate to an applicant for certification on a finding that the applicant engaged in conduct that is immoral or unprofessional or engaged in conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred. The board shall prescribe guidelines for this process.

D. The state board of education may take disciplinary action against or not renew the certificate of a person on a finding that the certificated person engaged in conduct that is immoral or unprofessional or engaged in conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred. The board shall prescribe guidelines for this process.

E. The department of education may issue conditional certification before an applicant has obtained a valid fingerprint clearance card. A conditional certificate may be used only for employment in the school district that submits an application to the department of education for conditional certification pursuant to this subsection. The state board of education may revoke conditional certification if the information on the application for a conditional certificate is false or incomplete, the applicant is denied a fingerprint clearance card or the conditional certificate is used for employment in a school district other than the school district that is indicated on the application for conditional certification. In addition to any other conditions or requirements deemed necessary by the superintendent of public instruction to protect the health and safety of pupils, conditional certification shall be issued before the applicant obtains a fingerprint clearance card if all of the following conditions are met:

1. The school district that is seeking to hire the applicant verifies in writing on a form developed by the department of education the necessity for hiring and placement of the applicant before a fingerprint check is completed.

2. The school district that is seeking to hire the applicant performs all of the following:

(a) Ensures that the department of public safety completes a statewide criminal records check on the applicant. A statewide criminal records check shall be completed by the department of public safety every one hundred twenty days until the date that the fingerprint check is completed.

(b) Completes a search of criminal records in all local jurisdictions outside of this state in which the applicant has lived in the previous five years.

(c) Obtains references from the applicant's current employer and two most recent previous employers except for applicants who have been employed for at least five years by the applicant's most recent employer.

(d) Provides general supervision of the applicant until the applicant receives permanent certification from the department of education.

F. Before employment, schools or school districts shall verify the certification and fingerprint status of applicants who apply for school or school district positions that require certification.

G. Any person who participates in a teacher preparation program that is approved by the state board of education or any person who is contracted by this state, by a school district or by a charter school to provide tutoring services shall obtain a fingerprint clearance card pursuant to this section before the person participates in field experience in this state in which services will be provided directly to pupils. A person who participates in a teacher preparation program that is approved by the state board and who does not participate in field experience or student teaching in this state shall not be required to obtain a fingerprint clearance card pursuant to this section.

H. The state board of education shall notify the department of public safety if the state board of education receives credible evidence that a person who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section 41-1758.03, subsection B.

2. Falsified information on the form required by subsection A of this section.

I. A person who makes a false statement, representation or certification in any application for certification is guilty of a class 3 misdemeanor.

A.R.S. § 15-534.01. Withdrawal of applications for administrative deficiencies; denial of applications for substantive deficiencies; certification time frames

A. If an application for certification is administratively incomplete, as prescribed in title 41, chapter 6, article 7.1, the department of education shall issue a written notice requesting the applicant to supply missing documents or other information. The department of education shall consider an application for certification withdrawn if, within sixty days after the date of the notice, the applicant does not supply the documentation or information requested or does not provide reasonable documented justification for the delay. On receipt of documented justification, the department of education shall provide an additional thirty days for the requested documentation or information to be provided before considering an application withdrawn.

B. If an application for certification is substantively incomplete, as prescribed in title 41, chapter 6, article 7.1, the department of education may issue a written notice requesting the applicant to supply additional documents or other information. The the department of education shall deny an application for certification if, within sixty days after the date of the notice, the applicant does not supply the documentation or information requested.

C. If the final day of a deadline imposed by this section falls on a Saturday, Sunday or other legal holiday, the next business day is the final day of the deadline.

D. A notice of denial of an application for certification issued by the department of education pursuant to subsection B of this section shall comply with section 41-1076.

E. A person who has had an application for certification denied by the department of education pursuant to subsection B of this section may file a written request for a hearing with the state board of education within fifteen days after receiving the notice of denial. The appeal shall be conducted in accordance with title 41, chapter 6, article 6.

A.R.S. § 15-534.02. Restrictions on applications for certification after the surrender, revocation or denial of certificate

A. A person shall not submit an application for certification with the state board of education for a period of five years if any of the following occurs:

1. The person surrenders a certificate issued by the state board of education.

2. The person's certificate is revoked by the state board of education on grounds of immoral or unprofessional conduct pursuant to rules adopted by the state board of education pursuant to section 15-203.

B. If a person's application for certification is denied by the state board of education on grounds of immoral or unprofessional conduct pursuant to rules adopted by the state board of education pursuant to section 15-203, the state board of education shall determine that the person is prohibited from submitting an application for certification for a specified period up to five years.

C. The periods of time prescribed in subsections A and B of this section begin on the date that the state board of education accepts a surrendered certificate, makes a final decision to revoke a certificate or makes a final determination to deny an application for certification.

D. A person who has had a certificate revoked pursuant to section 15-550 is not eligible to apply for certification with the state board of education.

E. The department of education shall not process an application for certification submitted by a person who is prohibited from submitting an application pursuant to subsection A, B or D of this section.

A.R.S. § 15-534.04. Reciprocal discipline

A. A final adjudication or judgment in another jurisdiction that a certificated person has engaged in immoral or unprofessional conduct shall be treated as immoral or unprofessional conduct for purposes of any disciplinary proceeding conducted against that person in this state.

B. An applicant for certification who has been disciplined in another jurisdiction for immoral or unprofessional conduct shall successfully complete the disciplinary process in that jurisdiction before that person may apply for certification in this state.

C. After receiving notification that a person's educator certificate has been revoked in another jurisdiction, the state board of education may revoke all certificates issued in this state to that person in a manner that is consistent with the terms of revocation in the other jurisdiction, unless that person requests a hearing pursuant to title 41, chapter 6, article 10. After conducting a hearing requested pursuant to this subsection, the state board of education shall determine whether to uphold the revocation or to decline the revocation.

A.R.S. § 15-550. Unprofessional conduct; penalty

A. A teacher who has been convicted of a dangerous crime against children as defined in section 13-705 or has been convicted of a violation of section 13-1404 or 13-1406 in which the victim was a minor or section 13-1405 or an act committed in another state or territory that if committed in this state would have been a dangerous crime against children or a violation of section 13-1404 or 13-1406 in which the victim was a minor or a violation of section 13-1405 is guilty of unprofessional conduct and the teacher's certificate shall be revoked permanently immediately on notification of conviction by the clerk of the court or the magistrate.

B. A teacher who has been convicted of a preparatory offense as prescribed in section 13-1001 of any of the offenses prescribed in subsection A of this section or any crime that requires the teacher to register as a sex offender is guilty of unprofessional conduct and the teacher's certificate shall be permanently revoked on notification of the conviction by a court of competent jurisdiction.

C. A person who is employed by a school district or who is an applicant for employment with a school district, who is arrested for or charged with any nonappealable offense listed in section 41-1758.03, subsection B and who does not immediately report the arrest or charge to the person's supervisor or potential employer is guilty of unprofessional conduct and the person shall be immediately dismissed from employment with the school district or immediately excluded from potential employment with the school district. This subsection does not entitle a person dismissed pursuant to this subsection to a right to a hearing pursuant to section 15-539, subsection F.

D. A person who is employed by a school district and who is convicted of any nonappealable offense listed in section 41-1758.03, subsection B or is convicted of any nonappealable offense that amounts to unprofessional conduct under this section shall immediately do all of the following:

1. Surrender any certificates issued by the department of education.

2. Notify the person's employer or potential employer of the conviction.

3. Notify the department of public safety of the conviction.

4. Surrender the person's fingerprint clearance card.

A.R.S. § 15-551. Confidentiality of pupil's name; disciplinary hearing; civil penalty

A. The governing board and the state board of education shall keep confidential the name of a pupil involved in a hearing before either board regarding the dismissal or discipline of a school district employee or an action on a certificate. The board shall not disclose the pupil's name without the consent of the pupil's parent or guardian except by order of the superior court. This section does not prevent either board from disclosing the pupil's name to any party to the hearing.

B. The board shall take a pupil's testimony in executive session. The pupil shall be referred to by a fictitious name during any public portions of the hearing. The pupil's name and testimony are not subject to inspection pursuant to title 39, chapter 1, article 2.

C. A person who participates in a hearing described in subsection A shall keep confidential the name of any pupil involved in the hearing. The county attorney may enforce a civil penalty of five hundred dollars against a person who violates this subsection.

D. The state board shall adopt rules for the implementation of this section.

Article 2. State Board of Education Committees

A.A.C. R7-2-205. <u>Certification Review, Suspension, and Revocation</u>

A. Professional Practices Advisory Committees ("Committees") shall act in an advisory capacity to the State Board of Education ("Board") in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, and revocation, suspension, or surrender of certificates.

B. Committees shall each consist of seven members comprised of the following:

1. One elementary classroom teacher,
2. One secondary classroom teacher,
3. One principal,
4. One superintendent or assistant/associate superintendent,
5. Two lay members, one lay member who shall be a parent of a student currently attending public school in Arizona, and
6. One local Governing Board member.

C. Members appointed pursuant to subsections B(1), (2), (3) and (4) of this rule shall meet at least the following requirements:

1. Certified to teach in Arizona.
2. Currently employed in or retired from the education profession in the specific category of their appointment.
3. If currently employed, shall have been employed in this category for the three years immediately preceding their appointment.

D. Terms of the members

1. All regular terms shall be for four years except as set forth in subsection (E) below.
2. A member may be reappointed with Board approval.

E. The Board may remove any member from the Committee. All vacancies shall be filled as prescribed in subsections (C) above, and those persons appointed to fill vacancies shall serve to complete the term of the person replaced.

F. The Committee shall:

1. Select from its members a Chairman and Vice-Chairman,
2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct business. An affirmative vote of the majority of the members present is needed to take action.
3. Hold meetings as needed to conduct hearings or other Committee business by call of the Chairman of the Committee. If the Chairman neglects or declines to call a meeting, then a majority of the Committee may call a meeting. The Board may call a meeting as required to conduct necessary business. Notice of any meeting shall be given to Committee members seven days prior to the meeting.
4. Recommend the removal of any member who is absent from three consecutive meetings.
5. Refer to R7-2-1308 to assist in determining whether the acts complained of constitute unprofessional conduct.
6. Conduct its business pursuant to R7-2-1301 et seq. and hearings pursuant to R7-2-701 et seq.

A.A.C R7-2-206. <u>Certification Denial Appeals Process for Applications for Certification that Do Not Involve Allegations of Immoral or Unprofessional Conduct</u>

A. The Certification Appeals Advisory Committee ("Committee" or "CAAC") shall act in an advisory capacity to the State Board of Education ("Board") and shall serve as the hearing body for the Board in regard to appeals of certification denials pursuant to A.R.S. § 15-534.01 that do not involve allegations of immoral or unprofessional conduct. Applications for certification that involve allegations of immoral or unprofessional conduct shall be reviewed by the Professional Practices Advisory Committee as established by R7-2-205.

B. The Committee shall be appointed by the Board and shall consist of five members comprised of the following:

1. One certificated elementary classroom teacher,
2. One certificated secondary classroom teacher,
3. One certificated administrator,
4. One lay member, and
5. One local Governing Board member.

C. Terms of the members

1. All regular terms shall be for two years except as set forth in subsection (D).
2. A member may be reappointed with Board approval.

D. The Board may remove any member from the Committee. All vacancies shall be filled in a timely fashion and those persons appointed to fill vacancies shall serve to complete the term of the person replaced.

E. The Committee shall:

1. Select from its members a Chairman and Vice-Chairman.
2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct business. An affirmative vote of the majority of the members present is needed to take action.
3. Hold meetings once a month or as often as necessary to conduct hearings or other Committee business.
4. Recommend the removal of any member who is absent from three consecutive meetings.
5. Conduct appeals pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this Section.

F. Request for hearing. A person who has had an application for certification denied by the Board or the Department of Education pursuant to A.R.S. § 15-534.01(B) may file a written request for a hearing with the Board within 15 days after receiving the notice of denial. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the 15 days. If the final day of the 15 day deadline falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline.

G. Notice of hearing

1. If an applicant requests a hearing to appeal the denial of an application for certification, a notice of hearing shall be given at least 20 days prior to the date set for the hearing.
2. The notice shall include:

a. A statement of the time, place and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

3. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.

4. The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.

5. A hearing before the hearing body or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.

6. The hearing body may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

7. The record in an appeal of a certification denial shall include:

a. All pleadings, motions and interlocutory rulings.

b. Evidence received or considered.

c. A statement of matters officially noticed.

d. Objections and offers of proof and rulings thereon.

e. Proposed findings of fact and conclusions of law and exceptions thereto.

f. Any decision, opinion, recommendation or report of the hearing body.

g. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.

8. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

H. Service of documents; change of address notice requirement

1. Every notice or decision issued by the Board pertaining to the denial of an application for initial certification or renewal of a certificate shall be served by personal delivery or certified mail, return receipt requested, to the applicant or certificated person's last address of record with the Department of Education or by any other method that is reasonably calculated to give actual notice to the applicant or the certificated person.

2. Each applicant or certificated person shall inform the Department of Education of any change of address within 30 days of the change of address.

I. Hearing process

1. Parties may participate in the hearing in person or through an attorney.

2. Upon request of either party, the presiding officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding officer.

3. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order providing the evidence supporting such decision or order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the Committee. At such hearing such applicant shall be the moving party and have the burden of proof.

4. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.

5. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

J. Subpoenas

1. The Department of Education may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party.

2. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:

a. The name of the contested case, the case number, and the time and

place where the witness is expected to appear and testify;

b. The name and address of the witness subpoenaed; and

c. The documents, if any, sought to be provided.

3. On application of a party or the agency and for use as evidence, the hearing body may permit a deposition to be taken, in the manner and upon the terms designated by the hearing body, of a witness who cannot be subpoenaed or is unable to attend the hearing.

4. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing body grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing body shall grant or deny such request by order.

5. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the hearing body.

K. Conduct of hearing

1. The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.

2. Except for those hearings which may involve presentation of evidence protected by law as confidential,

or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.

3. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

L. Evidence

1. All witnesses shall testify under oath or affirmation.

2. The hearing body shall have the power to administer oaths and affirmations.

3. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.

4. The hearing body shall receive evidence, rule upon offers of proof, and exclude evidence the hearing body has determined to be irrelevant, immaterial, or unduly repetitious.

5. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

M. Stipulations. Parties to an appeal of a certification denial may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing body may require presentation of evidence for proof of stipulated facts for the hearing body's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

N. Recommendations

1. A recommended decision shall be prepared for the Board by the CAAC.

2. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing unless the Board extends the period for good cause.

O. Decisions and orders

1. Any final decision or order adverse to a party shall be in writing or stated in the record.

2. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing.

3. Within 30 days after receipt of any recommended decision from the CAAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the recommendation and may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.

P. Rehearing and review of decisions

1. After a hearing is held, a party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.

2. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:

a. Irregularity in the administrative proceedings of the hearing body,

or abuse of discretion, whereby the moving party was deprived of a fair hearing.

b. Misconduct of the hearing body or the prevailing party.

c. Accident or surprise which could not have been prevented by ordinary prudence.

d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.

e. Excessive or insufficient penalties.

f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.

g. That the decision is not justified by the evidence or is contrary to the law.

3. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (B) herein. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

4. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.

5. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.

6. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within 10 days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

7. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

8. Any party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

Article 7. Adjudications

A.A.C. R7-2-701. **Definitions**

In this Article, unless the context otherwise specifies:

1. "Board" means the State Board of Education.
2. "Chairman" means the chairperson of the Professional Practices Advisory Committee, established pursuant to R7-2-205.
3. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the State Board of Education after an opportunity for hearing.
4. "Department" means the Department of Education.
5. "Hearing body" means the Board or the Professional Practices Advisory Committee.
6. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
7. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.
8. "PPAC" means the Professional Practices Advisory Committee, established pursuant to R7-2-205 to conduct hearings related to certification or recertification matters regarding immoral conduct, unprofessional conduct, unfitness to teach and revocation, suspension or surrender of certificates.
9. "Presiding officer" means a hearing officer, with either a minimum of three years of verified experience in the practice of law or a minimum of one year of verified experience in conducting hearings, who shall oversee hearings in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, and revocation, suspension, or surrender of certificates.
10. "Pupil" means any student enrolled in an Arizona public or private school. "Pupil" also means any student who was enrolled in an Arizona public or private school at the time of the events which are the subject of a proceeding and who is still of minor age.
11. "Victim" means any person who has been previously identified pursuant to state law as a victim in a criminal proceeding which is the basis for a contested case.

A.A.C. R7-2-702. **Filing; computation of time; extension of time**

A. All papers concerning a contested case shall be filed within the time limit, if any, for such filing.

B. All papers filed in any contested case shall be typewritten or legibly written on paper 8 1/2 by 11 inches in size, shall contain the name and address of the party or other correspondent, shall be properly captioned and designate the title and case number, shall state the name and address of each party served with a copy, and shall be signed by the party or, if represented, by the party's attorney. The signature certifies that the signer has read the paper, that to the best of the signer's knowledge, information, and belief there are good grounds to support its contents, and that it is not interposed for delay.

C. In computing any period of time prescribed or allowed by this Article, or any notice or order concerning a contested case, the day of the act, event, or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period to time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.

D. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party by another party, and the notice or other paper is served by mail, five days shall be added to the prescribed period. This subsection has no application to notices, orders, or other papers issued by the hearing body.

E. For good cause shown, the presiding officer may grant continuances and extensions of time for filing notices or other papers.

A.A.C. R7-2-703. **Contested cases; notice; hearing records**

A. In a contested case, the parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be given at least 20 days prior to the date set for the hearing.

B. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

C. A reasonable effort shall be made to notify a victim of the time, place and nature of the hearing, and that the victim may submit a victim impact statement to be included as part of the record in a contested case.

D. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.

E. The Board may dispose of any contested case by decision or approved stipulation, agreed settlement, consent agreement or by default.

F. A hearing before a hearing body in a contested case or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.

G. The hearing body may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

H. The record in a contested case shall include:

1. All pleadings, motions and interlocutory rulings.

2. Evidence received or considered.
3. A statement of matters officially noticed.
4. Objections and offers of proof and rulings thereon.
5. Proposed findings of fact and conclusions of law and exceptions thereto.
6. Any decision, opinion, recommendation or report of the hearing body.
7. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.
8. A victim impact statement, if submitted by the victim.

I. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

A.A.C. R7-2-704. Service; proof of service

A. The Board shall serve notices of hearing, findings of fact, conclusions of law, and recommendations of the hearing body, and decisions and final orders of the Board, either by personal service or by certified mail. All other papers required to be served may be served by regular or certified mail or may be personally served.

B. After service of a notice of hearing in a contested case, a copy of every paper filed by a party, or individual seeking to intervene, shall be served on all parties to the contested case, or their lawyers if represented, at the same time the paper is filed.

C. The following evidences completed service:

1. If personally served, an affidavit of personal service, sworn to by the individual serving the paper and stating the name of the individual upon whom it was served, where service was made, and the date of such service; or
2. If served by certified mail, the return receipt signed by the party served or someone authorized to act on behalf of the party served; or
3. If served by regular or certified mail, either a statement subscribed on the paper filed, or an affidavit indicating the date mailed and listing those to whom it was mailed.

D. When a party is represented by an attorney, service shall be made on the attorney. If a notice of hearing shows service on the Attorney General, all papers served thereafter shall be served on the Assistant Attorney General named on the notice of hearing or who later appears on behalf of the Attorney General, or if no Assistant Attorney General is named, then on the Attorney General, Education and Health Section, Education Unit.

A.A.C. R7-2-705. Hearings and evidence

A. Parties may participate in the hearing in person or through an attorney.

B. The presiding officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding officer. The presiding officer or hearing body may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.

C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location determined by the hearing body.

D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.

E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

A.A.C. R7-2-706. Request for hearing

When a request for a hearing is filed with the Board, the request shall be in writing and shall state the specific grounds which are the basis of the hearing request and the statute, rule or other legal basis entitling the person to a hearing.

A.A.C. R7-2-707. Denial of request for hearing

If the Board denies the request for a hearing, the denial shall be in writing and shall state the reasons therefor. A denial of a request for hearing is final and not subject to further administrative review.

A.A.C. R7-2-709. Rehearing and review of decisions

A. After a hearing is held, a party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.

B. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
2. Misconduct of the hearing body or the prevailing party.
3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to the law.

C. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection B herein. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.

E. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.

F. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within ten days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

G. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

H. Any party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

A.A.C. R7-2-710. <u>Intervention</u>

A. Any person seeking to intervene in any contested case shall file a written request to intervene. Intervention shall be granted only if the hearing body determines that:

1. The legal interests of the person requesting to intervene may be substantially affected by the outcome of the contested case;

2. Intervention will not unduly delay or bias the hearing;

3. The interest of the person requesting to intervene is not adequately represented by another party to the contested case; and

4. The proposed intervention is in the interests of justice.

B. The request shall state the claims or defenses for which intervention is sought, briefly describing the interests that may be affected by the outcome of the case and including such facts as demonstrate those interests.

C. The request shall be filed and served upon all parties at least 15 days prior to hearing.

D. Any party may file a response to the request to intervene within five days of service of the request upon the party.

E. The hearing body shall decide on the request to intervene at least five days prior to the hearing date and shall, prior to the end of the following business day, notify the persons requesting to intervene and all parties of the decision. The hearing body may reschedule a hearing or prehearing conference to provide sufficient time for the parties to respond to a request to intervene or to prepare for the hearing or prehearing conference.

F. The hearing body may limit the intervener's participation to issues in which the intervener has a particular interest.

A.A.C. R7-2-711. <u>Consolidation and severance</u>

A. When proceedings involving a common question of law or fact or common parties are pending before the hearing body, it may, upon its own volition or upon request of any party, order a joint hearing on any or all the matters at issue.

B. In furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy, the hearing body may, upon its own volition or upon request of any party, order any proceeding severed with respect to some or all issues or parties.

A.A.C. R7-2-712. <u>Subpoenas</u>

A. The Department may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party.

B. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:

1. The name of the contested case, the case number, and the time and place where the witness is expected to appear and testify;

2. The name and address of the witness subpoenaed; and

3. The documents, if any, sought to be provided.

C. On application of a party or the agency and for use as evidence, the hearing body may permit a deposition to be taken, in the manner and upon the terms designated by the hearing body, of a witness who cannot be subpoenaed or is unable to attend the hearing.

D. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing body grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing body shall grant or deny such request by order.

E. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the hearing body.

A.A.C. R7-2-713. <u>Conduct of hearing</u>

A. The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.

B. Except for those hearings which may involve presentation of evidence protected by A.R.S. § 15-350, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.

C. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

A.A.C. R7-2-714. <u>Testimony of pupils</u>

A. All individuals present at a hearing regarding an action against a certificate shall:

1. Keep confidential the name of any pupil involved in the hearing, unless disclosure is with the consent of the pupil's parent or guardian or by order of the superior court. This action does not prevent disclosure of the pupil's name to any party to the hearing.

2. Keep confidential the testimony of any pupil, all of which shall be taken in executive session, except that the Board office shall be furnished a confidential copy of the pupil's testimony as part of the complete transcript of the hearing. The individuals present during the executive session shall be determined by the presiding officer in consultation with the Attorney General's office except that the respondent and counsel shall always be permitted to be present. The transcripts of testimony taken during executive session shall be maintained by the Board.

B. The Board of Education or its designee shall:

1. Make available a consent form which requires the signature of the pupil's parent or guardian prior to disclosure of the pupil's name;

2. Assign a fictitious name to all witnesses identified as pupils on the witness lists provided by the complainant and respondent if not in receipt of written parental or guardian consent for disclosure;

3. Notify hearing participants, prior to and during the hearing, of any fictitious names to be used.

C. The presiding officer shall instruct all individuals present at the hearing of the confidentiality requirements of A.R.S. § 15-551 and this rule.

A.A.C. R7-2-715. <u>Evidence</u>

A. All witnesses shall testify under oath or affirmation.

B. The hearing body shall have the power to administer oaths and affirmations.

C. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.

D. The hearing body shall receive evidence, rule upon offers of proof, and exclude evidence the hearing body has determined to be irrelevant, immaterial, or unduly repetitious.

E. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

A.A.C. R7-2-716. <u>Stipulations</u>

Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing body may require presentation of evidence for proof of stipulated facts for the hearing body's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

A.A.C. R7-2-717. <u>Recommended Decisions</u>

A. A recommended decision shall be prepared for the Board by the PPAC.

B. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing or the date ordered for submission of proposed findings or legal memoranda, whichever comes last, unless the Board extends the period for good cause.

A.A.C. R7-2-718. <u>Decisions and Orders</u>

A. Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to the party's attorney of record.

B. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing or the date ordered for submission of proposed findings of fact and conclusions of law or legal memoranda, whichever comes last.

C. Within 30 days after receipt of any recommended decision from the PPAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the findings of fact, conclusions of law and recommendations in whole or in part, may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.

D. If no request for rehearing or review has been timely filed by a party, a decision in a contested case is effective and final ten days from the date served on that party.

Article 13. Conduct

A.A.C. R7-2-1304 <u>Notification; Investigation</u>

The certificated individual shall have 20 days from service by U.S. mail of the notice of investigation to file a written response with the Board.

A.A.C. R7-2-1306. <u>Reviewable Offenses</u>

A. Reviewable offenses are those offenses listed in A.R.S. § 15-534 which are not included in R7-2-1307.

B. Upon completion of an investigation, the Board may file a complaint against a certificated individual or may issue or deny certification to an applicant.

A.A.C. R7-2-1307. <u>Criminal Offenses; Nonreviewable</u>

A. The Board shall revoke, not issue, or not renew the certification of a person who has been convicted of or admitted in open court or pursuant to a plea agreement committing any of the following criminal offenses in this state or similar offenses in another jurisdiction:

1. Sexual abuse of a minor;
2. Incest;
3. First-degree murder;
4. Second-degree murder;
5. Manslaughter;
6. Sexual assault;
7. Sexual exploitation of a minor;
8. Commercial sexual exploitation of a minor;
9. A dangerous crime against children as defined in A.R.S. § 13-604.01;
10. Armed robbery;
11. Aggravated assault;
12. Sexual conduct with a minor;
13. Molestation of a child;
14. Exploitation of minors involving drug offenses.

B. Upon notification that a certificated individual has been convicted of a nonreviewable offense, the Board shall revoke the certificate.

A.A.C. R7-2-1308. Unprofessional and Immoral Conduct

A. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:

1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
2. Account for all funds collected from pupils, parents, or school personnel;
3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.

B. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:

1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
13. Submit fraudulent requests for reimbursement of expenses or for pay;
14. Use school equipment to access pornographic, obscene, or illegal materials; or
15. Engage in conduct which would discredit the teaching profession.

C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.

D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.

E. Application forms and certificates shall include the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law.

F. Individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq shall certify:

1. That they have read and understood the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law;
2. Whether they have been disciplined or are under investigation in another state for engaging in conduct that is immoral or unprofessional.

Arizona State Board of Education

2019 Enforcement Action Report

Table of Contents

Purpose of the Enforcement Action Report

Arizona has a complex public education system which serves 1.1 million students[1]. School districts, and many charter school networks, require their teachers to be certified. Pursuant to A.R.S. §§ 15-203(A)(14)and 15-203(A)(20) the State Board of Education (Board) is responsible for imposing discipline (Enforcement Actions) on the certificates of educators who have acted with unprofessional or immoral conduct. It is important to note, that the Enforcement Actions in this research only represent the cases that are received and then adjudicated by the Board, and does not include all allegations reported to the Investigative Unit.

In an effort to better understand disciplinary trends occurring in the state of Arizona, Board staff began gathering data on these Enforcement Actions in 2017. For the purpose of this report, instances of unprofessional or immoral conduct are simply defined as 'misconduct.' Board staff accumulated cases from January 2012 through June 2019 into the Enforcement Action Database (EADB). The total number of cases tracked for this report is 700 (N). Board staff also tracked the source of report, the gender of the respondent, the certificate held by the respondent, Educator Preparation Program (EPP) of the respondent and the category of the case. Analysis of the EADB has revealed several significant trends and the recognition of these trends is an opportunity to focus on areas of misconduct prevention.

State Education Background

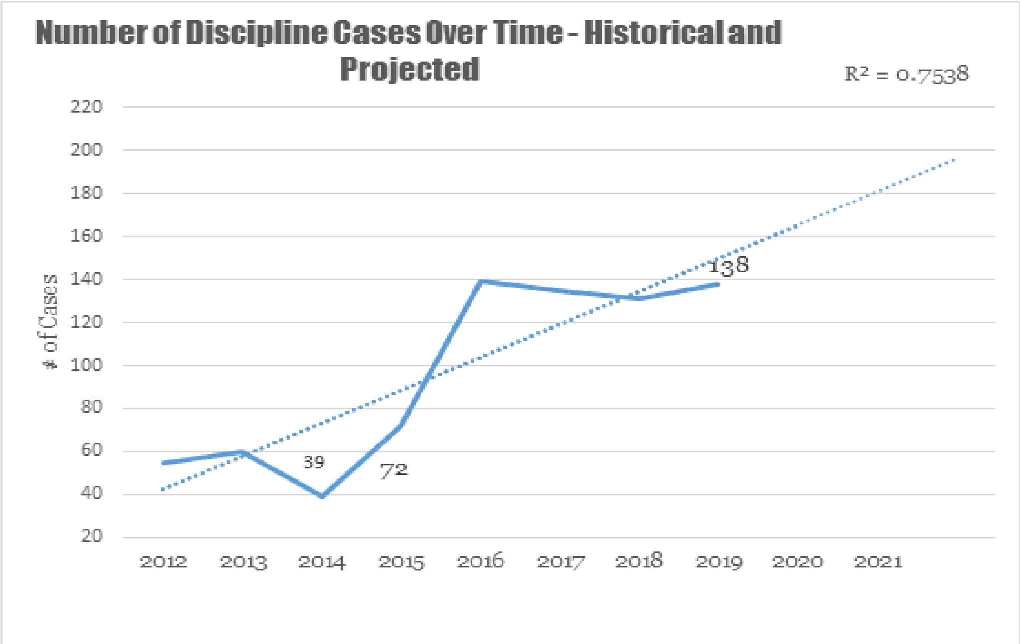
According to the 2018 Annual Report of the Arizona Superintendent of Public Instruction, Arizona is home to over 88,000 certified teachers. Roughly 57,000 certified educators are employed in a district or charter school. Educator certification has a jurisdiction that spans fifteen counties, more than 200 districts, more than 400 charter holders, and 14 Career and Technical Education Districts. The system is comprised of 1.1 million students. Approximately 900,000 of which attend public schools, with the remaining 190,000 attending charter schools[1].

Number of Cases

The EADB tracked retrospective data ranging from 2012 to present. Data collection efforts are ongoing for all new Enforcement Actions imposed by the Board. The EADB tracks overall numbers of Enforcement Actions.

Exhibit 1 depicts the number of cases adjudicated between 2012 and 2019, as well as offers an expected forecast for 2020 and 2021.

Exhibit # 1



As seen in **Exhibit 1,** the number of Enforcement Actions taken in 2012 (55) is a fraction of the number of Enforcement Actions taken in 2018 (131). The difference in these figures represents a 238% increase in instances of Enforcement Actions. Values for 2019 were estimated based on cases awaiting adjudication in upcoming Board meetings. These are subject to change in later reports once year-end is reached.

There are a number of explanatory variables which attribute to the massive increase in case load. Some growth should be expected because of the increase in Arizona's population. According to census data from 2012 to 2018, there has been a 9.2% increase in population[2]. It can be inferred that a growing population means more students, which requires more teachers, which contributes to higher levels of misconduct.

The 95% increase between 2015 and 2016 was due to the processing of a large backlog of cases. The dotted line in **Exhibit 1** shows a positive trend throughout this time frame.

By forecasting, Board staff anticipates a steady processing of enforcement actions for 2020 (160).

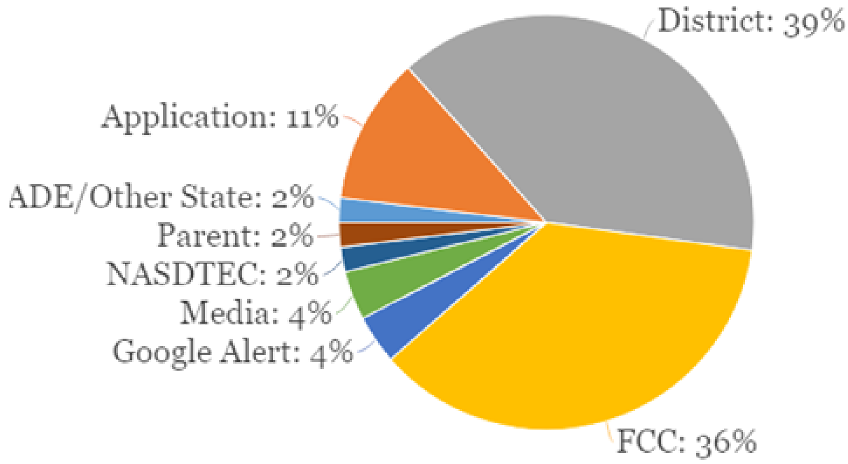
The following data points will represent adjudicated cases from January 2012 to June 2019.

Source of Complaints

Allegations of misconduct are reported to the Department of Education's Investigative Unit, and then sent to the Board after the case has been investigated. Of the 700 cases tracked from January 2012 to June 2019, only 209 of them had a value for "source of report." **Exhibit 2** displays the results of these findings and can be found on the next page. The largest source of report comes from school official reports, accounting for over a third (39%). Department of Public Safety – Fingerprint Clearance Card suspension notices (FCC) typically occur as a result of an arrest, and account for over a third (36%) of adjudicated cases as well. Disclosures from applications for certification represent 11% of adjudicated cases. The remaining 14% of cases are reported by other sources such as parents, Google alerts, traditional media sources, social media, Department of Education and other state agencies and National Association of State Directors of Teacher Education and Certification (NASDTEC) database entries.

Exhibit # 2

Source of Reports



Gender

The total number of valid teaching certificates as of June 2019, and their breakdown by gender are seen in **Exhibit 3**. The data shows that the profession is overwhelming fulfilled by females, with a figure of 73.6%. Only 26.4% of educators in Arizona are male.

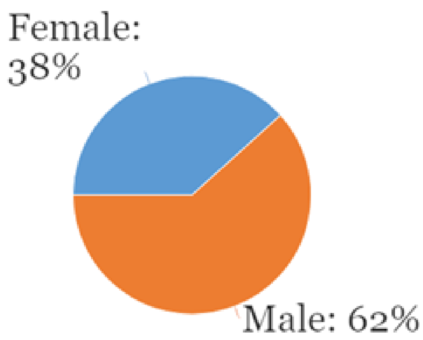
Exhibit # 3

All Issued Certs	
Total	88,552
Female	65,190
Male	23,362

However, when looking at **Exhibit 4**, an opposite trend is apparent. 62% of enforcement actions involve a male respondent, while 38% involve women. This data is seen in **Exhibit 4.**

Exhibit # 4

Instances of Discipline by Gender



When analyzing the rate at which misconduct occurred by gender, the raw numbers from **Exhibit 4** were divided into the numbers of **Exhibit 3.** The results of this equation are shown in **Exhibit 5.**

Exhibit # 5

Rate of Discipline	
Female	0.00125 (> 1/10 of 1%)
Male	0.00572 (> than ½ of 1%)
Total Rate	0.00697 (> than 3/5 of 1%)

It is important to note that the rate at which educator misconduct occurs is extremely low. The rate of misconduct during the seven-year time frame shows that only about half of 1% of all certified educators were disciplined by the Board. The figures from this study indicate that men are over four times more likely to commit misconduct than females when reviewing the actions of the half of 1% of all educators disciplined by the Board.

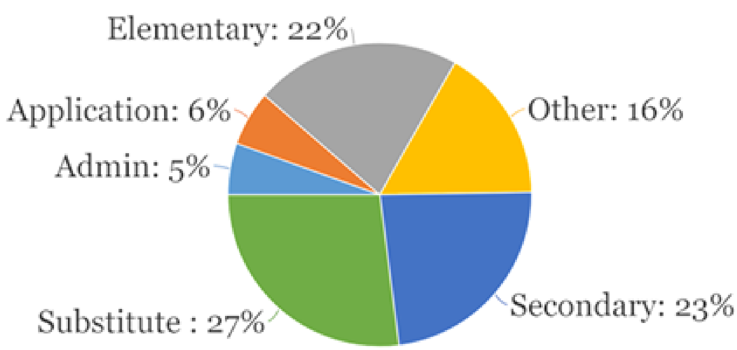
Certificate Type

Certificate type was broken up into 5 different categories:

1. Administrative Certification (Admin)
2. Any Secondary Education Teaching Certification (Secondary)
3. Substitute Teaching Certification (Substitute)
4. Any Elementary Education Teaching Certification (Elementary)
5. Other Infrequent Types of Certification (Other)
6. Applying for any Certification (Application)

Exhibit # 6

Type of Certificate Held by Applicant/Respondent

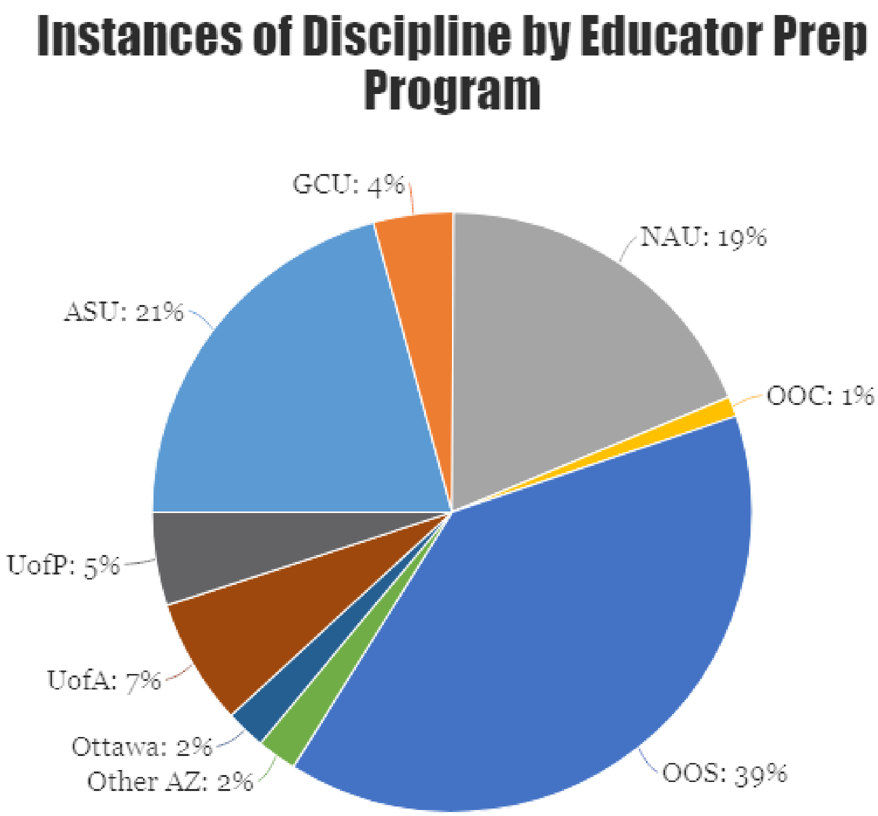


The largest disciplined group, representing more than one-fourth of the adjudicated cases, are educators with Substitute teaching certificates (27%). Educators with Secondary teaching certificates (23%), and educators with Elementary teaching certificates (22%) account for nearly half of all discipline cases.

Educator Preparation Program (EPP)

Information was pulled from a sample size of 279 because many earlier cases in the database did not have a value for EPP, and consequently, a smaller sample size was garnered. The following categories capture 100% of observations in the sample size. This data is outlined in Exhibit 7.

Exhibit # 7



The most noticeable trend in this category is Out of State (OOS) certificate holders. Nearly 40% of all educator misconduct is happening from someone who had completed their educator prep program in another state and has moved to Arizona to teach. It is unknown how many graduates are associated with these EPPs, both in state and out of state, so performing analyses associated with the rate of misconduct by EPP is not possible at this time.

Category of Misconduct

Complaints fall into five categories: sexual offenses, assault, substance abuse, fraud and breach of contract. The largest share of Enforcement Actions result from sexual misconduct, which accounts for 39% of all Enforcement Actions imposed by the Board. Complaints resulting from substance abuse and assault follow, representing 24% and 14% of adjudicated cases, respectively. The results are represented in **exhibit 8.**

Exhibit # 8

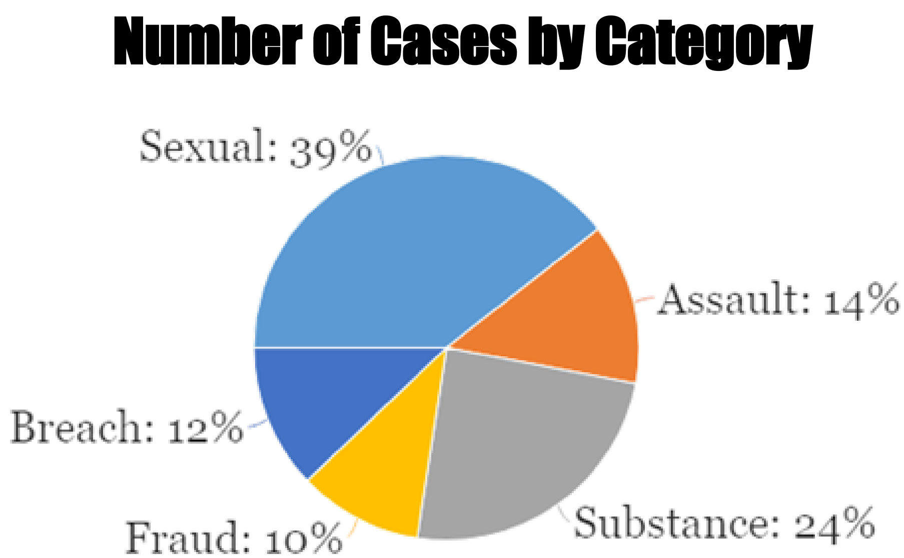
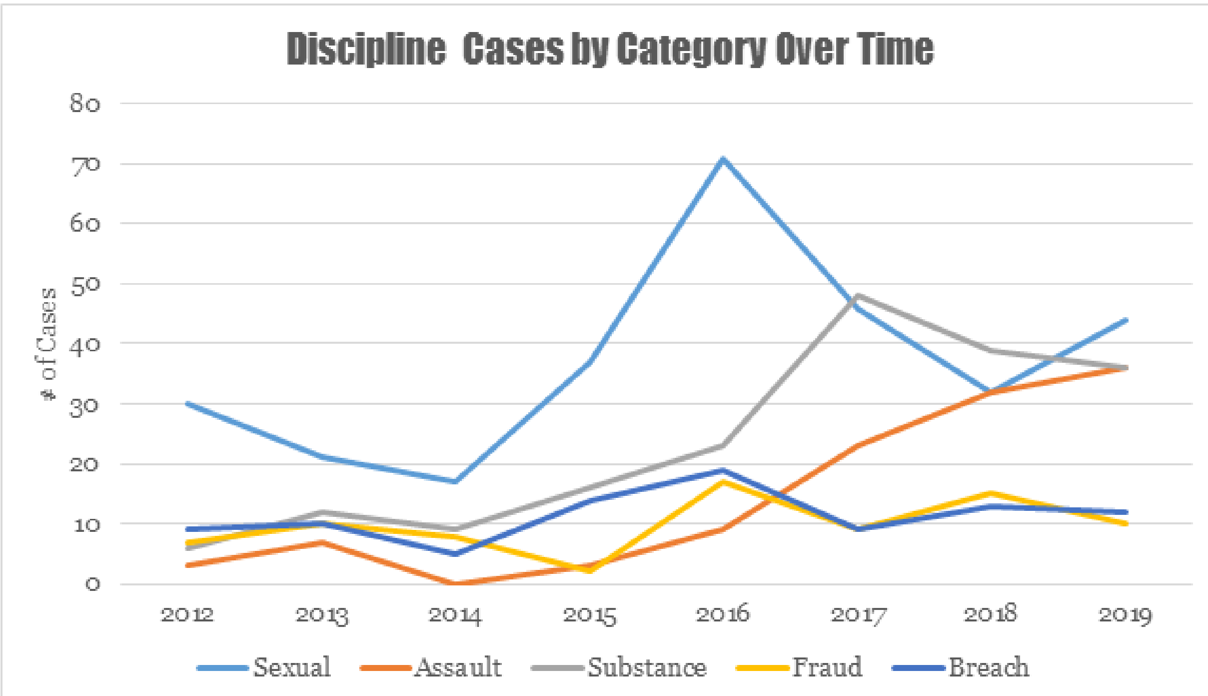


Exhibit 9 shows how each category's numbers have fluctuated over time.

Exhibit # 9



Recommendations

Non-automatic report types, such as, reports from districts, parents, social media and the like, all take place because of intended human intervention. Reports that take place because of human intervention are an invaluable aspect of the disciplinary process, and are always an area for improvement because they do not happen automatically. Pursuant to A.R.S. § 13-620 and A.R.S. § 15-514, school personnel are required to report allegations of child abuse. It is recommended that districts and HR professionals continue to remind educators of this duty to report. Informational handouts detailing the why and when to report, is a great way to increase vigilance in educators and adults to report misconduct.

Substitute certificate holders account for the largest share of adjudicated cases of misconduct. While most substitute teachers will go their whole career without ever being disciplined by the Board, the numbers suggest this is an opportunity for misconduct prevention. It is recommended that individuals attaining substitute teaching certification should be required to take ethics training. One example of this would be NASDTEC's Model Code of Ethics course, which addresses professional practices for educators, and is approved by the State Board of Education.

Working with EPP's, Board staff recommends a collaborative effort to address the needs of educators completing a degree from one of our universities and those receiving a certificate through reciprocity. Such an effort could create a focus on professional practices and ethics directly related to actions taken by the Board due to specific types of unprofessional and immoral conduct displayed by Arizona certified teachers.

Conclusion

Moving forward, the next step in the misconduct prevention process is to continue the data collection effort and determine if there are other useful qualitative characteristics that should be tracked.

Staff anticipates the Board will have a robust discussion on the potential statutory changes for the 2020 Legislative Session to address areas of concern noted within this report at the Board's 2019 retreat.

References

(1) (FY2018) Annual Report of the Arizona Superintendent of Public Instruction

(2) Resident Population in Arizona

Issue:

- The number of cases opened by the investigate unit is growing and although the Board has increased capacity to adjudicate those cases, the backlog of cases is growing. The types of cases are predominantly sexual misconduct, violent in nature or substance abuse related.
- Staff has identified several loopholes, listed below, that warrant action to ensure student safety

Relying on discipline data, investigative data, case studies, and best practices, staff identified several proposed solutions.

Loophole or Problem	Proposal
1. Lack of common understanding on how to identify and prevent inappropriate conduct; specifically relating to Category 1 conduct	Require LEAs to provide continuing education, developed and provided at no cost by SBE, for new hires and every three years. *Statute? Could be done in rule*
2. SBE cannot take action against uncertified educators who have engaged in immoral or unprofessional conduct	a) Permit ADE and SBE to investigate and take action against uncertified educators. Same due process as certified educators. b) Establish statewide educator registry. Require charters and districts to submit registry of both certified and uncertified educators to the state. OR c) Establish statewide educator disqualified list. d) Require LEAs to check registry or DQ list (item d also helps with #4 listed below). *Statute. This will require funding*

3. Charter schools are prohibited from hiring teachers with surrendered or revoked certificates. Statute is silent on suspended certificates and administrators	Prohibit charters from hiring teachers and administrators with suspended certificates *Statute*
4. Not all school administrators consistently check for possible disciplinary action of potential hires	Communicate the need to check both ADE/SBE's system and DCS' Central Registry and how to check. May establish data sharing agreement between DCS and ADE *SBE and ADE internal process*
5. LEAs, other agencies, and hiring agencies are prohibited from having the investigative file until they employ the individual	SB 1020 from 2019: Allow LEAs, other agencies and hiring agencies that are considering hiring an individual to have access to the investigative file *Statute*
6. Contract breaks are not the highest priority and take valuable investigator and Board staff time. Contract breaks represent about 15% of the IU caseload	Eliminate required discipline for contract breaks *Statute*
7. For some cases, the Board is unable to take action on Category 1 cases if court action is pending	Permit the Board to emergency suspend the certificate of a person who is the subject of a category 1 case in the court system until the court has taken action *Statute*

- 2019 on pace for record number of cases adjudicated at the Board (between 140 and 160). Represents about a 15% increase and anticipate that number to continue annually.
- IU opens about 800 cases every year.
- From 2017 to 2018: roughly 50% increase in FCC's and applications and backlog (around 200 or so cases).
- Roughly 39% of individuals did not complete their EPP in-state
- 35% held a secondary cert. 29% held a substitute cert. 20% held an elementary cert. 5% held an admin cert. 11% held another type of cert.

READINESS AND EMERGENCY MANAGEMENT FOR SCHOOLS
REMS
TECHNICAL ASSISTANCE CENTER

A Training Guide for Administrators and Educators on

Addressing Adult Sexual Misconduct in the School Setting

U.S. Department of Education
Office of Safe and Healthy Students
Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center

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U.S. Department of Education
Betsy DeVos
Secretary

Office of Elementary and Secondary Education
Jason Botel
Acting Assistant Secretary

Office of Safe and Healthy Students
David Esquith
Director

March 2017

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Overview

Schools are entrusted with the paramount responsibility of educating youths, and within this "in loco parentis" role, keeping them safe throughout the school day and while completing school activities (Beyer, 1997). Yet each year, students in elementary and secondary education fall victim to unacceptable behaviors with sexual overtones, ranging from inappropriate touching and online conversations to physical sexual assault. Most schools have policies and procedures for keeping children safe from a range of threats and hazards, such as natural disasters, flu outbreaks, and active shooter situations. However, schools and school districts also must demonstrate a strong commitment to the elimination of behaviors known as adult sexual misconduct (ASM) by school personnel, including teachers, coaches, administrative staff, bus drivers, and others who interact with children before and after school. To safeguard the well-being of the whole school community, school and school district administrators must provide staff members with knowledge of the behaviors that constitute ASM and help them take steps to protect students; prevent ASM; recognize signs of potential ASM; report and investigate possible ASM incidents with their partners (e.g., law enforcement); meaningfully respond to incidents of ASM; and provide immediate, short-, and long-term supports to the victim as the child recovers. Efforts to address ASM are strengthened by policies and procedures that describe appropriate, allowable behaviors, identify inappropriate and illegal actions, and outline methods for addressing allegations of ASM in schools.

What is ASM?

ASM,[1] as defined in this guidance, encompasses a broad set of behaviors that take place ***in school settings***, ranging from those that are inappropriate to those that are illegal. Examples of inappropriate ***verbal*** conduct include sexual comments or questions, jokes, taunting, and teasing (Goorian, 1999). Inappropriate ***physical*** conduct includes kissing, hair stroking, tickling, and frontal hugging (Simpson, 2006). ASM can also come in the form of online predatory behavior, including sextortion, which has been used to define crimes that occur "when someone threatens to distribute your private and sensitive material if you don't provide them images of a sexual nature, sexual favors, or money" (U.S. Department of Justice, n.d.). Although some types of ASM (such as remarks directed to a student) may not be criminal, they often violate other laws, regulations, and professional codes of conduct in the education setting (U.S. Government Accountability Office [GAO], 2014).

The GAO (2014) estimates that nearly one in 10 students are subjected to ASM by school personnel during the course of their academic careers. During the course of a seven-month investigation, Associated Press reporters examined the 2001–05 disciplinary records of educators from all 50 states and the District of Columbia (Irvine & Tanner, 2007). The investigation determined that the teaching credentials of 2,570 educators had been revoked, denied, surrendered, or sanctioned as a result of ASM, and that more than 80 percent of victims in the 1,801 cases were students.

It is important to note that ASM manifests in many ways, and the range of behaviors that may be considered ASM (from inappropriate to illegal) underlines the importance of clear policies and procedures that document the responsibilities of specific staff members for preventing ASM or

[1] Definitions of adult sexual misconduct may vary by state and can include a variety of behaviors (GAO, 2014, p.10).

the appearance of ASM. In many cases, behaviors that are considered ASM are subject to interpretation; therefore, these “gray areas” should be clearly spelled out in school and school district policies. Examples of gray areas that might be addressed by schools and school districts include the following:

- The settings for and frequency of after-school interactions with students
- Boundaries to use when traveling out of town for sports or other competitions
- Contact, touching, and hugging
- Appropriate social media interactions
- Personal cards, notes, and emails

Clear policies on the boundaries for interpersonal contact protects both students and staff members. In addition, policies related to ASM may also apply to policies related to other areas of school emergency management, including sextortion, human trafficking, and other types of child exploitation. Furthermore, policies governing adult behavior must consider all settings and all times, i.e., before, during, and after school, as well as at school, away from school, and in cyber settings.

Throughout this document, the term “ASM” is used in the broad sense described above, unless otherwise noted. Some of the research cited in this guidance examined a specific subset of inappropriate or illegal behaviors, or used terms such as “child exploitation,” “child maltreatment” or “child sexual abuse” in their studies. In these instances, the terms used by the researchers will be described and distinguished from ASM. Also, for the purposes of this guidance, ASM does not refer to child sexual abuse in non-school settings or by persons not affiliated with the school, such as family members or friends in the home or community.

Impetus for this Guidance

In 2014, the GAO published a report based on an extensive review of efforts taken by all 50 states and the District of Columbia to address ASM. The report examined

- steps states and school districts had taken to help prevent ASM,
- reporting requirements and approaches for investigating allegations, and
- efforts of federal agencies to address the problem.

GAO (2014) found that most states do not have a requirement for school personnel to receive awareness and prevention training on child sexual abuse or ASM. They learned that many states wanted additional guidance and technical assistance (TA) from the federal government. The report recommended increased efforts to inform federal, state, and local initiatives about how to prevent and respond to ASM in schools. Therefore, the U.S. Department of Education (ED) has developed this guidance to do the following:

- ✓ Help ensure the safety and well-being for every child at school.
- ✓ Help school officials, teachers, and parents understand the behaviors that are considered ASM and the effects of ASM on children.
- ✓ Describe steps that can be taken by school and district administrators to prevent ASM, such as increased scrutiny in hiring practices and widespread training for school personnel.

- ✓ Suggest ASM prevention measures in local codes of conduct.
- ✓ Provide guidelines for reporting at the school, district, state, and/or local levels when ASM is suspected.
- ✓ Create safe mechanisms for reporting and investigating possible cases.
- ✓ Protect educators and other school staff members from false allegations by developing specific policies to prevent and address them.
- ✓ Shed light on the role of social media, gaming applications, and the internet in ASM, and suggest appropriate boundaries related to these technologies.
- ✓ Provide information on additional federal resources that address ASM.

The chapters that follow were developed through a process of research and review by consultant subject matter experts and a working group review process that involved federal and non-federal participants. It is intended as part of an ongoing, systemic effort to provide school districts across the country with the information and tools needed to address the problem of ASM.

Chapter 1: Understanding ASM

This chapter provides the background necessary to recognize and understand adult sexual misconduct (ASM) as it occurs in school settings. It describes the most common behaviors that constitute ASM and provides examples of appropriate and inappropriate communications and conduct. The known detrimental effects of ASM on children (including physical, psychological, behavioral, and academic) are presented. Information is provided on the tactics used by typical perpetrators to target and victimize children. Chapter 1 concludes with demographic and other information on the children most likely to become the targets of ASM.

ASM Defined

A 2014 report by the U.S. Government Accountability Office (GAO) defines ASM as any sexual activity (physical or not) directed to a child with the purpose of developing a romantic or sexual relationship (p. 1–5). The GAO notes that although some types of ASM (such as remarks directed to a student) may not be criminal, these actions often violate other laws, regulations, and professional codes of conduct. These "gray areas" can sometimes be subject to interpretation, which underscores the importance of developing clear policies and procedures on ASM in every school district.

Inappropriate Conduct

Examples of inappropriate verbal conduct include sexual comments and questions, jokes, taunting, and teasing; whether in person, by phone, or using electronic means (GAO, 2014, p. 2–5). Modern technology, including social media platforms, along with features such as image-sharing and video-streaming, which can be used to enhance teaching and learning, also provide readily available and accessible avenues for ASM, such as the exchange of sexually explicit comments and images with minors (National Center for Missing & Exploited Children, 2012). Furthermore, there are numerous platforms which can be hidden; include disappearing media, such as images and text; and require log-ins.

According to the National Education Association, inappropriate physical conduct includes kissing, hair stroking, tickling, and frontal hugging (Simpson, 2006). It is important that school personnel understand what is considered appropriate and inappropriate conduct so that they can protect the children, at school and in its related cyber settings. Furthermore, school personnel will want to take steps to protect themselves while interacting with students before, during, and after school. By modeling appropriate adult behaviors, educators can help teach children protective actions, as well. For examples of these behaviors, see the figure **Examples of Appropriate vs. Inappropriate School Personnel Conduct** later in this chapter.

Illegal Conduct

Illegal conduct is characterized by physical sexual contact between an adult and a child under the age of 18. Specifically, this conduct includes sexual contact, genital contact, groping, fondling, touching, kissing, and sexual hugging (GAO, 2014). Exhibitionism, or showing one's genitals in public, as well as showing children images of sexual activity, are often, although not always, illegal. Child pornography, sextortion, and other examples of child exploitation conducted by adults in an online setting are also illegal according to various state and federal laws (U.S. Department of Justice (DOJ), 2015).

As legal definitions of child sexual abuse vary by state, it is imperative for school administrators and staff members to become acquainted with local laws and their real-life applications. The U.S. Department of Education's Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center lists state guidelines along with sample state polices at http://rems.ed.gov/stateresources.aspx.

ASM Provisions in Title IX

Federal law addresses ASM in schools through *Title IX* of the *U.S. Education Amendments of 1972* (Office for Civil Rights, 2008). *Title IX* prohibits discrimination on the basis of sex in any educational organization that receives federal funds (Department of Justice, 2015). School districts that receive federal funds must designate an employee to oversee *Title IX* requirements, act as a point of contact for sexually related complaints, and coordinate investigations (GAO, 2014).

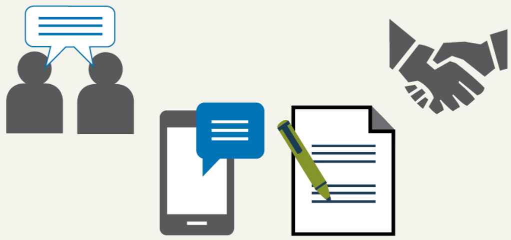
Although *Title IX* is not a criminal statute, the behaviors it prohibits may be criminal or noncriminal in nature, depending on state or federal laws (GAO, 2014, p.8). ED's Office for Civil Rights (OCR) enforces *Title IX*, and provides guidance, resources, and information to districts and schools to ensure discrimination does not happen, including addressing and responding to possible incidents of sexual harassment of students. In this context, "sexual harassment" is synonymous with the activities that define ASM. If schools ignore the sexual harassment, including harassment conducted in online forums, of students by staff or peers, they can face legal repercussions (ED Office for Civil Rights, 2008).

Chapter 2 of this guidance addresses the need for *Title IX*-compliant policies and procedures on ASM. Chapter 3 describes the role of the local school's *Title IX* coordinator, as well as staff training that can help prevent ASM and identify when it is taking place. This information is provided to answer the questions many local school districts have about *Title IX* requirements.

Alternate Terms for ASM Used in this Guidance

Throughout this document, the term "ASM" is used to include all inappropriate and illegal forms of sexual interaction with children in school settings. However, some research cited in this guidance examined a specific subset of inappropriate or illegal behaviors, or used terms such as "child exploitation," "child maltreatment" or "child sexual abuse" in their studies. In these instances, the terms used by the researchers will be described and distinguished from ASM. Also, for the purposes of this guidance, ASM does not refer to child sexual abuse in non-school settings or by persons not affiliated with the school, such as family members or friends in the home or community.

Exhibit 1.
Examples of Appropriate vs. Inappropriate School Personnel Conduct



VERBAL / WRITTEN / ONLINE COMMUNICATIONS

Appropriate:

- ✔ Praise
- ✔ Positive reinforcement for good work or behavior
- ✔ Humor and friendly comments
- ✔ Compliments that are not personal in nature
- ✔ Interactions with students in plain sight of all, with doors open

Inappropriate/Harmful:

- ✘ Sexually provocative or degrading comments
- ✘ Risqué jokes
- ✘ Singled-out student(s) for favors
- ✘ Written greeting card messages, notes, texts, emails, social media posts, or yearbook inscriptions that are highly personal in nature
- ✘ Suggestive teasing that references matters of gender or contains sexual innuendo

PHYSICAL CONDUCT

Appropriate:

- ✔ Personal contact in safe-touch areas (i.e., shoulders, upper back, arms, head, and hands), as long as the behavior is obviously appropriate, such as when giving a handshake or pat on the back
- ✔ Legitimate nonsexual touching, such as a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee

Inappropriate/Harmful:

- ✘ Patting the buttocks
- ✘ Hugging, if the child is not receptive, if the staff member is hugging too often or for too long, or if the contact is romanticized or sexually intimate
- ✘ Touching that is intimate, romantic, or sexual in nature
- ✘ Meeting students away from school grounds during out-of-school hours or taking them away from school grounds before and after school hours
- ✘ Using corporal punishment
- ✘ Showing printed or web-based pornography and/or engaging students in pornographic activities
- ✘ Being alone in a locked room with a student
- ✘ Using cyberspace to interact privately with a student, without others' knowledge, consent, and supervision

The Impact of ASM

Child sexual abuse, including ASM in schools, is detrimental to children's physical, psychological, and academic well-being, as well as to their behavioral development (Lalor and McElvaney (2010); Hornor, 2009; Shoop, 2004). This victimization, whether through a single event or chronic exposure, can result in either short-term or lifelong effects that include maladaptive behaviors, mental disorders, developmental delays, social difficulties, and a shorter life expectancy ("Linking Childhood," 2015).

The Division of Violence Prevention at the U.S. Centers for Disease Control and Prevention (CDC) views child maltreatment as a serious public health concern ("Child Abuse Prevention," 2015). The CDC defines child maltreatment as any act or series of acts of commission or omission by a parent or other caregiver (e.g., clergy, coach, teacher) that results in harm, potential for harm, or threat of harm to a child (CDC, 2015).

This definition of child maltreatment is broader than ASM, as it addresses any type of harm or potential for harm to a child, whether or not it is sexual in nature and regardless of where it takes place. ASM is therefore one type of child maltreatment. The following consequences of child maltreatment have been noted by the CDC and researchers in this area:

- Martin, Bergen, & Richardson (2004) found that the rate of psychiatric diagnoses was 56 percent in women and 47 percent in men who had suffered childhood sexual abuse.
- The stress of abuse can result in anxiety and make victims more vulnerable to problems, such as post-traumatic stress disorder; conduct disorder; and learning, attention, and memory difficulties (Cantón-Cortés and Cantón, 2010; Dallam, 2001; Perry, 2001).
- Early child maltreatment can have a negative effect on the ability of both men and women to establish and maintain healthy, intimate relationships in adulthood (Colman et al., 2004).
- Children who experience maltreatment are at increased risk for smoking, alcoholism, and drug abuse as adults, as well as engaging in high-risk sexual behaviors (Nichols and Harlow, 2004; Sapp & Vandeven, 2005; Dube et al., 2003).

According to the American Association of University Women ("Hostile Hallways," 2001), the developmental effects of maltreatment can include

- improper brain development;
- impaired learning ability and social and emotional skills;
- lower language development; and
- higher risk for heart, lung, and liver diseases; obesity; cancer; high blood pressure; and high cholesterol.

At least a third of victimized students surveyed by AAUW ("Hostile Hallways," 2001) reported behaviors that would negatively affect academic achievement, stating that they

- avoid the teacher or other educator (43 percent);
- do not want to go to school (36 percent);
- do not talk much in class (34 percent);
- have trouble paying attention (31 percent);
- stay home from school or cut a class (29 percent); and
- find it hard to study (29 percent).

Characteristics and Tactics of ASM Perpetrators

ASM can be perpetrated by adults in all job categories within schools (Shakeshaft, 2004b[2]). For the 2001 *Hostile Hallways: Bullying, Teasing, and Sexual Harassment at School* survey, AAUW representatives interviewed a nationally representative sample of 2,064 public school students in grades eight through 11. They investigated students' experiences of sexual harassment (defined as sexual teasing, bullying, and unwanted touching), including the jobs held by the perpetrators. Students reported that unwanted sexual contact most commonly originated from

- teachers (18 percent);
- coaches (15 percent);
- substitute teachers (13 percent); and
- bus drivers (12 percent).

ASM research suggests that perpetrators who work in schools target students using the same methods as those who target children in other settings: They zero in on those who are vulnerable (Shakeshaft, 2004b). Perpetrators are calculating in their approach; they isolate, manipulate, and lie to children to gain sexual contact and make them feel complicit (Robins, 2000).

Grooming, Trolling, and Exploiting

To keep their conduct secret, perpetrators coerce and "groom." That is, as sexual contact escalates, they methodically increase the attention and rewards they give to their targets (Robins, 2000). Grooming allows perpetrators to test their targets' silence at each step. To nurture the relationship, perpetrators make the target feel "special" by, for example, brandishing gifts and/or spending extra time with the target in nonsexual ways, all in an effort to learn whether the target will keep silent (Robins, 2000).

At the same time, the perpetrator is also testing the adults surrounding the child or school, including those who work at school, individuals in the school community, and the child's family or guardian(s). It is not uncommon for the behaviors to be done publicly so that the perpetrator can gauge reactions; share information (true or false) to manipulate how the behavior is interpreted by the adults; and further control the child victim. For example, a teacher may lead their colleagues to believe the parent has provided consent for them to drive a student home because the parent needs help. In response, the perpetrator receives accolades and gratitude from their colleagues, and has begun the process of grooming peers as well.

As the target is groomed, and as the adults are groomed, the perpetrator gradually progresses to engaging in sexualized behaviors, often using threats and intimidation tactics with the child to keep his or her sexual misconduct secret. Keeping silent implicates the targets, making children believe they have been complicit in their own abuse and are therefore responsible for the abuse (Robins, 2000). Perpetrators will often threaten wavering targets, or those who seem likely to

[2] Please note that concerns have been raised about both the methodology of Charol Shakeshaft's report, "Educator Sexual Misconduct: A Synthesis of Existing Literature (PDF)" and the extremely broad way that sexual abuse and misconduct were defined. In addition, although the subtitle of the report is "a synthesis of existing literature," the report is not a true meta-analysis. However, former Deputy Secretary of Education Eugene W. Hickok noted in the preface of the report that the topic is of critical importance and that releasing it was clearly in the public's interest. Learn more here: http://www.independent.org/newsroom/article.asp?id=1331.

report the misconduct, with a reminder of their powerlessness, such as, "No one will believe you" (Shakeshaft, 2004a). This threat can take form through another grooming tactic perpetrators use to keep their targets silent and to protect themselves—they befriend the victim's parents to discredit any potential allegations (Shakeshaft, 2004b).

School personnel who engage in sexual jokes without being reprimanded might move on to making physical contact, such as touching a student's hair or body. If the behavior goes unreported and unaddressed, the adult may grow bolder and escalate to increasingly sexualized behaviors (Goorian, 1999).

While ASM often occurs covertly in classrooms (whether empty or not), hallways, private offices, buses and cars, the homes of school personnel, secluded outdoor areas, in online forums and on social media networks, and during school functions and parties, ASM can also occur openly in front of student bystanders (Shakeshaft, 2004a). ASM can take place as a pattern of behavior that stretches over time or as a sudden, impulsive attack (Shakeshaft, 2004b).

ASM perpetration behaviors are often seen in three phases (Shoop, 2004):

- **Trolling and Testing**. The abuser is screening for possible candidates by testing the boundaries of the student, the home environment, and the school environment. The abuser is trying to identify a vulnerable child. A child may be identified as vulnerable because he or she is unsupervised, may not have close parental relationships, may be lonely or needy, may have inappropriate boundaries, or may have low self-esteem. Also, the targeted or vulnerable child may be one that the perpetrator has access to in a private setting. It is difficult to identify the motive during this phase (Seattle Public Schools with funding from the U.S. Department of Education, 2013).
- **Grooming**. Some of the warning signs in this grooming phase may be nonsexual and include the offender trying to move the relationship to a personal level, telling the student their personal problems, discouraging the student from talking with other school employees, or asking the student to run personal errands (Seattle Public Schools with funding from the U.S. Department of Education, 2013).
- **Exploiting and Lulling.** This phase involves manipulating the student while becoming more aggressive with abusive behaviors. This includes both sexualized behaviors and other activity that is designed to keep the sexual relationship ongoing and undiscovered. Perpetrators persuade students to keep silent, either by intimidation or threats, or by manipulating the child's affections. Secrecy protects the abuser and isolates the victim (Seattle Public Schools with funding from the U.S. Department of Education, 2013).

The phases of exploitation are directed not only at the targeted student, but at fellow staff members. Socially skilled perpetrators usually work hard at making sure that they are well-liked by staff and that the student will not be believed, even if the sexual relationship is disclosed (Seattle Public Schools with funding from the U.S. Department of Education, 2013).

Exhibit 2.
Three Phases of ASM Perpetration Behaviors

TROLLING AND TESTING

- Schools: Perpetrators may apply for jobs at schools with lax ASM policies or little understanding about the incidence of ASM in schools.
- Parents: Perpetrators look for parents who need help or who are disengaged from their parenting roles.
- Students: Perpetrators look for students who are vulnerable and will be open to someone who wants to fill an emotional void.

GROOMING

Desensitizing the student to inappropriate behaviors and making the child feel special in sexual and nonsexual ways.

EXPLOITING AND LULLING

- Schools: Perpetrators become increasingly aggressive in defending their conduct by indicating they are more caring and engaged with students than other adults.
- Parents: Perpetrators begin to assume a supportive family member role while isolating the student from his or her family.
- Students: Perpetrators bribe, extort, isolate, intimidate, manipulate, and/or coerce the student.

Sources: *Sexual Exploitation in Schools: How to Spot It and Stop It,* Robert Shoop, 2004; Helpful Hints, U.S. Department of Education, Vol. 3, Issue 2, 2007

Common Targets of ASM

While almost all children and youths respond to positive attention from an educator and other adults within the school system, students who are estranged from their parents, who are unsure of themselves, who are engaged in risky behavior, or whose parents are engaged in risky behavior are often targeted, not only because they might be responsive, but also because they are more likely to maintain silence (Robins 2000). These children are easier to control, may welcome attention, and could be perceived as less credible if they make allegations.

Females comprise the overwhelming majority of ASM victims (Sedlak et. al., 2010). African-American children are nearly twice as likely as white children to be targeted, while Hispanic children face a slightly elevated risk as compared to non-Hispanic white children (Sedlak et. al., 2010). Children with disabilities are almost three times more likely than their disability-free peers to become ASM targets, and those with intellectual and mental health disabilities appear to be most at risk (Lund, 2012). This problem is compounded when a disability interferes with a child's ability to report abuse to an adult (Skarbek, Hahn, & Parrish, 2009).

A recent survey of middle school and high school students ages 13 and older conducted by the Gay, Lesbian, & Straight Education Network (GLSEN) (Kosciw, Greytak, Palmer, & Boesen, 2014) found that children who are lesbian, gay, bisexual, transgender, or questioning their sexual identities (LGBTQ) sometimes hesitate to report ASM, believing that the incidence of homophobia among school personnel will prove to be an insurmountable barrier to getting help. In fact, GLSEN indicated that 56.9 percent of LGBTQ student responders were subjected to homophobic remarks from their teachers or other school staff.

Conclusion

This chapter provides the "big picture" of ASM as it occurs in school districts across the country. With this understanding of the behaviors that characterize ASM, its effects on students, and the approaches used by perpetrators to exploit children, the reader is equipped to move on to subsequent chapters. Specific guidance follows to assist school officials in the development of policies and procedures to prevent ASM through informed hiring practices and staff training. Information is presented on dealing with online technologies in the school setting, including maximizing their usefulness for educational purposes and minimizing their capacity for harm within this context. In addition, federal programs and resources are described that can promote ASM awareness to reduce the incidence of sexual victimization of children.

Chapter 2: Development of ASM Policies and Procedures

Well-documented and widely disseminated school district and school policies and procedures on ASM ensure that school personnel understand the behaviors that constitute ASM, and send the clear message that there is a zero-tolerance policy in place. In addition, through policies and procedures, educators and other school employees and volunteers are made aware and frequently reminded of their responsibilities to prevent, report, and respond to ASM and suspected instances of ASM. This chapter provides information on the development of policies and procedures that address both verbal and physical ASM, including

- guidelines for "gray areas" that are sometimes subject to interpretation (see chapter 1);
- the consequences for violating ASM policies;
- the legal responsibilities for mandatory reporting of possible ASM incidents, which vary by state law;
- mechanisms in place to allow for safe reporting of possible ASM;
- protective measures in place for the student reporter, adult reporter, and adult whose behavior is being investigated;
- suggestions for addressing false allegations of ASM;
- the role of the *Title IX* coordinator when ASM is alleged in school; and
- hiring practices that screen for applicants at risk of posing harm to children.

Policies and Procedures for Staff Interactions with Students

A critical first step in the commitment to the elimination of ASM in schools is the development of clear, written policies and procedures (GAO 2014). This ensures that all school personnel and volunteers

- receive consistent messages;
- understand the conduct that constitutes ASM; and
- are aware of their duty to prevent, report, and respond to ASM (see mandatory reporting discussion below) (Shoop, 2004).

To reinforce the seriousness of ASM and the school district's zero-tolerance policy, Shoop (2004) recommends that policies and procedures be promoted widely by posting them on the district's website and disseminating them to parents. In addition, policies should be shared with all school personnel every school year during orientation and with new school personnel and volunteers as they come on board. It is also important to communicate that the responsibility for protecting students from ASM is shared by the school board, the superintendent, all school personnel, volunteers, parents, state agencies, and law enforcement. And, protections for the victim and the concerned reporter, as well as precautions for the adult if the investigation results in no misconduct, are important. The burden to report should not be on the child.

Clear school policies spell out both appropriate and inappropriate behaviors—as well as the contexts in which they occur. Many schools find it helpful to include specific examples. The U.S. Centers for Disease Control and Prevention (Saul and Audage, 2007) recommends the development of precise definitions, policies, and procedures in the following areas:

- Verbal, written, and physical misconduct—in person and in cyber settings, as well as before, during, and after school—including acceptable and unacceptable behaviors
- Education about ASM prevention strategies for students, teachers, administrators, staff (e.g., custodians), coaches, school bus drivers, and volunteers, as well as parents and guardians
- Guidance for identifying and reporting behaviors that might indicate ASM, including:
  - an established child abuse reporting policy to the district and the authorized investigating agency, as defined by state and federal laws
  - the establishment of channels for reporting suspected ASM
  - clear information about reporting to local law enforcement
  - the school or district's system for ensuring an impartial investigation when abuse is suspected
  - mechanisms for reporting concerns to the state education officials that certify and license educators
- The legal consequences for a violation
- The fact that both illegal and inappropriate conduct will not be tolerated, and can lead to termination of employment
- Disclosure of formal reprimands or dismissals for violating policies on sexual misconduct to other schools seeking references

Shoop (2004) recommends including a written prohibition against false student complaints in school policies, noting that children and youths must understand the damage caused by a false complaint and the punishment for those who make false accusations. Similarly, it is a good idea for schools and school districts to develop a similar prohibition against false complaints made by school personnel against their colleagues.

Policies can also be developed to help shape the school's physical and cyber environments, and decrease the risk of ASM. Examples of precautions taken by other schools include requirements to monitor locked classrooms, storage rooms, and offices (particularly before and after school); conducting after-school tutoring in public and/or supervised locations; and posting cyber security policies that protect students and staff. Some schools have policies for classroom doors with glass windows that are not to be covered (Shakeshaft, 2013). And, some have policies for communications and interactions via computer and smart phones.

Policies for "Gray Areas"

Procedures also can be developed that ensure close supervision of adult-student interactions, especially when interactions with students are highly personal. In some cases, behaviors that are considered ASM are obvious and illegal, but in many cases, actions are legal and subject to interpretation. Since school personnel may have difficulty determining the kinds of behavior that are unacceptable, that is, the "gray areas," they should be clearly spelled out in school district policies and presented in school and district training related to ASM. Examples of situations for which school districts may want to consider for policy development include the following:

- *Traveling with students/transportation issues.* The boundaries for coaches or chaperones when traveling for sports or other competitions should be considered. For example, is it ever appropriate for a teacher to enter a student's hotel room? (Seattle Public Schools with funding from the U.S. Department of Education, 2013). Is it appropriate for an educator to give a student a ride home from school?

- *After-school guidelines.* When is it appropriate for a teacher to pay particular attention to a student by offering to help with after-hours study sessions? (Seattle Public Schools with funding from the U.S. Department of Education, 2013).
- *Attention that may cross boundaries.* Examples include frequent compliments directed toward a particular student, overly personal cards, notes, emails, or teasing that references gender or contains sexual innuendo (Seattle Public Schools with funding from the U.S. Department of Education, 2013).
- *Social media boundaries*. What types of interactions are appropriate between school personnel and students on Facebook, Instagram, or Twitter; or when texting or emailing images? (Maxwell, 2007). Chapter 4 closely examines the complex issue of online interactions.
- *Acceptable and unacceptable interactions between students over 18 and young teachers that are recent college graduates.* Administrators may wish to prohibit the following issues in school policies: dating, spending time together outside of school, and sexting, which can be a precursor to sextortion. Some ASM incidents may involve an adult who believes they have fallen in love with a student (Seattle Public Schools with funding from the U.S. Department of Education, 2013).
- *Circumstances that require teachers to have close physical contact with students*. For example, if assisting a special education student with using the restroom falls within a teacher's regular job duties, a documented policy and a tailored job description could prevent the investigation of a teacher based on a misunderstanding (Seattle Public Schools with funding from the U.S. Department of Education, 2013).

SCENARIO

The following scenario, which takes place when a teacher is found alone in a bathroom stall with a student, was used in the Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center's Adult Sexual Misconduct in Schools: Prevention and Management training on the topic, which was available prior to this updated guidance. The scenario illustrates the importance of clear policies in matters of close interpersonal contact with students (originally developed by Seattle Public Schools with funding from the U.S. Department of Education, 2013). Even when a mandatory reporter is unsure whether inappropriate conduct is occurring, it is always a good idea to conduct an investigation if a child's well-being is in question. Use the following scenario to prompt discussion among emergency management planning and/or ASM prevention and management teams at your school or school district. Imagine this scenario unfolding and then discuss with your team how they would have responded if they were Ms. Smith and/or Mr. Fiori.

Ms. Smith became concerned when she noticed that Bobby and an instructional assistant, Mr. Fiori, had been gone to the restroom for almost 15 minutes. From her perspective, that was much longer than it normally takes them as Bobby is learning to be more independent now. She went to the restroom to see if something was wrong.

Ms. Smith: "Mr. Fiori, Mr. Fiori, is everything alright in here?"

Mr. Fiori: "Yeah, fine; why do you ask?"

Ms. Smith: "Oh, well you've been gone so long; I was a little worried."

Mr. Fiori: "We're fine; we're going as fast as we can. We had a bit of a problem. Bobby's shirt got caught in his zipper and I was having a hard time getting it unstuck and it was a little wet, too, so we had to deal with that. Is there a problem?"

Ms. Smith: "I don't know. Shouldn't he be getting back to his regular classroom?"

Mr. Fiori: "We're going as fast as we can. Is there anything else? I'd like to get back to my job."

Ms. Smith: "Bobby, are you sure everything's okay?"

Bobby: "Yeah, I'm fine."

Mr. Fiori: "Can we talk about this later please Ms. Smith?"

Ms. Smith: "Fine."

Mr. Fiori confronted Ms. Smith later and expressed that Bobby was already embarrassed and felt that she was just making it worse:

Mr. Fiori: "I'm required to have close, personal contact with my students. That's just how it is. And I can't be worried all the time that someone's going to question me about it or misinterpret what I'm doing. They expect the kids to pick up new skills very quickly. And sometimes they just need more help."

It was probably nothing, and normally Ms. Smith wouldn't be worried, but Mr. Fiori did seem a little defensive when she walked in. She knows that he has to assist the students with hygiene and such, but she responded to Mr. Fiori:

Ms. Smith: "You can't be too careful these days, not with what you read in the papers and hear on the news."

If you were Ms. Smith or Mr. Fiori, how would you have handled this situation?

All school policies should recognize the importance of healthy communication and interaction in learning and instruction while establishing reasonable boundaries for educator-student relationships. Employees can protect themselves from misunderstandings and false accusations by familiarizing themselves with and consistently adhering to documented policies.

The GAO (2014) strongly recommends that school officials work with their state district attorney to ensure that their policies and procedures are in alignment with *all* applicable laws pertaining to ASM in the school setting—including those governing the age of consent and requirements for mandatory reporting.

The Virginia Board of Education policy (2011, p. 2), used here with permission, delineates specific guidelines for communication and interaction and is presented here as an example of one state's approach.

Codes of Conduct

The GAO report (2014) found that professional standards or codes of conduct are tools used by 42 states in their efforts to prevent the perpetration of ASM by school personnel. According to the experts interviewed by GAO, statements that identify acceptable and unacceptable behaviors for school personnel—such as being behind closed doors alone with a student—can help staff, students, and parents determine when violations have occurred. These policies can help identify questionable behaviors that should be

Exhibit 3. In-Person Communication and Interaction

School employees and volunteers should avoid appearances of impropriety when behaviors often associated with inappropriate conduct that can create an appearance of impropriety, including

- conducting ongoing, private, conversations with individual students that are unrelated to school activities or the well-being of the student and that take place in locations inaccessible to others;
- inviting a student or students for home visits without informing parents;
- visiting the homes of students without the knowledge of parents;
- inviting students for social contact off school grounds without the permission or knowledge of parents; and
- transporting students in personal vehicles without the knowledge of parents or supervisors.

Personal contact between adults and students must always be nonsexual, appropriate to the circumstances, and unambiguous in meaning. Employees and volunteers should respect boundaries consistent with their roles as educators, mentors, and caregivers. Violations of these boundaries include

- physical contact with a student that could be reasonably interpreted as constituting sexual harassment;
- showing pornography to a student;
- unnecessarily invading a student's personal privacy;
- singling out a particular student or group of students for personal attention and friendship beyond the bounds of an appropriate educator/mentor-student relationship;
- conversation of a sexual nature with students not related to the employee's professional responsibilities; and
- a flirtatious, romantic or sexual relationship with a student.

reported and make the consequences for their violations clear, e.g., such as termination of employment.

Of these 42 states, 15 address grooming behavior in their codes of conduct, and 22 reported that their codes of conduct help define boundaries between school personnel and students by citing examples of appropriate and inappropriate behavior, including those for engaging in the use of technology (GAO, 2014).

School district and school codes of conduct would be well-served to explicitly prohibit romantic and sexual relationships between students and teachers, regardless of a student's age. Both teachers and students need a clear understanding of what constitutes ASM and the boundaries between acceptable and unacceptable interaction between teachers and students (Shoop, 2000).

Policies and Procedures for Mandated Reporting

Mandated or mandatory reporters (both terms are correct) are individuals required by state law to report abuse ("Mandatory Reporters," 2013). According to GAO (2014), in almost all states, school personnel (including administrators, teachers, psychologists, and nurses, among others) are considered mandatory reporters, but states vary in their designations. Mandatory reporters are generally those who have frequent contact with children. Some states have the freedom to decide who should be designated as mandatory reporters.

In most states, a mandatory reporter is required to report cases of suspected ASM to state or local child protection services; some state laws also require that reports be made to a designated school employee (GAO, 2014). Other states can establish their own standards for reporting child abuse or neglect. Variations in state laws are a primary consideration in the development of policies on mandatory reporting laws. Some school districts have developed formal agreements, such as a memorandum of understanding with local law enforcement agencies. And, some school districts have formally required reporting for ASM crimes that happen in online settings, including sextortion and human trafficking, which are also defined in these documents as mandatory reportable incidents (Newton Public Schools, n.d.).

The differences among state laws highlight the importance of clearly documenting all mandatory reporting requirements. It is the responsibility of school officials to know state laws in areas related to ASM and to develop and enforce clear policies on compliance for all school personnel (GAO, 2014, p. 2).

The CDC (Saul & Audage, 2007) suggests collaborating with lawyers and appropriate agencies to establish policies for employees when making ASM reports. These policies should include a chain of command and indicate whether the reporter should inform his or her supervisor(s). Ideally, only a few people should be notified to minimize the number of times the

ASM reports typically come to the attention of school officials (Shoop, 2004) via one of the following means:

1. Formal complaints (made by the target or a target's parent)
2. Informal complaint (also made by the target or a target's parent)
3. Observed abuse
4. Observed suspicious behavior
5. Rumors or anonymous reports

child has to discuss the alleged abuse and to ensure confidentiality. This will also reduce negative impacts to the child, the concerned reporter, and the adult whose behavior was investigated if the outcome is that misconduct did not occur. Reporting policies also should include state requirements about how soon a report should be made, as well as the consequences for not reporting, which vary by state ("Mandated Reporters," 2013).

A "permissive reporter" ("Mandated Reporters," 2013) is an individual who is not a mandatory reporter and voluntarily reports child abuse or neglect; anyone can be a permissive reporter. In at least 18 states, however, *anyone* who suspects abuse is mandated to report it, regardless of their profession.

According to Darkness to Light, an organization with the mission of ending child sexual abuse, mandatory reporters do not need proof of ASM to make a good faith report ("Mandated Reporters," 2013). If a child discloses abuse, the organization recommends listening attentively and asking "minimal fact," open-ended questions. The goal is for reporters to let children know they are believed and that the abuse is not their fault. Asking leading questions or pushing for information could re-traumatize the child and negatively impact an investigation.

The role of the reporter is therefore not to investigate or evaluate the alleged abuse, but to *report the behavior which raised concern*, to those charged with conducting an investigation. Obtaining the help of a child advocacy center, as well as asking clarifying questions of the child, is acceptable.

Deciding Whether or Not to Make a Report

Most school employees are committed to the safety of their students, but they are often confused about whether they should report suspicious or inappropriate behavior, exactly how they should report it, and to whom.

The Child Abuse Prevention and Treatment Act (CAPTA) establishes minimum standards for state mandatory reporting laws related to known or suspected child abuse, and offers support to states in preventing and responding to child abuse and neglect. However, states primarily define their own requirements for preventing, reporting, and investigating child abuse and neglect, including sexual abuse.

All 50 states and the District of Columbia require that teachers and other school officials report suspected child abuse—including sexual abuse—to law enforcement and/or child protection agencies (GAO, 2014). Teachers and school officials are therefore mandated reporters and, while they must have reasonable suspicion that abuse has occurred, they need not have witnessed the alleged abuse directly.

Also, CAPTA mandates that state laws offer protection to individuals reporting incidents of suspected child abuse in good faith, even if their suspicions turn out to be unfounded. Thus, CAPTA grants reporters immunity from prosecution (GAO, 2014).

Title IX Requirements for Reporting ASM

Title IX regulations require schools to designate a "*responsible employee*" for ASM reporting. This is someone who:

- Has the authority to "take action;" or
- Is assigned reporting duties; or

- Is otherwise deemed an appropriate school designee (OCR, 2001).

In this case, a "responsible employee" may not be the same as a "mandatory reporter." The responsible employee is required to notify the Title IX coordinator of any and all incidents where ASM is suspected, after which the Title IX coordinator conducts or authorizes a Title IX investigation (OCR, 2008). As discussed in the next section, all ASM cases have the potential to violate Title IX regulations and therefore should be investigated under Title IX.

Legal Implications

Title IX has raised the stakes for ASM prevention. Teachers and administrators who do not intervene in ASM could be held personally liable for damages. A deciding factor for imposing monetary damages and holding a district liable for the perpetration of ASM lies in whether or not a district is deemed to have acted with "deliberative indifference" (Shakeshaft, 2004b). It is not clear from legal precedent, however, how deliberate indifference is established. While some states may penalize mandatory reporters who fail to report ASM, those who *do* report it are not deemed liable if it turns out their report is unsubstantiated. Therefore, the best practice is always to report when there is reasonable suspicion ("Mandated Reporters," 2013).

According to ED's OCR (2014), since "the standards for pursuing and completing criminal investigations are different from those used for *Title IX* investigations," the results of a criminal investigation do not affect a school's duty to meet its *Title IX* obligations. Therefore, schools and school districts must report incidents according to *Title IX* guidelines separately and in addition to the requirements of state laws.

False Allegations

ASM, whether alleged and unsubstantiated, or alleged and proven, has a powerful effect on everyone in the school setting. Unfounded allegations can be devastating to the employee, the school, and the students (Seattle Public Schools with funding from the U.S. Department of Education, 2013). Even if the employee is ultimately exonerated, the damage has already been done and the stigma can linger for years (Simpson, 2006). Therefore, it is critical for staff members to understand that adult behaviors in the school are scrutinized in light of today's headlines (Seattle Public Schools with funding from the U.S. Department of Education, 2013).

To avoid the misinterpretation of behaviors and the resulting fall-out, interactions with students must closely adhere to documented policies and procedures. Some behaviors are easily misinterpreted because of factors such as context, frequency, and the observer (Seattle Public Schools with funding from the U.S. Department of Education, 2013). Documented policies that are carefully followed provide a safe environment for both staff and students to work and learn.

Educators and other staff members often have concerns about reporting suspected misconduct by a coworker or volunteer as they fear making a false allegation. The important point to remember is that ASM policies are not about "telling on each other" or creating false allegations; reports are not about being certain or correct. The purpose of reporting is to ensure that everyone is aware of what is going on for the protection of the child as well as the staff member. (Seattle Public Schools with funding from the U.S. Department of Education, 2013, p.7). The legal responsibilities for mandated reporting (described at the start of this section) must be taken seriously regardless of personal feelings about another staff member or the degree to which reporters are certain abuse is taking place.

Unfortunately, there are students who know the consequences of ASM complaints and are willing to try to have an unpopular teacher fired or to create problems for them by making false allegations (Simpson, 2006). Shoop (2004) recommends a written prohibition against false student complaints in school policies so students understand the damage caused by false complaints and the punishment for those who make false accusations. To be more effective, students can be taught their roles and responsibilities as it relates to adult sexual misconduct and reporting such behavior.

To assist in preventing knowingly false allegations, the National Education Association (NEA) has developed suggestions on avoiding compromising situations (Simpson, 2006). These "common sense pointers for avoiding false allegations" are as follows (p. 2):

- *Whenever possible, do not be alone with a student*, because allegations made when there are no other witnesses hinge on credibility. Authorities often tend to favor the alleged victim in these circumstances.
- *Maintain a professional demeanor and distance,* which means no flirting, teasing, or joking about sex. Do not socialize with students or treat them as "friends." Never give gifts, unless they are given to every student, and do not single out any one student for special attention or flattery. Do not ask students about their social lives or comment on personal appearance. Avoid discussing intimate details of your private life. Do not hire students to babysit or allow them to visit your home.
- *Avoid physical contact with students.* As a general rule, it is best to avoid most forms of physical contact, especially kissing, hair-stroking, tickling, and frontal hugging. Use common sense: A "high five" to acknowledge a job well done is fine; a slap on the bottom is not. Male employees are far more likely to be accused of inappropriate contact with students than female employees.
- *Avoid using physical force to enforce discipline*. When students are misbehaving or out of control, avoid touching or grabbing them to get their attention. Instead, use verbal commands and other disciplinary methods. If you must use physical force in self-defense or to prevent injury to others, use the minimum force necessary to prevent harm and immediately call for help.
- *Never allow a student to obsess over you.* While a crush can be flattering, an unfulfilled fantasy can result in a student acting out to gain attention or retaliating for being ignored. If a student expresses a love interest, respond with an unambiguous "no." Don't equivocate or encourage the student by acting pleased by the attention. It is advisable to share this information with another adult.
- *Be particularly wary of "troubled" students.* A teacher's efforts to help can be misconstrued as something more and may lead to an infatuation or dependence. In addition, you don't have the skills or training needed to assist. Refer the student to the school counselor.
- *Be especially vigilant if you hold certain teaching positions.* Anecdotal evidence suggests that employees who perform certain jobs are at increased risk of false allegations. These include coaches and performing arts teachers—drama, band, chorus, and debate, as well

as publication advisers. This may be the product of the intense nature of such activities, which can weaken teacher/student boundaries, coupled with substantial after-school, weekend, and off-campus contact.

Policies and Procedures for Hiring Practices

The first line of defense in preventing ASM is in the screening and hiring of staff members. While school districts share some common elements, specific approaches to hiring practices vary locally, as well as by state. Some of these variations are due to location (e.g., urban, rural, suburban, or frontier); some are due to budgetary limitations; and many variations result from the differing state laws that govern employees with unsupervised access to children.

Therefore, the action steps presented in this section may not apply in all states and school districts. The overarching goal for schools, however, should be the adoption of hiring practices that effectively screen for applicants at risk of posing harm to children.

The CDC makes available a practical ASM prevention guide school districts can use to ensure hiring practices adequately address ASM (Saul and Audage, 2007). While this excellent resource was specifically developed for *youth-serving organizations*, much of the material is applicable to schools (GAO, 2014). The guide includes valuable advice for the screening of staff and volunteers (Saul & Audage, 2007). Included are the following recommendations:

- Develop criteria that define how screening information will be used to determine an applicant's suitability.
- Define areas of concern related to ASM, such as an applicant's fixation on a particular age or gender, or a history of crimes related to sex or violence.
- Develop *consistent* and *systematic* policies and processes for screening and selection, including a sequence and timeline.
- Consult with the state district attorney to ensure that screening and selection policies do not violate *Title VII* of the *Civil Rights Act* or other federal or state laws prohibiting discrimination in the workplace.

Background Checks and Fingerprinting

Every state in the nation has enacted laws requiring K–12 educators to have criminal background checks (Terrazas, 2012; "Criminal Records," 2014; Vaznis, 2014). In all but 12 states, background checks are also required for other employees (e.g., coaches, classroom aides, and bus drivers) who have unsupervised access to children (Tawa, 2015). This measure helps prevent convicted felons from falsifying their identities to avoid detection. Another group of adults to consider are volunteers.

> Background checks should not be a district's only ASM prevention measure. Relying on background checks alone could lead schools to develop a false sense of security about ASM prevention.

Schools depend on both state and federal sources of criminal data—such as state law enforcement databases, and the Interstate Identification Index of the Federal Bureau of Investigation (FBI)—to gather applicant information. In some cases, state legislation defines the particular database(s) that should form part of background check searches ("Criminal Records," 2014).

The FBI's Interstate Identification Index is an automated system used to exchange arrest and conviction information that is voluntarily reported by agencies at the federal, state, and municipal levels. An additional source of federal information is the U.S. Department of Justice's National Sex Offender Public Registry, an online tool that also can be used by the general public to search for sex offenders by name and/or location (see http://www.nsopw.gov/en-US/Home/About). In addition, *all* background checks must comprise a search of state sexual offender database(s) ("Criminal Records," 2014). In some cases, a search of national sex offender registries is required by state law.

If information gathered during the application process reveals that an applicant has moved frequently, searches across the databases of multiple states are recommended. Case in point: A Pennsylvania legislator spoke recently about loopholes that allow sexual offenders to gain employment outside the state where they committed an offense. This practice, which takes place with the knowledge of some school officials, occurs frequently enough to have been dubbed "Passing the Trash" (Tawa, 2015).

Beyond these searches, 25 states recently reported consulting the National Association of State Directors of Teacher Education and Certification (NASDTEC) clearinghouse (GAO, 2014). This database maintains information, voluntarily reported by states, on teachers who have lost their teaching credentials as a result of abuse-related or ASM offenses.

Some states call for background checks to be repeated at specific points (e.g., when re-certification is required), while other states rely on notification systems to learn about subsequent convictions or arrests ("Criminal Records," 2014). Unfortunately, these systems often flag only subsequent convictions or arrests in the *same* state. Schools can therefore miss offenses occurring in states outside their initial search (GAO, 2014). The CDC concurs that records about arrests are not always linked or comprehensive. Thus, methods other than database searches might be needed to effectively screen applicants (Saul and Audage, 2007).

Exhibit 4. Recommended Background Check Measures

The GAO (2014) and the CDC (Saul and Audage, 2007) recommend the following steps (included here with modifications to reflect the need to consult state laws) to those working with youths:

- Plan ahead for the time and financial resources needed to conduct background checks.
- Use background checks only as one part of prevention efforts.
- Delay criminal background checks until the end of the initial screening and selection process. This way, time and resources are expended only on applicants that make it through the prescreening process successfully. (Note here that screening timelines are sometimes mandated by state law.)
- Secure a signed consent from applicants before beginning the background check. Include in this consent an indemnification clause developed by an attorney.
- Decide which offenses will deem a close examination and which will disqualify applicants. (Consult state laws here, as they sometimes include specific disqualifying offenses.) Among absolute disqualifiers are violent behavior and a history of child sexual abuse perpetration. Depending on the position the applicant is seeking and the risk this position presents to children, as well as state law, drug and driving offenses also may be disqualifiers.
- Arrest data cannot be used as grounds for disqualification; only offenses resulting in convictions can be used.
- Develop procedures to keep the information resulting from criminal background checks confidential. Select a secure storage location for files and limit access. (Consult state law, as it may require specific confidentiality procedures.)
- Ensure that your school district's process for conducting criminal background checks is legally sound. Consult municipal, state, and national laws and regulations, as well as the district attorney and insurance company, as needed.

How Fingerprints are Processed and Stored

Methods for collecting fingerprints are determined by state laws and therefore vary ("Criminal Records," 2014). Many states require fingerprints to be collected at state police or other law enforcement offices, with the process witnessed by a law enforcement official. Some school districts delegate background checks and the associated fingerprinting responsibility to state agencies, such as the Department of Public Safety (as is the case in Arizona ["Fingerprint Clearance," n.d.]) or to an office within the state department of education, such as the Office of School Personnel Review and Accountability in New York State ("Fingerprinting FAQs, 2015).

Some states are allowed by law to use vendors trained in fingerprinting techniques; one vendor handles the process for nine states using scanners. These are situated throughout those states and have electronic submission capabilities ("Applicant Fingerprint," n.d.).

In *all* cases, fingerprints are secured and transferred from the point of collection to the FBI database and to all other state and sex offender databases used for the background check. Once the FBI database is checked, the fingerprints are returned to the designated state official, usually within the state education agency (SEA), but sometimes to a law enforcement office or other designated authority ("Criminal Records," 2014).

Methods that maximize confidentiality are used for the transfer and maintenance of fingerprints, and vary by state law. In some cases, the packages used for transport are nontransparent, sealed, conspicuously marked as confidential, and are not to be opened by anyone other than the intended recipient. It is a misdemeanor in some states to tamper with the packaging or otherwise violate confidentiality, and in all cases, when in storage, fingerprints are not made available for public inspection ("Criminal Records," 2014). The length of time they are maintained varies by state, as are the circumstances under which they are updated (usually at the time of educator re-certification as part of the background check process).

Background Check Caveats

It is important to note that background checks will not identify most sexual offenders, since most may have not yet been caught (Saul and Audage, 2007). The background check is but one aspect of the hiring process, which also should include an initial face-to-face interview, follow-up interviews, reference checks, a public search of the applicant online, and any additional hiring procedures determined by the state or school district.

In 2014, the GAO reported that education and criminal justice officials, among others, have raised concerns about the reliability of data made available through background checks. These concerns include the following:

- Education officials in one state reported that whether a sex offender is included in the state's public sex offender registry depends on the local court system. Therefore, not all offenders will be identified.
- States do not uniformly report information on educators that have been disciplined to the NASDTEC clearinghouse. SEA officials in each of the states visited by GAO when developing the report said they have seen evidence of incomplete and incorrect data in the database.
- Representatives from a risk management company told GAO that few perpetrators are caught the first time they commit an offense; sex offenders often have several victims before they are caught.
- Officials from one SEA reported being confused when conducting searches for common names, since their state's public sex offender registry is searchable by name, but not by social security number.

The Employment Application

Employment applications can be shaped to provide insight about professional boundaries and help determine whether an applicant can consistently demonstrate ethical standards of conduct with students. Open-ended questions, for example, encourage broad responses that can shed unexpected light on potential issues. These responses can also serve to flag items for follow-up questions to be addressed during an interview, as well as throughout the screening and selection process (Saul and Audage, 2007).

Further, disclosure statements serve as an opportunity to question applicants about their criminal histories.

Employment applications with evidence of the following should be red-flagged:

- A break in the licensure record
- Mid-year or early departure from a school post(s)
- Frequent changes in jobs/positions
- Name change(s)
- Frequent relocations

While perpetrators may not disclose past offenses, the inquiry itself will serve to demonstrate the school's seriousness about safeguarding its students (Saul and Audage, 2007). Disclosure statements also may serve to discourage ASM perpetrators from applying altogether.

Face-to-Face Interviews

To further determine a candidate's suitability, interviews can be led by a district administrator, principal, assistant principal, team lead, and/or teacher working in a similar position; *who* leads the interview depends on the nature of the job opening. When feasible, it is best to involve both administrators and educators in the process.

To help screen for potential ASM risk factors, scenarios can be prepared and incorporated into the interview process. These scenarios can require applicants to problem-solve potential issues at the school, and can help

- unveil boundary issues;
- indicate whether an applicant's level of insight and decision-making is in line with the district's and/or school's code of conduct;
- bring to light knowledge about the district's child protection policies; and
- demonstrate an applicant's ability to respond appropriately to any number of issues or situations.

Furthermore, responses can help the interviewer(s) determine whether an applicant has the capacity for mature adult relationships, not just relationships with children or youths (Saul and Audage, 2007), and note any evidence of a potential fixation on age or gender. The latter can be flagged to help establish whether special expertise for working with certain groups may account for this interest, or whether a fixation may be evident.

The recommendations that follow (Saul and Audage, 2007) should be taken into account during the interview process.

Exhibit 5. During the Interview Process

- Let applicants know that your school is serious about safeguarding youths.
- Clarify applicants' responses to employment application questions.
- Inform applicants about the district's and/or school's code of conduct, and policies and procedures for preventing ASM.
- Ask applicants if they have a problem with any of these policies and procedures, and have them sign a statement to this effect.
- Ask open-ended questions that encourage discussion.

SAMPLE SCREENING QUESTIONS

- What makes you a good candidate for working with children and youths?
- What would your friends or colleagues say about how you interact with children and youths?
- Describe a situation in your previous job where you experienced a challenge in working with a student, and explain how you resolved the situation.
- Describe a situation in your previous job where you experienced a challenge in working with a supervisor and/or colleague, and explain how you resolved the situation.
- Have you used social media to communicate with children and youths in previous jobs? If so, how did you use Facebook, Instagram, Twitter, texting, or other forms of electronic communication?
- Why do you want this position?
- What other hobbies or activities do you enjoy?

Reference Checks

Reference checks provide additional information about applicants and help verify previous work and volunteer history. The CDC (Saul and Audage, 2007) makes the following suggestions for conducting reference checks:

- Obtain *verbal* references to supplement those provided in writing. Conversations can elicit much more information. Listen attentively, since individuals may speak "in code" to signal a problem. Ask whether statements should be considered confidential.
- Match references with employment and volunteer history. Is anyone important missing from the references, such as a supervisor from an applicant's most recent job? To provide a complete picture of the applicant, references should come from a variety of sources.
- Be aware that many previous and/or current employers of applicants will only provide basic information, such as dates of employment or rehiring eligibility. If a former employer provides limited information, ask if this is the result of a school, district, or institutional policy.

The following questions can help elicit useful information from former employers (Saul and Audage, 2007):

- How would you describe the personal characteristics of the applicant?
- How does the applicant interact with students?
- Why would this person be a good candidate for working with students? Is there any reason this person should *not* work with students?
- Have you seen the applicant discipline students?

- Would you hire this person again? Would you want the applicant to return to your organization in the future? If not, why?

Online Public Searches

Some schools may choose to conduct an online search for additional relevant information on an applicant. (Note that applicants should be informed of these searches.) Some schools have secured permission to view an applicant's Facebook page or LinkedIn, Twitter, and Instagram accounts. When conducting online public searches, keep in mind that more than one person can share the same name, and that it can be difficult to verify the accuracy of online information.

The District and School Emergency Operations Plans

Schools and school districts are entrusted to have policies, plans, and procedures for keeping children safe from all hazards, threats, and emergencies, ASM included. Providing for ASM in the school emergency operations plan (EOP) via one or more threat- and hazard-specific annexes ensures an effective, coordinated response to ASM incidence. These annexes can delineate the policies, procedures, and courses of action a school will follow to prevent ASM and protect children. They can also help children and schools respond to and recover from an incident, should ASM occur. To learn more about the development of high-quality school emergency operations plans, and threat- and hazard-specific annexes, view the Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center at http://rems.ed.gov.

The following considerations can help inform the development of policies, procedures, goals, objectives, and courses of action a school and district may take in response to an ASM incidence.

School Board/District Considerations

1. Designate a single spokesperson for communicating with the media and the general public.
2. Consider providing training or retraining for all district employees (Saul and Audage, 2007).
3. Ensure that guidance for *Title IX* investigations (Office for Civil Rights, 2014) is followed closely. This includes the following:
   - Having designated and reasonable timeframes for the major stages of the investigation
   - Ensuring that school personnel take steps to end the alleged perpetration. For example, if a teacher is alleged to be the perpetrator, it may be appropriate for the student to transfer to another class.
   - Preventing disclosure of the names of the parties involved
   - Providing written notice to the complainant and alleged perpetrator on the outcome of the investigation
   - Ensuring steps for ASM prevention are taken
   - Ensuring the complainant is not retaliated against (something *Title IX* regulations specifically prohibit).

School Considerations

1. Organize an emergency response team who can provide support to students, school personnel, and parents, if needed.

2. Implement protocols to coordinate the school's response with local law enforcement to ensure no one intervenes with a criminal investigation.
3. Train parents and teachers to implement psychological first aid (PFA), as appropriate.
4. Implement recovery measures for the student, the reporter, and the school community based on their specific needs.

Other measures may be required of the school and the district, depending on the nature of the ASM and its impact on the student and the school community.

Conclusion

The importance of creating policies and procedures that hold all school district and school personnel accountable for the prevention of ASM cannot be overstated. However, the steps recommended in this guidance will, in some cases, require a change in school culture, reinforced by an ongoing education process. Once the commitment is made at the district level to document school ASM policies and enforce them unconditionally, the need for comprehensive training in ASM is a next step. The following chapter provides information on considerations for training that are relevant for all staff, as well as the need to tailor specific information to administrative and non-administrative personnel. These efforts will be most effective if training is mandatory for all personnel and volunteers who come in direct contact with students.

Chapter 3: Training in ASM Awareness and Prevention

Training of school personnel is an integral part of ASM prevention and response and should reinforce the school district's documented policies and procedures. Decisions related to training must include the following considerations:

- Content
  - How is it developed?
  - Are existing training curricula used as resources?
  - Does the training address a comprehensive set of topics (e.g., prevalence, grooming, reporting requirements)?
  - Which training topics are specific to administrators versus educators?
  - What is the format of delivery (e.g., in-person, online, CDs/DVDs, etc.)?
- Frequency
  - Is training presented at the start of every school year or more frequently?
  - Do new employees receive training regardless of their start dates?
- Participants
  - Are volunteers trained as well as staff members?
  - What should students be taught about preventing ASM?
  - Is training available for parents and guardians?

In all cases, the training environment should be one in which trainees feel comfortable actively participating and asking questions, even though the topic of ASM is a sensitive one. Being receptive to questions reduces barriers to coming forward, reporting, and being proactive about preventing and responding to child sexual abuse, including ASM (Saul and Audage, 2007).

Importance of Training

While most states do not require ASM awareness and prevention training, some school districts provide this training to staff, students, and volunteers (GAO, 2014). Because schools play a primary role in the lives of children, comprehensive, high-quality training is needed in all schools to help staff members

- recognize appropriate and inappropriate behaviors in their interactions with students;
- identify the early warning signs of ASM effects in children;
- detect the patterns of ASM behavior in adults;
- respond appropriately when an ASM incident is suspected; and
- follow the school's policies and procedures for reporting ASM, which must be consistent with state laws and general counsel guidance.

Training Considerations

The knowledge and skills imparted through training are critical for ensuring that everyone on staff is accountable for preventing ASM and responding appropriately when it is suspected. In choosing content, schools should take into account the specific training implications for various types of school personnel. The preventive measures a teacher will take might be different from those of an administrator. The examples and illustrations used should reflect these varying roles within the school (GAO, 2014). For this reason, schools may decide to provide training to administrators and non-administrative staff separately. Specialized training should be provided to the *Title IX* coordinator(s).

All-Staff Training Content

Training content that is necessary for all staff members is listed below. The content should do the following:

- Include a working definition of ASM.
- Explain the school's ASM policies, underscoring the fact that some ASM behaviors (e.g., those meeting the legal definition of child sexual abuse) are criminal acts. Therefore, ASM behaviors may lead to termination of employment and punishment under the law.
- Identify the warning signs of the effects of ASM on children, providing examples, when possible, from reported cases.
- Explain the role and legal responsibilities of mandatory reporters and the school's internal reporting procedures.
- Point out the consequences for failing to report ASM, as well as protections for those who report in good faith when incidents of suspected ASM turn out to be unsubstantiated.
- Describe how school policy prohibits the making of *intentionally* false ASM complaints and the repercussions for doing so. Emphasize that protecting the reputation of innocent educators is a high priority for the school.
- Identify perpetrator patterns of behavior, providing examples from local and national media accounts or case studies that are relevant to the school setting.
- Describe policies and procedures involving transportation, the physical school environment, toileting, and electronic communications, including social media.
- Take time to address questionable, but not criminal behaviors (i.e., the "gray areas") in both in-person and electronic interactions with students.
- Include information about which students are likely to be ASM targets and what school personnel can do to protect these at-risk students.
- Identify a school and/or district *Title IX* coordinator(s) and describe their roles, pointing out the location of their office(s) in the school or district and providing contact information.
- Discuss the steps school personnel are expected to take to reduce the risk of ASM in the physical environment. For example, some schools regularly monitor locked classrooms, storage rooms, and offices.
- Consider distributing a handout during training that describes the school's policies and asking staff members to sign it.
- Conduct a post-training assessment mechanism, such as a survey, to gauge the impact of the training and determine the need for adjustments in content, approach, or format.

Administrator Training Content

As leaders in ASM prevention and response, school administrators are charged with specific mandates and face some issues that are different from those faced by other school personnel (GAO, 2014). Therefore, in addition to addressing the content described for all-staff ASM training, a separate training for administrators can take into account the following additional topics:

- State laws and mandates specific to ASM prevention and response
- *Title IX* policies and procedures pertaining to ASM
- Oversight of the *Title IX* coordinator
- Strategies for ensuring prevention and response compliance by other school personnel
- Complaint processes and critical communication protocols within the school
- The threat- and hazard-specific annex(es) relating to ASM
- Policies for placing alleged perpetrators on administrative leave, and maintaining confidentiality during internal and external investigations
- Guidelines for working with local law enforcement
- Measures to promote school recovery after an ASM incident
- ASM recordkeeping, data management, and accountability

A Culture of Zero-Tolerance

Administrators set the tone for school conduct and model appropriate adult behavior. Checking off a list of requirements to comply with ASM directives will not bring about the cultural changes necessary to preventing ASM. Rather, the driving force behind cultural changes should be a sense of responsibility for protecting students and providing them with a safe and nurturing learning environment (National Coalition to Prevent Child Sexual Abuse and Exploitation, 2012).

Title IX Coordinator Content

School districts that receive federal funds must designate an employee to oversee *Title IX* requirements, act as a point-of-contact for sexually related complaints, and coordinate investigations (GAO 2014). This individual, known as the *Title IX* coordinator, is critical to the prevention of and appropriate response to ASM. School administrators should carefully consider the selection of these personnel. *Title IX* coordinators should not have other job responsibilities that could create a conflict of interest. Employees whose job responsibilities may conflict with a *Title IX* coordinator's duties include directors of athletics, deans of students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made. The best way to avoid a conflict of interest is to designate a full-time *Title IX* coordinator (GAO, 2014).

The need for specific training in *Title IX* coordinator responsibilities was highlighted by the GAO (2014) when they interviewed experts who worked with school districts to provide training on ASM prevention. These experts noted that some school administrators were not aware of the requirements of *Title IX*, who the *Title IX* coordinator was, or the coordinator's responsibilities. The following list of responsibilities from ED's guidance on *Title IX* should be addressed in the training for this position (Office for Civil Rights, 2014). A *Title IX* coordinator is responsible for the following:

- Overseeing the school's response to *Title IX* reports and complaints
- Identifying and addressing any patterns or systemic problems revealed by the reports and complaints

- Understanding the requirements of *Title IX*, the school's own policies and procedures on ASM, and all complaints that raise *Title IX* issues in the school
- Remaining trained on and informed of all reports and complaints raising *Title IX* issues, even if the report or complaint was initially filed with another individual or office, or if the investigation will be conducted by another individual or office. The school should ensure that the *Title IX* coordinator is given the training, authority, and visibility to fulfill these responsibilities
- Providing training to students, faculty, staff and information to families, and guardians on *Title IX* issues
- Conducting *Title IX* investigations, including analyzing the facts relevant to a complaint, determining appropriate sanctions against the perpetrator, and deciding on interim measures to protect the complainant when an allegation of ASM is made
- Ensuring that policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers

Making Training Mandatory

ASM prevention and response experts advise making training mandatory for all school personnel who have direct contact with students. This ensures that all members of the school community hear the same messages about ASM and are knowledgeable about the school's policy, as well as prevention and response measures (Shakeshaft, 2004b).

Format and Frequency of Training

Most schools require ASM training for at least some of their personnel, often at the beginning of the school year (GAO, 2014). For example, as of 2014, *Texas Education Code* § 38.0041 requires that all district and school employees, including K–grade 5 teachers, campus principals, and bus drivers, receive training on how to prevent and recognize sexual abuse and other forms of child maltreatment (Texas Education Agency, 2014). During the planning process, schools should identify areas that call for ongoing training and identify staff members who will begin employment after the school year is underway so that they can be trained upon arrival.

To create ASM training, school districts should incorporate state mandates and can work with established training models used by other schools or designed by field experts (such as those included in the list of ASM training resources later in this chapter). They may use a single format or approach or combine a number of them—for example, in-person, interactive training, as well as online learning modules.

Interactive, scenario-based training provides participants with opportunities to practice responses and may boost motivation (GAO, 2014). Online training modules offer convenient and self-paced learning opportunities that often include tracking and reporting tools for compliance with district policies and training protocols. When considering online training, experts caution against courses that are simply reading-based, with quizzes that test for reading comprehension and short-term content retention. Training assessments should determine the extent to which a participant is able to apply what he or she has learned to real ASM scenarios (Andrews and Haythornthwaite, 2007).

Addressing Training Challenges

Anticipating and accounting for training challenges will ensure that districts are prepared to manage the challenges that invariably arise. Training challenges vary depending on the size of the school and district, the depth and format of the training, and the school's or district's budget. For schools with high staff turnover, ongoing screening and training can seem daunting. Standardizing new employee training and placing it in the context of the district's commitment to safeguarding children can help allay pressure from those pushing for a quick start date for the training. Some schools face disinterest from staff members who believe their school or district does not have an ASM problem (GAO, 2014). In such cases, presenting ASM statistics for the county or region, along with media accounts of local incidents can help to counter these beliefs.

Regardless of the obstacles to standardized training, it should serve as the foundation of ASM prevention and response. *Requiring that staff members read a handbook of policies and procedures on ASM prevention will not achieve the intended results.*

Other Training Considerations

Providing Parent Awareness Training

As part of their prevention efforts, schools can make parents aware of district policies and procedures on safeguarding children, and consider engaging them as partners by including them in ASM awareness training (GAO, 2014). Additionally, this will help to build trust as parents and guardians learn about the many efforts the school takes to protect their child.

Training for parents may address the following:

- Patterns of ASM behavior, including how they manifest in social media interactions and electronic exchanges
- The district's ASM policies and procedures, including the following:
    - The steps for reporting incidents
    - How complaints will be heard and investigated
    - The role of the Title IX coordinator
    - How parents will be notified of outcomes
- Specific examples of the school's efforts to monitor interactions between adults and students
- Age-appropriate talking points for discussing inappropriate adult behavior, privacy, personal boundaries, and online safety with their children
- Age-appropriate tips parents can share when teaching children about refusing and reporting inappropriate adult behavior
- A mechanism for parents to ask questions after the training
- Tips for online safety, such as those provided in *Keeping Kids Safer on the Internet: Tips for Parents and Guardians* (available at http://www.onguardonline.gov/topics/protect-kids-online)

Administering a survey immediately after the training can help gauge its impact and inform the content and format of future trainings. Periodic reminders of the school's commitment to protecting students, even brief ones (e.g., tweets), can help reinforce the trust, as well as remind parents to be vigilant as they discuss safety with their children.

Tailoring Training to Students

When the training given is age-appropriate and relevant, students can play a critical role in ASM prevention by observing the appropriate boundaries they are taught, by reporting inappropriate behavior, and by reinforcing ASM awareness in their peers (GAO, 2014). Important components of the training will be a working definition of ASM, including criminal repercussions, using an age-appropriate version of the district's ASM policy. Additional components can include the following:

- A working definition of ASM, including criminal repercussions
- An age-appropriate version of the district's ASM policy
- Clear information about how and to whom ASM reports should be made
- Common patterns of behavior of ASM perpetrators, including forms of grooming that may appear in social media and electronic exchanges
- Meaningful examples that will help students understand the gravity of ASM. These examples might describe the consequences of an educator who engaged in a sexual or romantic relationship with a student, or who shared drugs, alcohol, or sexually explicit material.
- Respectful discussion about students who may be especially vulnerable to ASM perpetrators and what their peers can do to support them
- Thoughtful conversation about appropriate and inappropriate adult behaviors that fall into "gray areas" (behavior that is questionable, but not criminal). The training should provide
    - a description of as many of these behaviors as possible;
    - real-life examples (these can come from national and local media incident accounts);
    - an opportunity for students to identify these inappropriate behaviors in scenarios specific to the school setting;
    - a range of realistic scenarios that call on students to determine the appropriate actions, such as refusing inappropriate behavior, reporting suspicious incidents, or ensuring that a peer does not keep a secret about ASM; and
    - incentives for students to create their own information campaigns in the school, the community, or online.
- Tips for online safety, such as those in "Internet Safety Education for Teens: Getting It Right" from the Crimes Against Children Research Center (available at http://www.unh.edu/ccrc/internet-crimes/safety_ed.html) and the Kids Online Safety site (found at http://www.consumer.ftc.gov/topics/kids-online-safety)
- Details about safeguards to protect students from retaliation when reporting incidents
- Discussion of the harms of false allegations and the punishment for making *intentionally* false reports or allegations

The student training should be as interactive as possible and be refreshed each year or as often as possible to include new scenarios, media accounts, and examples of inappropriate and illegal behavior. Students should be allowed to provide feedback on the training content, format, and approach. A survey can capture these opinions and provide information about whether the training had the intended impact.

Conclusion

Training for school personnel, volunteers, parents, and guardians should align with documented policies and procedures to create a strong infrastructure for preventing and responding to ASM. Training materials can be updated with the feedback obtained from trainee surveys and kept current by incorporating new research findings as they become available. In addition, a variety of resources on existing training programs are found in Chapter 5, including information on the REMS TA Center's ASM Training by Request. These resources can assist school districts in developing and implementing training courses and supplementing them with additional content as needed.

Chapter 4: The Role of Social Media and Technology in ASM

Electronic communication technologies are so pervasive that they have shifted the boundaries between public and private life, altering what it means for individuals to have privacy and making many people vulnerable to physical and emotional threats to their safety (Dunkels, 2011). Throughout this document, we have discussed how ASM can occur in online settings in the form of sexting, sextortion, and other forms of child exploitation conducted online. This chapter addresses the appropriate and inappropriate use of online platforms and social media for communication between school personnel and students, and encourages policies and procedures that can reduce the incidence of ASM.

Social Context of ASM

ASM occurs in a broad social context. Sexualization of children in the media and advertising, as well as cultural tolerance of aggression and violence, is pervasive in society (Prevention Institute, 2009). Our technology-driven culture also plays a strong role in the social context where ASM can take place (National Sex Offender Public Website, 2015). Today's elementary and secondary students have never known a world without the internet or mobile electronic communications. Teachers who are still in the first five to 10 years of their careers also are part of a generation whose early life experiences have been influenced by the internet, including various social media technologies. School districts and schools working to prevent ASM may wish to take into account these rapidly changing social forces when developing policies.

Online technologies, including chat rooms, social media, instant messaging, and email, are often used by sexual predators to seduce young people into taking part in sexual interactions (Wolak, Finkelhor, Mitchell, & Ybarra 2008). Sextortion is the term used when someone threatens to distribute private, sensitive material if a victim does not provide images of a sexual nature, sexual favors, or money (DOJ, n.d.). Statistics show that it impacts youths in every stage of the K–12 population, and that perpetrators, who are sometimes called "sextortionists," do not discriminate based on a student's color, ethnicity or socio-economic status. The U.S. Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) have worked with the National Center for Missing and Exploited Children (NCMEC) to investigate how sextortion impacts youths. In 2015, NCMEC conducted an analysis of more than 800 sextortion-related tips received to their CyberTipline between 2013 and 2015. The results showed that the average age of a child at the time of victimization is 15 years old. Female victims, who made up 78 percent of children victimized, experienced their first sextortion incident as young as 8 years old, compared to 11 years old for boys, who make up 12 percent of victims (NCMEC, 2015).

This fact underscores the need for school districts, schools and families to ensure that students know about these threats when they are online. At the federal level, steps are being taken to address this issue via the National Strategy for Child Exploitation, Prevention, and Interdiction (National Strategy, n.d.). In 2010, the National Strategy initiated the National Child Exploitation Threat Assessment, a multi-agency effort to analyze and address the risks posed by child exploitation, which includes sextortion as one of five key areas. Using insight gained from a survey of more than 1,000 investigators, law enforcement managers, prosecutors, analysts, victim service providers, and DOJ grant recipients, the federal government conducted a second assessment in 2016. Results revealed that

- mobile devices have altered the techniques offenders use to abuse children and are used to target, recruit or groom, and coerce children; and
- predators are skilled at tricking and pressuring children who are online and often victimize youths in large numbers.

This information may be alarming, especially in education environments that are increasingly reliant on technology. However, it is not wise or even possible to eliminate the use of social media, image-sharing, video-streaming, and other tools that can be educational, as well as harmful. The key to harnessing technology to enhance teaching and learning is to inform students, staff, and whole school communities of the risks; teach strategies for safer use of technology while taking steps to safeguard the tools and preventing misuse (NCMEC, 2012).

Exhibit 6. Practical Recommendations for the Use of Technology

FACT	RECOMMENDED ACTION
Today's students, even those in college, have never known a world without the internet or mobile electronic communications (Rainie, 2013).	Bans on internet and social media in school are not the solution. Instead, schools should play a critical role in ensuring that students know how to use these valuable tools safely (National Center for Missing & Exploited Children, 2012).
Relatively new teachers may have less traditional concepts of privacy and professional boundaries (Preston, 2011).	Cyber security, cyber safety, and responsible-use training, mentoring, and other professional development activities for early-career teachers can clearly convey expected conduct for online and electronic communications with students (Preston, 2011).
The line between what is private and what is personal can be blurred online; students have fewer opportunities to practice setting healthy boundaries (Prevention Institute, 2009).	Student training can specifically address online and electronic communications safety protocols and how to assert personal boundaries (Wolak, Finkelhor, Mitchell, and Ybarra, 2008).
Texting is a critical mode of communication for teens, and many of them own cell phones or have access to them (Lenhart, 2015).	Student and parent training can address how ASM perpetrators often pursue students using cell phones (both during and after school hours), and stress clear safety protocols for these communications and for sharing telephone numbers (Maxwell, 2007; Decker, 2014).

Online Behaviors

The Pew Research Center, through the Pew Internet and American Life Project, regularly conducts national surveys to determine how online information networks are affecting the lives of Americans (Rainie, 2013). Pew survey responses over time identify trends in how teens communicate, gather information, and present themselves to others. Not surprisingly, data suggest that teens' lives are saturated with technology, that they have networked information at their fingertips, and that they can fully participate in its creation and dissemination (Lenhart, 2015).

A recent Pew Research Center survey (Lenhart, 2015) found the following:

- The overwhelming majority of teens ages 13 to 17 (92 percent) report going online daily; 24 percent say they go online "almost constantly."
- Eighty-eight percent of teens have a mobile phone or access to one; 73 percent have smartphones.
- Most teens (91 percent) go online using mobile devices at least occasionally.
- For 71 percent of these teens, Facebook remains the go-to social media site, although they report using more than one social media site, including Instagram and Snapchat.
- Typically, teens exchange 30 texts per day using various messaging apps (e.g., Kik or WhatsApp) or by texting on their phones.
- There were gender differences in teens' interest in specific types of technology: Girls share on social media sites more than boys; whereas boys are more likely than girls to own gaming consoles and play videogames.

Pervasive Use of Technology: Implications for ASM

How do these online behaviors affect students and their vulnerability to ASM? The Prevention Institute (2009) pointed out that the pervasiveness of technology in social life limits opportunities for children to learn and practice establishing healthy boundaries among their peers and with adults. Technology has shifted the boundaries between public and private, and many people now share what used to be private information (e.g., personal photographs, travel, reactions to daily events, and opinions on a range of topics) publicly on cell phones and the internet. This means that students and educators who have grown up with pervasive technology seem to have different ideas of privacy, which may put them at risk (Prevention Institute, 2009).

Some teachers and other school employees have used communications technologies—texting, email, and social media sites—to foster inappropriate relationships with students and perpetrate ASM (Maxwell, 2007). The round-the-clock nature of digital technology, combined with the fact that most teens have their own cell phones, means that perpetrators can easily pursue students before, during, and after school, and often outside the view of their parents and teachers There have been cases in which teachers have been jailed for sexually abusing or assaulting a student in a relationship that began through electronic communications (Preston, 2011). In addition, three students from Oregon received a financial settlement in 2015 after suing the Clatskanie School District when administrators failed to respond as required by law when the girls reported that they had been victimized by fellow students in the form of sextortion (Washington State House Republican Communications, 2013).

ASM Perpetrators Leave Digital Trails

When school staff members use electronic communications and/or the web to interact inappropriately with students, the digital trail left—e-mail correspondence, cell phone records, and internet communication logs—can provide valuable evidence for investigators of ASM allegations (Maxwell, 2007). For example, the text messages sent by a school counselor to a 15-year-old student to arrange meetings for sexual encounters provided evidence for a New Jersey lawsuit. Electronic evidence is a game changer for ASM investigations, because it may substantiate (or refute) allegations when there are no direct witnesses or students are ambivalent about making a complaint. Whereas many cases in the past were one person's word against another person's, electronic trails may provide solid proof of inappropriate interactions (Maxwell, 2007). Such evidence can help both state education authorities who must weigh whether to revoke an educator's license and law enforcement authorities who may prosecute an offender (Maxwell, 2007).

In a recent case in Alabama, members of the internet community prompted an investigation into an allegedly inappropriate relationship between a high school teacher and student. They were alarmed when a picture of an adult man and young girl—which was not provocative—was posted on an anonymous forum with the caption "photos that shouldn't be posted." Members of the online community took it upon themselves to search online for more information and pictures, quickly discovering that the man was a high school teacher. He had posted more than 700 photographs with the student in an unprotected online album, which had been taken over a long period of time and seemed to indicate an inappropriate relationship. Some individuals called the postings and other relevant information to the attention of local law enforcement for investigation ("Internet Community," 2015).

Communications technologies also present new "gray areas"—that is, behaviors that are questionable but not criminal in nature. Many of these gray areas are related to the behaviors of school personnel on personal social media platforms. For this reason, it is important for everyone in the school community to be aware of how easily today's technology allows for the production and distribution of sexually exploitative images.

Unfortunately, billions of dollars are generated from the distribution of images of child sexual abuse, and the production of child pornography is one component of internet-initiated sex crimes (Wolak, Finkelhor, Mitchell, and Ybarra, 2008). Research suggests that more than half of those arrested for possession of child pornography also have attempted or perpetrated sexual abuse (National Coalition to Prevent Child Sexual Abuse and Exploitation [NCPCSAE], 2012). It is not uncommon for perpetrators to persuade young people to take inappropriate photos of themselves or other minors for the purpose of sextortion and other forms of child exploitation. ASM prevention training with students should stress that students carefully consider any images they send or post. Furthermore, schools and school districts should consider implementing photo consent release form policies that require the school and students to notify their parents and/or school officials if an adult asks them for pictures or videos of any kind, whether appropriate or inappropriate (REMS TA Center, 2016).

Technology Facilitates the Production and Distribution of Sexually Exploitive Images

It is important for everyone in the school community to understand that the internet and digital technologies make access to and production of sexually exploitive images—including those involving children and teens—incredibly easy (National Coalition to Prevent Child Sexual Abuse and Exploitation, 2012). A case involving a sixth-grade teacher who used students as models to make child pornography highlights the need for awareness and addressing this issue in training (Maxwell, 2007). Billions of dollars are generated by images of child sexual abuse, and the production of child pornography is one component of internet-initiated sex crimes (Wolak, Finkelhor, Mitchell, and Ybarra, 2008). Research suggests that more than half of those arrested for possession of child pornography have also attempted or perpetrated sexual abuse (National Coalition to Prevent Child Sexual Abuse and Exploitation, 2012). It is not uncommon for those who perpetrate sex offenses against youths through the internet to persuade young people to create such images of themselves or other minors, which can be deemed as child pornography under current laws (National Coalition to Prevent Child Sexual Abuse and Exploitation, 2012). This is why student education must stress the need for young people to think very carefully about any images they send or post and to notify their parents and school officials if an adult asks them for inappropriate pictures or videos (Wolak, Finkelhor, Mitchell, and Ybarra, 2008).

Overly Restrictive Policies

In response to concerns about school personnel revealing too much information about their private lives on social media, some school districts have banned the use of these technologies, and others have restricted online interactions to school- or district-run networks (Preston, 2011). Although a small number of adults in schools might misuse technology as part of ASM perpetration, eliminating online technologies from schools is not the solution. A recent review of legal cases (Decker, 2014) related to the use of social media by educators (including those involving controversial posts and inappropriate student relationships cultivated on networking sites) argues that restrictive district policies are misguided and unwarranted. Instead, schools should play a critical role in ensuring that students know how to use these valuable tools safely and effectively (National Center for Missing & Exploited Children, 2012). There are many positive educational uses of social media—for example, teachers who use Twitter to answer questions about homework assignments and collaborate with other classes across the country (Preston, 2011).

The key to harnessing the power of online communication tools to enhance learning is for districts/schools to inform the school community about the potential risks of technology and the necessary steps to minimize them (NCMEC, 2012).

Model School District Policies

Understanding that texts, emails, and social media posts are the way most people exchange information today, many school administrators encourage teachers to use these technologies to communicate with students and parents related to academic matters (Starr, 2009). District policies and codes of conduct, however, can include cyber security, cyber safety, and personal use guidelines that outline appropriate and inappropriate online behaviors and interactions—specifying, for example, that teachers should not post on personal sites during school hours or while using school- or district-owned devices.

Beyond working with general counsel and providing guidelines for electronic communications and online interactions, these policies and codes of conduct can address whether or not school personnel should share with students *personal* social media pages (as well as pages on other online platforms), email addresses, and cell phone numbers (Maxwell, 2007). Such policies—along with training, mentoring, and other professional development activities—are particularly important for young teachers, who may have less traditional concepts of privacy and professional boundaries (Preston, 2011).

The Virginia Board of Education (2011), in its efforts to prevent ASM, stresses that district policies in their state should ensure that electronic and online interactions with students be

- transparent;
- accessible to supervisors and parents; and
- professional in content and tone.

(See figure below.) Other states may wish to adopt a similar approach.

Exhibit 7.
T.A.P. Electronic and Online Interactions

Make interactions between students and school personnel…	**To this end…**
Transparent	• Send messages to groups of students (classes, teams, and clubs); do not send emails to individual students. • Log all communications with students.
Accessible to supervisors and parents	• Make class-related social media and internet sites available to supervisors and parents. • Have teachers explain policies for class-related sites and communications, indicating that inappropriate language, content, and tone will be handled appropriately.
Professional in content and tone	• Consider equating electronic interactions with in-person interactions in communications guidelines. For example, "Don't say or do anything online that you wouldn't say or do in person." • Refer students with problems to the school's counseling team. Do not discuss nonacademic matters or problems (particularly personal relationships, sexual activities, or use of alcohol) with students.

In the spirit of transparency, experts recommend that educators using social media pages, blogs, and other platforms with their classes also share them with administrators, supervisors, and parents (NCMEC, 2012). When explaining the use of such platforms to students, educators should outline acceptable language and content and warn students that online communications are being monitored and saved.

Educators should be encouraged to consider the subject matter, content, purpose, timing, and frequency of their communications with students, and understand that concealing communications from supervisors and/or parents can result in disciplinary consequences. School policies should be developed and carefully followed related to inappropriate interactions for staff members and students on Facebook, Instagram, and Twitter, and when texting or emailing images. This protects not only the students, but lessens the opportunity for false allegations against educators or the appearance of misconduct. Similarly, schools should have protocols for teachers to follow when students disclose potentially inappropriate content through online platforms and/or electronic communications.

In New Jersey, school districts require that all electronic contact with students be carried out through the district's network and phone system, with employees having no expectation of privacy. The policy also stipulates that employees must not share personal phone numbers, unless permission is received from the school principal. Further, electronic communications must be sent to *all* students, unless the information is confidential or specifically addresses issues pertaining to an individual student (New Jersey School Boards Association, 2014).

Schools may consider encouraging teachers to avoid "friending" students and parents on social media and image-sharing sites, blogs, and other online platforms. The use of privacy settings on social media sites, blogs, image-sharing sites, and other online communication tools, and a policy of not "friending" colleagues, students, and parents may help teachers separate their personal and professional "digital lives" (National Center for Missing and Exploited Children, 2012). This can help teachers separate their personal digital lives from their professional digital lives. Along these lines, schools can consider using only online platforms and learning management systems specifically authorized by the school or school district.

Besides encouraging educators to keep communications with students transparent, schools can consider having administrative, instructional, and technical personnel work in tandem with parents to decide on guidance and best practices for electronic and social media interactions.

Conclusion

School districts need policies that clearly outline appropriate and inappropriate electronic communications and online interactions between school personnel and students (Maxwell, 2007). Since texts, emails, and social media posts are the way most people expect to exchange information in today's world, many school administrators encourage teachers to communicate electronically with students and parents on academic matters. However, this requires the development of clear policies and codes of conduct that address all forms of electronic communications. Appropriate use of these technologies can be reinforced through the training of all school personnel and volunteers, as well as students and parents.

Chapter 5: Resources

Several government agencies promote national ASM awareness and prevention efforts through targeted initiatives and by providing resources on the subject. Descriptions of key agencies that address ASM are found below. Because resources at the state level vary widely, descriptions of state-level programs are not included in this chapter. Please consult your local and state agencies to learn about their programs and initiatives.

Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services

The CDC supports ASM prevention by offering information resources on various forms of child abuse, including child sexual abuse. These resources include guides and fact sheets, which can be found on the CDC's "Child Maltreatment" page at http://www.cdc.gov/violenceprevention/childmaltreatment/.

Childwelfare.Gov, U.S. Department of Health and Human Services

This site serves as a national information clearinghouse, providing such resources as a library and planning and training tools. These can be found at https://www.childwelfare.gov/.

Crimes against Children Research Center, Office of Juvenile Justice and Delinquency Prevention

This Center takes several approaches for raising awareness and improving strategies for reducing the incidence of crimes against children and supporting victims and their families. The Center has spearheaded several studies specific to violence against children, including the National Survey of Sexual Abuse in Day Care, and the Youth Internet Safety Survey. The Center also offers information about several research papers, fact sheets, and articles on child sexual abuse. These can be accessed at http://www.unh.edu/ccrc/index.html.

Federal Bureau of Investigation (FBI), U.S. Department of Justice

The FBI addresses ASM via its Violent Crimes Against Children program, which offers guides, links, and other resources specific to helping keep children from becoming victims of sexual exploitation and other forms of child abuse. More information about the Violent Crimes Against Children program can be found at https://www.fbi.gov/about-us/investigate/vc_majorthefts/cac.

Internet Crimes Against Children Task Force (ICAC Task Force), Office of Juvenile Justice and Delinquency Prevention

This site serves to enhance the capabilities of more than 3,000 federal, state, and local agencies by addressing efforts to sexually exploit children via communications systems and technologies. Resources provided on the ICAC Task Force website may be helpful to parents and youths who want to learn more about online safety. The side can be accessed at https://www.icactaskforce.org/Pages/Home.aspx.

National Center for Missing & Exploited Children, Office of Juvenile Justice and Delinquency Prevention

This site serves as a national clearinghouse of resources (reports, infographics, videos, and training programs) specific to children who are missing or have been sexually exploited. In addition, information on the CyberTipline®, which may be used to report suspected incidents of child sexual exploitation, is provided. Access the Center's website at http://www.missingkids.com/Home.

National Child Traumatic Stress Network (NCTSN), U.S. Department of Health and Human Services

NCTSN offers resources that allow professionals who work with children, researchers, and families to collaborate in order to improve care standards and access to services. NCTSN is composed of three types of centers that work together to form this network: the National Center for Child Traumatic Stress, the Treatment and Services Adaptation Centers, and the Community Treatment and Services (CTS) Centers. Learn more about NCTSN at http://www.nctsn.org/.

National Sexual Violence Resource Center, *Center for Disease Control*

This center serves as a clearinghouse of tools and training courses about sexual violence, including child sexual abuse. Statistical data as well as myths and perceptions about child sexual abuse can be found at http://www.nsvrc.org/projects/child-sexual-abuse-prevention.

Office for Civil Rights, U.S. Department of Education

This office supports schools and school districts by enforcing legislation related to ASM in schools, including Title IX of the Education Amendments of 1972. Information about specific rights under Title IX is available on the Office for Civil Rights' website at http://www2.ed.gov/about/offices/list/ocr/aboutocr.html.

- Title IX and Sex Discrimination Web Page: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- Title IX Resource Guide: http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf
- Title IX Regulations: http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html

Office for Victims of Crime (OVC), U.S. Department of Justice

OVC administers several programs and websites that provide victims with access to multiple resources and services. Some of these include the following:

- CrimeSolutions.gov—Provides information about program efficacy. Users may search multiple topics, including juvenile justice, in order to learn about the findings associated with a review of programs and practices. https://www.crimesolutions.gov/
- CrimeVictims.gov—Offers publications, hotlines, databases, and websites that crime victims, volunteers, and service providers can use to learn more about the rights of victims and the impact of specific crimes. www.crimevictims.gov

- Online Directory of Crime Victim Services—Spans all 50 states and territories, as well as other countries, and provides users with information about services and programs to support victims of “nonemergency crimes.” https://ovc.ncjrs.gov/findvictimservices/

Project Safe Childhood, U.S. Department of Justice

Created as a comprehensive strategy to decrease incidents of child sexual exploitation and with the support of the public and law enforcement, this program makes available news articles, trainings, and fact sheets that can be accessed at http://www.justice.gov/psc/about-project-safe-childhood.

Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center, U.S. Department of Education

Administered by the U.S. Department of Education’s Office of Safe and Healthy Students, the REMS TA Center provides a clearinghouse of guidance, resources, training, and services in school safety, security, emergency management, and preparedness planning. The REMS TA Center offers both virtual and in-person trainings to schools and districts, as well as their community partners, with roles and responsibilities throughout the process. They also offer webinars, fact sheets, downloadable training packages, and other free resources related to adversarial and human-caused threats that schools and school districts may face, including adult sexual misconduct, sextortion, threat assessment in K–12 schools, and using social media to conduct threat assessments. Details about these free resources and other services may be accessed at http://rems.ed.gov/.

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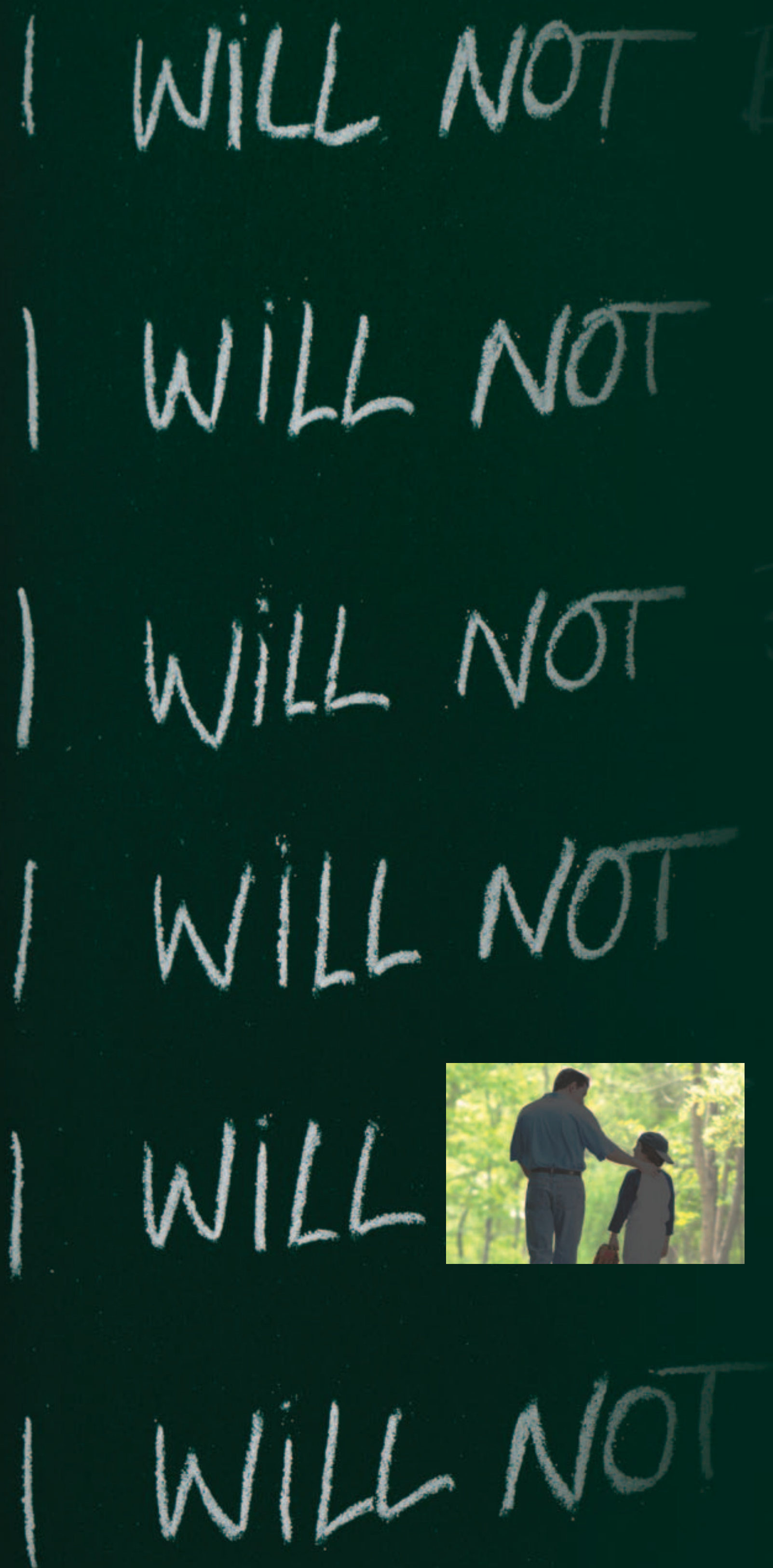

Know the warning signs of educator sexual misconduct

Educators can prevent much of the sexual misconduct in schools if they know how to recognize and respond to suspicious patterns and if administrators enforce an environment of high expectations for behavior.

By Charol Shakeshaft

You've seen the headlines and watched stories unfold on TV. A local educator is arrested and charged with sexual contact with a student. Sometimes, the educator is a man; sometimes, a woman. The person charged might be a teacher, an aide, a principal, a coach, the band director, or any other adult in the school.

According to the most recent data from a nationwide survey of 8th- to 11th-grade

CHAROL SHAKESHAFT is a professor of educational leadership at Virginia Commonwealth University, Richmond, Va.

students asking about incidents of unwanted sexual attention at school, nearly 7%, or about 3.5 million students, report having physical sexual contact from an adult, most commonly a teacher or coach, in their school (Shakeshaft, 2004). These students describe unwanted touching on breasts, buttocks, and genitals; forced kissing and hugging; oral/genital contact; and vaginal and anal intercourse.

Reports of educator misconduct that doesn't include touching a student, but rather sharing pornography, sexual talk, sexual exhibitionism, or masturbation raised the proportion to about 10%, or nearly 4.5 million students (Shakeshaft, 2004).

I coined the phrase educator sexual misconduct at least a decade ago because it brackets a range of inappropriate to criminal sexual behaviors and includes verbal, visual, and physical misconduct. Some of this behavior is criminal, some not. But all of the behaviors are unacceptable when directed by an adult, especially by a school-based authority figure, toward a student.

While predators are the adults who abuse, adult bystanders also contribute to an unsafe environment. When I talk with teachers in schools where an abuser has been arrested, I hear admissions that they had suspected something but, because they were not completely sure, did not want to say anything. A common explanation for not reporting questionable behavior is, "If I reported and I was wrong, I would have ruined the life of another teacher." I have never heard a colleague say, "If I didn't report and this person had abused, I'd have ruined the life of a student."

The number of students abused is high, especially where prevention is spotty or absent. Most educators, parents, and students don't know the warning signs and patterns of educator abusers. If they did, they'd be more likely to report and therefore prevent harm to children.

It is ironic, if not indeed tragic, that most programs to stop sexual abuse are directed toward children, asking them to do what adults will not — report. While children must learn risky situation identification, refusal, and disclosure skills, adults — not children — are responsible for ensuring that schools are safe places for all students.

Patterns of sexual misconduct

While there are no screening tools to help determine who is an active or potential sexual predator, school leaders can learn to read the warning signs and patterns that identify risk and boundary behavior. The descriptions that follow are archetypes summarized from scores of court cases and from the empirical literature. I offer generalizations because they're grounded in the reality of school-based sexual abuse and, to that extent, may help caring educators understand and act on this circumstance.

I've identified two predominant types of predators in schools. The first is the *fixated abuser* who is most often found in elementary schools and the early middle school grades. This person is more likely to be male than female and is likely to be judged a good teacher by parents, students, other teachers, and administrators. Fixated abusers have a disproportionate number of teaching awards. This should not be interpreted as meaning that outstanding and awarded teachers are child sexual abusers, but rather that most fixated abusers in elementary school are considered to be excellent teachers by the school community.

While predators are the adults who abuse, adult bystanders also contribute to an unsafe environment.

A typical pattern in an elementary school is an outstanding male teacher who identifies a male student as a possible victim. The predator talks with the boy, has him stay after school for extra help, and gives him small gifts. If the child doesn't resist, then the teacher contacts the parent, often the mother in a single-parent home, and tells her that her son has a lot of promise, but needs some extra help. The teacher is soon at the child's home, working with the child. The mother might feel a sense of relief, knowing that a respected teacher has reached out to help her son. She's often grateful for the presence of a positive male role model. The teacher has now secured the trust of the mother. He already had trust at school because of his reputation as a good teacher and a helpful and caring colleague. This predator begins to take the male student to special places — ball games, fishing, camping — that give him private access to the child. The teacher shows the child affection, tells him how much he cares, and escalates touching. When the teacher predator sexually abuses the student, he does so in an environment in which he feels safe. He is respected at school, the family knows him and trusts him, and the child is available to him.

A different pattern at the elementary level is for a male teacher to choose a female student as a

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Deepen your understanding of this article with questions and activities in this month's *Kappan* Professional Development Discussion Guide by Lois Brown Easton. Download the guide at **kappan magazine.org**.

class monitor or class helper. For example, a music teacher might select one of the outstanding musicians and tell her she's more capable than others in the class. He compliments her maturity and has her stay after school. Soon, the female student and the teacher are well known to each other. The teacher continues to flatter and charm, and the girl feels special. Soon, the teacher touches the girl and, over time, increases the sexual nature of the touch. By this time, the child trusts and cares for the teacher, and the teacher exploits that trust and sexually victimizes the student.

Anna Salter, an internationally known expert on sexual predators, recently reminded us that fixated abusers work hard to be likeable. Popularity and likability are often confused with trustworthiness. When a fixated abuser is accused, victims protect them, parents refuse to believe the accusations, authorities discount the reports, communities support the predator, and juries acquit (Salter, 2012).

Most programs to stop sexual abuse are directed toward children, asking them to do what adults will not – report.

School faculty and staff often rally around a teacher accused of sexual misconduct while shunning and shaming the victim. Even when the accused admits the crime, colleagues have been charmed and groomed to such a degree that some conclude the predator confessed to spare family and friends the embarrassment of a public trial.

While fixated abusers are difficult to detect because they get parents, children, and other educators to trust them, they can be stopped if administrators and other teachers understand the patterns and are willing to act. In most cases, reporting suspicions to a child protection agency and/or the police will lead to an investigation that will explore the possibility of abuse. While not all investigations accurately identify abusers, many do. Moreover, a complaint and investigation record alerts school personnel to keep an eye on the alleged predator and to make connections with future allegations.

But fixated abusers are not the majority of those who sexually victimize students. Only about one-third of offenders who abuse children under 13 are fixated abusers. The remainder who target the other two-thirds of children under 13 and most students older than 13 are *opportunistic abusers*. These are adults who take sexual advantage of a situation, but who aren't exclusively attracted to children or teenagers. These adults tend to be emotionally arrested and operate at a teenage level. They are adults who have boundary and judgment problems and aren't difficult to identify once their patterns are familiar to others in the school.

A typical example is the case of a 6th-grade girl whose friend reported the abuse, ultimately leading to the teacher's arrest. Other teachers wore armbands in support of their colleague and collected money from students and parents to support his legal defense, including collecting money in the female victim's classroom, in front of her. Other teachers called her a "slut" and accused her of "trying to ruin the career of a good man." The accused teacher confessed to sexually abusing the student. The female victim left the school because she was harassed daily by adults and students. Although the teacher was arrested and lost his teaching license, the treatment of the victim by other adults in the school caused additional damage.

Although students report that instances of educator sexual misconduct by adult males are 4.5 times more likely than instances of abuse by females, 40% of the reported misconduct was from a female working in the schools (Shakeshaft, 2004). Females frequently attribute their misconduct to romantic love for a male student, playing out a redo of their own adolescent fantasies. For instance, a female teacher with a weak self-image might be attracted to a male student in her class and feel excited when she talks with him. She starts to think that pursuing him is acceptable because he's a teenager. She flatters him and makes herself sexually available. The male student might be anxious and repelled or pleased by such attention. Either way, social and cultural norms have taught the young man that he is supposed to feel honored and engage in a sexual relationship. And so, he acquiesces to the female teacher. A similar pattern is a male teacher who finds a female student attractive. He courts her, flirts with her, and romances her. The female student is thrilled that a teacher thinks she's smart, mature, and attractive. She thinks they're dating and in love.

The opportunistic abusers tend to spend a lot of time around groups of students, talking with them, going to the same places they go, and trying to blend in. They are the teachers who want to be seen as hip or cool and who want the students to think they are part of the student peer group. They are adults who comment on the attractiveness of the students, talking about a student as hot or sexy. Their conversations about students are often inappropriately personal. They also know a great deal about the personal lives of individual students, more than would be available to an adult whose interactions were academic or appropriately friendly.

Environment in which abuse occurs

According to David Finkelhor, director of the Crimes against Children Research Center at the University of New Hampshire, four preconditions facilitate educator sexual misconduct.

- The adult must be motivated to sexually abuse a child. This motivation might be the sexual arousal of a fixated abuser or the happenstance that prompts an opportunistic abuser.
- The adult must overcome both internal and external inhibitions against abuse.
- The adult must have an opportunity to engage in sexual activity.
- The adult must overcome the child's resistance.

Motivation to sexually abuse. No screening devices will identify a fixated abuser nor is there a treatment that will change the sexual desire of a fixated abuser. But schools can create an environment that discourages child sexual abusers. This is true for both fixated and opportunistic offenders. Close supervision, a series of policies and regulations that reduce risk, and the commitment of all staff in a school to protect children — proactively and especially through reporting — can make it difficult for a fixated abuser to groom and abuse children. The same is true for the opportunistic offender, who takes advantage of situations that are generally prevented or proscribed in well-run, closely supervised schools.

Internal inhibitors. Predators don't want to be caught. Fear of arrest and prison can derail the motivation to abuse. Policies and procedures that make it clear that child sexual abuse is a criminal act and that educator sexual misconduct can lead both to termination of a teaching career and prison time go a long way to prevent abuse. Making consequences clear and operating with zero tolerance for educator sexual misconduct impedes abuse. Predators rationalize their actions by using thinking errors such as "She wanted me to do those things to her." "I'm helping him to grow up." "She flirted with me." "He knew what he was doing." "He liked it." "She wanted it." It is possible to provide training that clarifies the criminal consequences of such rationalizations. The climate established by that effective professional learning then provides an additional defense against abuse.

External inhibitors. Good policies and procedures, annual training, clarity about boundaries, parent awareness, and staff vigilance — these all work to minimize abuse. Knowing that other teachers and personnel will report inappropriate or questionable behavior also can inhibit an adult from inappropriate behavior with students. Unfortunately, only 11% of teachers say they would report abuse of a student by a fellow teacher (Shakeshaft, 2004). Students who don't report are often embarrassed, ashamed, and/or afraid they will be blamed. They also believe that school officials will do nothing to help them. Some want the abuse to stop, but don't want the abuser to get in trouble.

Child resistance. Children should learn how to refuse inappropriate behavior and how to report such activity. However, even the best training is no match for a determined predator, and strengthening student skills is not a substitute for adult responsibility.

Creating a safe environment

Keith Kaufman, professor of psychology at Portland State University, advocates a situational prevention approach to preventing sexual abuse by trusted others (2012). With this process approach, schools and districts assess their environments for safety risks and can make necessary improvements.

Careful hiring. While background checks are required in most states, they rarely flag a sexual predator applying for a professional position because these people are not likely to have a criminal record. Therefore, it is important to complete careful reference checks asking direct questions about allegations of sexual misconduct. Applicants moving from one district to another should be given careful scrutiny and reference checks should extend beyond the references listed.

Strong policies. Districts should have clear policies and procedures that systematically and explicitly detail the following:

- What constitutes educator sexual abuse?
- What are acceptable and unacceptable behaviors by educators?
- What are the mechanisms for legally required reporting?
- How can students, teachers, administrators, and parents prevent educator sexual abuse?
- When and how does the school's or district's

system for detecting abuse automatically trigger an investigation and ensure an impartial investigation?
- What are the legal consequences for a violation?

Stakeholders need policies that define verbal, visual, and physical sexual misconduct and make it clear that the district is committed to eliminating sexual exploitation of students by adults.

Policies should provide guidance in identifying and reporting behaviors that might indicate sexual exploitation and make it clear that the entire school family is responsible for identification and reporting. Policies should not only provide direction for reporting concerns to school district officials, but also be clear about requirements for investigating and reporting to local law enforcement and to state education officials who certify and license educators.

Making consequences clear and operating with zero tolerance for educator sexual abuse can impede abuse.

School and district policies should be published in staff, student, and parent handbooks, and the materials need to deal directly and explicitly with educator or staff sexual misconduct. Broad statements about nondiscrimination or child abuse are insufficient to ensure that staff, parents, and students understand what constitutes educator sexual misconduct and the procedures necessary to prevent or report adult sexual exploitation of students in schools.

Policies should stress that any report, rumor, or suspicion of sexual misconduct must be reported to the responsible authorities. Policies should stress that reporting suspected misconduct is both a professional responsibility and the law. Individuals who report suspected abuse are not responsible for determining the validity of the suspicion — that's the role of the subsequent investigation by police or child service workers.

School districts should identify a central source — an office or a person with a specific title — that is responsible for receiving all reports of educator sexual misconduct. This helps avoid situations in which reports are overlooked or patterns unidentified. Directing all complaints to a single source helps ensure that all allegations are investigated and that histories of complaints are compiled.

Finally, policies must stress that even acts of sexual misconduct that do not break the law will not be tolerated and can lead to termination of employment.

Environmental monitoring. Creating a safe environment means changing the school culture and enlisting everyone in assessing risk. Identify areas of potential risks. Classroom doors should have glass windows, and they should never be covered. Locked classrooms, storerooms, and teacher offices are all places where sexual misconduct occurs, often before or after school. They need to be secured. A staff person should be assigned to check classrooms at the end of each school day to ensure that they're empty and that students have left the building unless they are in approved activities. Any before- or after-school tutoring should occur in a public and supervised location.

Environmental monitoring also relates to employee behaviors. Are there staff who consistently cross boundaries, sexual or not? Or who are emotionally needy or who spend most of their free time with students? Do some school personnel hang out with middle or high school students regularly? Do employees know and follow the prohibition against being alone with a child or taking a child in a car?

Safe schools are places where administrators and teachers know what is happening in the next classroom, down the hall, and before and after school.

Training and education. Even the best policies won't work unless staff, students, and parents understand the expectations of the district. Training needs to be done with all staff — professional and nonprofessional workers — as well as with students and parents, and the training must be repeated annually. Annual training ensures that new students and new teachers are aware of the policies and reminds veteran staff of their responsibilities. A one-time workshop will not prevent sexual misconduct. Prevention requires a combination of annual workshops for staff, students, and parents that focus specifically on sexual exploitation of students, written materials in policy books and manuals, posters and flyers that remind students and staff about appropriate conduct, and visible information in all department and administrative offices.

Sexual abuse prevention training is not just for those who might abuse. Such training also is for adults and students who are third-party observers. Staff must understand their legal responsibilities for reporting behavior that might indicate sexual misconduct of staff toward students and learn the consequences for their failure to report. Training should deal with the "it can't happen here" syndrome of denial by discussing specific situations and incidents that have previously occurred at the school or in the district. If an incident is in the public sphere (newspaper or trial accounts), staff can discuss it in training sessions. If the incident has not been made public, staff can still use it as an example or a case study, without names, in discussions during department, grade-level, and other staff meetings. The more local and specific the training is, the more effective it will be.

If an incident of educator sexual abuse does occur in a school or district, the school and district should immediately conduct a root cause analysis to prevent system and personal failure in the future.

Consistent messaging. The message is that the school and district won't tolerate educator sexual misconduct. In order for the message to be believed, schools and districts must act when confronted with suspicious behavior. Most students and staff members believe that districts won't do anything about sexual misconduct. Students often see cover-ups even when they don't exist, and, for some sad but good reasons, most have little faith that school personnel will take their complaints seriously. Because of this lack of faith in school district personnel, many students and staff members won't report incidents. Administrative actions need to be communicated to the school community to send the message that reports of sexual misconduct are taken seriously.

Consistent enforcement requires that administrators and other staff members listen to rumors and complaints and respond by investigating and following up. Reports of inappropriate sexual behavior are more likely to come from a friend or parent of a student than from the student her or himself. Such reports may be tentative, with disclaimers such as "I'm probably making too much of this" or "I may be overreacting."

Students who report sexual misconduct by teachers are likely to be harassed by other students and by teachers, especially if the accused is a popular teacher. They may also come from homes in which little support will be available to them during this stressful time, although this is not always the case. District officials must ensure that students who report abuse are themselves protected from harassment, and the districts also must provide support systems for student victims.

Preventing sexual misconduct

Schools are microcosms of society. Regrettably, society has not been effective in protecting children from the epidemic of child sexual abuse. Child sexual abuse has been described as a preventable health problem. A 2012 report from the Centers for Disease Control and Prevention found that the estimated average lifetime cost per victim of nonfatal child maltreatment (which includes sexual abuse) is $210,012. If we multiply that by the 3.5 million students currently in school who report physical educator sexual misconduct, the result is more than $735 billion (Fanga, Brown, Florencea, & Mercya, 2012). And that's just for the students currently in school.

The personal costs of educator sexual misconduct are tragic. The Adverse Childhood Experiences Study found that victims of sexual abuse are more likely than nonvictims to have problems with adult relationships, a history of drug or alcohol abuse, the risk of suicide or other harm, and health problems such as diabetes and heart disease (Dube et al., 2005).

The cost of awards or settlements to schools ranges from hundreds of thousands of dollars to millions of dollars, which does not include the legal and personnel costs to the school district in civil cases. For instance, I examined settlements in teacher sexual misconduct in California between 2002 and 2008 and found that the average settlement was $2,723,000, with awards from $892,000 to $6,800,000.

And then there is the loss of trust. Schools are places where parents send their children to learn. They expect those places to be safe and nurturing. While most teachers or school staff members don't sexually abuse children, many do. It is possible to prevent abuse. We know how to do it; we only need the will to do it. K

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ARTICLES

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RealClear Politics

Introduction

Make no mistake about it, "ethics" is a loaded word.

The mere mention of ethics, whether in political debates or casual conversations among friends, often results in a value-laden discussion of what is considered "right" or "wrong."

When placed within the context of a profession, however, ethics acknowledges the complexities inherent within a practitioner's work and is meant to serve as a guide in navigating a broad range of nuanced situations. Professionals are prepared to not only think about critical decision points, but also to discuss them with each other by applying a common framework of understanding. For that very reason, codes of ethics have been at the core of most professions for decades. That makes sense.

This does not hold true for educators, who by the nature of their jobs, face a series of gray areas with only their personal experiences and values as a guide. Research indicates that few educators have been prepared at the preservice or inservice levels in professional ethics, and the profession as a whole has not adopted a unified code of ethics to guide practitioner decision making. Yet, educators are expected to address the academic, personal and social needs of society's most vulnerable population in a setting that allows for little distance between the practitioner and those they serve.

In the fall of 2016, a series of articles was published on RealClearEducation.com with the goal of generating awareness among our educational leaders and policymakers about the importance of this topic. Navigating through the competing tensions of our profession goes far beyond just knowing right from wrong, and my hope is that these articles illustrate the complexity, risks and vulnerabilities inherent in the profession.

As an experienced teacher, I can assure you that most daily decisions in our profession are not about right or wrong, but rather about how to best operate within the gray. It's time we stop tiptoeing around "ethics." It's time we give our profession permission to have the difficult conversations.

Troy Hutchings, Ed.D.

About the Author

Hutchings researches, writes and speaks about professional ethics, educator misconduct, and developing a framework for an ethical and legal teaching practice. He conducts workshops and gives presentations to various state and national policy and practitioner groups across the United States and Canada. Hutchings also provides expert witness testimony in judicial hearings, collaborates on policy initiatives with state, federal and provincial agencies, and is a subject-matter expert on a variety of national projects dealing with educator ethics and law.

He provides thought leadership to research initiatives and practical applications in educator ethics at ETS in Princeton, N.J. Hutchings has a record of full-time teaching, research, and administrative responsibilities at the university level spanning 15 years, and has served as a high school teacher, administrator and coach in public and private schooling environments for 16 years.

Professional Ethics and the Classroom

By Troy Hutchings, ETS | September 1, 2016

To understand the importance of professional ethics in the classroom, look back to the election season of 1964.

As Barry Goldwater rose to prominence, a magazine surveyed more than 1,000 psychiatrists to assess his state of mind, most of whom were happy to oblige. The responses outraged Goldwater, who successfully sued the magazine for libel. Equally important, the comments damaged the credibility of the field. "Psychobabble reported by the media undermines psychiatry as science," former American Psychiatric Association President Herbert Sacks wrote in an article discussing the incident.

As a result, psychiatry, as a profession, agreed to stop publicly diagnosing public figures without personally examining them. The so-called "Goldwater rule" is an example of how professionals can look at the ethical issues that impact their field and collectively come to consensus on how to address them. It also serves as a guideline for individual psychiatrists who may be prompted to offer their own verdicts about individuals they know — or don't know — in social or public settings.

Now think how a similar situation might play out for a teacher in a school setting — for example, if I suspect that a student may have an inappropriate crush on another teacher. I know the teacher hasn't encouraged this interest, but nonetheless this is a potential blind spot he or she needs to be made aware of. But how do I address this? If I talk to the teacher, chances are it will sound like a personal judgment about the way he or she relates to students. If I bring it up with an administrator, chances are it will be construed as a failing on the teacher's part that could impact his or her career. And what if I'm wrong? So chances are I'll stay silent, even if the situation ultimately winds up damaging the credibility of the teacher, the school and the profession as a whole.

What's the difference? Psychiatrists, like doctors, lawyers, and their counterparts in a variety of other fields, deal with highly nuanced relationships that can create the same kinds of gray areas that often arise in a school setting. But these professions have established codes of professional ethics to guide practitioners as they navigate a broad range of gray areas. Just as importantly, these professionals are trained to think about these ambiguous situations and to discuss them with each other as part of their preparation to enter their respective fields. Neither of these things is true for educators, who by the very nature of their jobs face a constant series of gray areas with only their personal experience and values as a guide. The isolation that so many of us love when we close our classroom doors to teach, works against us when we have to face challenging ethical issues where there is no collective understanding of how to address them.

The lack of a code of ethics in education obviously impacts individual teachers who face difficult decisions and don't have an outlet to discuss them with peers. But it's also shaped how the profession — and education is by far one of the largest professions in the country — has evolved.

A key element of any profession — and the one I argue that actually makes it a profession — is the extent to which the field has created a way to regulate itself in these ways. The absence of this self-regulating function has contributed to the many ways in which educators are undervalued as professionals. It's also led to a vicious cycle that has impacted the profession for the worse. In the absence of a clearly articulated code of ethics, policymakers feel obliged to spell out the requirements for teacher behavior in highly specific laws and policies. These rules, which often don't acknowledge the highly variable nature of teachers, schools, and students, over time limit teachers' ability to make decisions on their own, which in turn, creates a need for additional, ever more specific teacher guidance. If you've ever wondered why some school districts have spelled out in writing that parent gifts worth $24.99 are acceptable and those worth $25 are a violation of policy, that's why.

Codes of ethics evolved in other professions as a result of similar difficult questions. The American Medical Association's code of ethics, for example, were largely created to help physicians reconcile the conflicting needs of serving patients at a time when infectious diseases were difficult for medical professionals to avoid contracting. In many states, the bar exam and other licensing requirements for lawyers focus extensively on ethics. Ethics also are an integral part of the discussions law school students are required to have with professors and their peers — conversations that provide models for how they can continue addressing ethical dilemmas once they are practicing law.

That's not to say these fields don't have their own challenges — professionals in any field make mistakes, sometimes out of ignorance, and sometimes out of intent. But professionals in these fields have ways of addressing them with each other — and at times, preventing each other from unwittingly making serious mistakes — that we as educators simply do not.

As a former teacher devoted to introducing educators and the field as a whole to the importance of professional ethics, I often say that ethics should be one leg of a three-legged stool — as important to being a teacher as mastery of content and pedagogy. While that's clearly not been the case to date, professional ethics is now emerging as an important component of education policy and practice. In this series of articles, we'll explore the challenges of instilling professional ethics in education and discuss promising changes that could help transform the field — and make it a profession on par with medicine, law and other fields that have empowered their members to regulate themselves in important ways.

What Professional Ethics Mean

By Troy Hutchings, ETS | September 9, 2016

When we hear the word "ethics," we think we understand what the term means. And as educators, when we're confronted with ethical issues, we generally try our best to act … well, ethically. But the difference between being an "ethical" person and following a code of ethics can be very different.

Consider a scenario familiar to many educators: An exemplary teacher in your building is having a bad year — in large part because of personal issues. What do you do?

- Do you confront the teacher about his or her performance, knowing it ultimately impacts the students he or she cares so much about?
- Do you, knowing the severity of the teacher's personal issues, recognize that even the best educators cannot be at the top of their game at all times, and assume that he or she will go back to being a great educator once the out-of-school problem is resolved?
- Do you think it's presumptuous to bring the issue up with the teacher at all, given that the principal is more likely to hold the teacher to task in ways that will improve his or her performance?

Chances are, most teachers will say "it depends." And the best response does, in fact, depend on a variety of factors — the teacher, the situation, the students and the school. But in any given scenario, each of these courses of action could conceivably be seen as "ethical" by a teacher — and probably for good reasons. More importantly, we as a field haven't created an environment that allows us to have conversations that acknowledge these kinds of problems in the first place and discuss collectively what I like to call the "least worst option." After all, if a solution to a situation was clear cut, it wouldn't be an ethical dilemma.

The misperceptions blurring the lines between personal and professional ethics become even more difficult to address when we think about the ethics of education. I personally believe the reasons why these misperceptions exist go back to the roots of public education in this country. We've long thought of teaching as being an extension of parenting — a moral good that has seemingly obvious guidelines for what should be done in any situation. As a result, teachers, like parents, are expected — and expect themselves — to follow their own personal morality and life experience as they make decisions. We're often expected to innately know the best way to address to any problem that involves the children we serve.

Of course, teaching, like parenting, is rarely so clear-cut. And that's why professional ethics — as opposed to a personal sense of morality — is so necessary. Consider the kinds of issues that codes of ethics in other fields largely focus on, such as conflicts of interest and the idea of "multiple relationships"— the idea that a professional, like a doctor, must avoid relationships with patients that stray from his or her professional role in order to protect the doctor and the patient.

Most professions address these situations by imposing social distance. As an extension of their code of ethics governing multiple relationships, psychologists generally don't socialize with their clients outside of therapy sessions and doctors don't offer medical opinions during social gatherings, for example. That kind of strict separation doesn't exist in education, where instead of seeing a patient for an hour a week, we're major parts of our students' lives for 180 days each year. In this setting, emotional bonds with students and parents are expected — and largely unavoidable. Nor would imposing rules requiring strict separation be desirable. In fact, it goes against our job descriptions and a century's worth of expectations about teachers and teaching.

That's why we, as a profession, need to shift away from the idea that our personal sense of ethics — driven in large part by our upbringing and our life experiences — is enough to help us navigate all the situations we face in the classroom. Even the expectations and norms that evolve in each school vary so much that they alone can't serve as the sole guide to our decisions. And along with the need for collective understanding of the challenges we face as professionals, we need to acknowledge the inherent risks — ethical, practical and often legal — teachers face on a daily basis, which we'll explore in more detail in our next column.

Teaching as a High-Risk Profession

By Troy Hutchings, ETS | September 15, 2016

Teaching is a highly challenging and highly rewarding profession. It's also a high-risk one.

Think of the attributes we most admire in teachers: a caring demeanor, willingness to go above and beyond time spent in the classroom to help students, an ability to reach children who are disconnected, and the personal knowledge of their students that can help each one find his or her passion.

It turns out these same attributes are also commonly found in teachers whose behaviors cross a line — whether in a legal sense, or through the kinds of unintended consequences that wind up damaging the trust that connects students, families, teachers and schools. These kinds of situations don't usually make headlines, but unintended consequences happen every day, creating risks for educators and students that are unlike those confronted by professionals in other fields. Consider these key differences:

- Other professionals typically provide a narrow service to address a singular problem — a legal challenge or an illness, for example. As a society, we expect teachers to address not just learning, but also a broad range of societal issues, including extreme poverty, discrimination and the negative consequences of relationships that exist outside of the classroom.
- In professions like law and medicine, the practitioner typically interprets knowledge to help the person he or she is serving. In education, teachers help students meet, and at times exceed, their own knowledge base, typically by becoming active partners in learning.

- Doctors and attorneys aren't expected to develop personal relationships with clients as part of fulfilling their duties — in fact, it's discouraged. From the beginning of their training, educators are taught that strong interpersonal relationships are at the heart of effective teaching and learning.
- Other professionals typically provide services to one client at a time. Educators do so for entire classrooms of children at once, each with different academic, social and emotional needs that must be addressed simultaneously for learning to take place.

Other professions work through these kinds of issues by creating a culture of social distance — which is why you don't invite your therapist to a birthday party or ask your dermatologist to look at a rash in the grocery line. But teachers don't hold weekly sessions with students — they're integral parts of their daily lives for the entire school year. Unlike doctors and counselors, we also expect teachers to spend time with students outside of the classroom as coaches and club sponsors, as mentors, as counselors and, often, as the adult they can come to with the problems they're struggling with in and out of school. Teachers who take on these additional roles are often the ones who find themselves in the most vulnerable spaces.

Time and proximity aren't the only reasons the role of educator is a risky one. As every educator knows, the relationship between teachers and students becomes a shared space very quickly. Think of a coach who pushes a student-athlete to dig in and find the untapped strength needed to break a record or win a game, or an English teacher who draws highly personal writing out of a reluctant student. Most of us can think back to our own time in school to an educator that reached us on a much deeper level than the subject he or she taught. There's an intimate connection in all teaching relationships that's highly nuanced, highly dependent on the individuals involved and very powerful. The shift from a student passively receiving knowledge to becoming actively engaged can blur these boundaries even further. That can be dangerous. The irony is clear. Those educators whom we have long considered as being most influential in our own development may have faced the greatest danger.

That's not to say that educators should step back from extracurricular activities or caring for students. Few committed teachers would be willing to do so, and as a society we value the teachers who go above and beyond the classroom the most. But what we, both individually and as a profession, need to do is to acknowledge the vulnerabilities we face as educators. The uncomfortable truth is that we are in a high-risk position where seemingly insignificant missteps can, over time, cause irreparable damage to our students, our careers, our schools and communities, and the integrity of the profession — whether we break laws or school policies, or not.

Research tells us that educators make more than a thousand decisions a day, the vast majority of which involve interactions with individual students that are often made reflexively. We rarely have time to step back and think through the potential long-term implications of our actions and reactions to student behavior. And most teachers aren't trained to do so, as they study to become educators or are mentored in their first years in the profession.

This is why teaching — like law, medicine and counseling — needs a framework that recognizes the challenging situations in which educators often find themselves. A professional code of ethics and related training can help educators recognize these difficult gray areas when they arise. More importantly, such a framework can provide a collective understanding of the challenging situations teachers face, and a mechanism that allows teachers to articulate and make decisions about those challenges individually, through conversations with peers and as a profession.

As I've written before, too often these kinds of difficult issues go without discussion because we don't have a way to separate them from our personal beliefs and biases. A professional code of ethics can not only give educators the framework to guide us through the thousands of routine interactions that make up our days, but also the permission to discuss sensitive issues with each other in a professional context.

This brings me to perhaps the most important reason teaching is such a high-risk profession:

As educators, we're trained to value and even relish the idea of professional autonomy … that once school starts and the classroom door is closed, we're on our own. That may work well in terms of pedagogy, but it also puts us in a position where we are even more vulnerable when serious problems arise. As we will explore in subsequent articles, professional ethics connect us to each other as educators, and as professionals, in ways that shatter that isolation when it matters the most.

Navigating the Gray Areas of Teacher Behavior

By Troy Hutchings, ETS | September 23, 2016

When we think of educator misconduct, we usually think of sexual misconduct — and rightfully so. Few things are more damaging to students, schools, communities and the integrity of the relationship between teachers and students.

We can't talk about professional ethics and education without thinking about the worst-case scenarios. When stories of educator misconduct appear in the media, it's striking how often you hear the same things: It's the teacher no one suspected, the one who spent years going above and beyond to help students, the club sponsor, the coach, the beloved face of the school in the community. With alarming frequency, these same teachers have been publicly recognized for their work with students. They often are first-time offenders without a criminal record.

In large part, that's why well-intentioned laws and policies intended to stop teacher misconduct, including fingerprinting and background checks, only can do so much. There's limited research in this area, but as part of my work studying ethics and education, I've interviewed teachers who have been convicted and sent to prison for sexual misconduct, and their stories are remarkably similar.

What I've learned is that too often we think of misconduct as an event — a line that gets crossed. In reality, it's a process so gradual that people don't always notice it. I've heard repeatedly about the dangers of the "slippery slope," where expectations placed on educators to be a caring adult in a child's life, when combined with personal issues in their own lives, can contribute to the development of blind spots allowing them to misunderstand how their actions may be construed. Those who receive public recognition can become alienated from peers, losing another opportunity for intervention. That's not to excuse their actions in any way — those who break the law and our trust as educators can and should be prosecuted. But it's also too late to protect the child at this point, and the uncomfortable reality is that teachers can encounter a broad range of situations well before they cross a legal line that are just as inappropriate and damaging to the students they teach. As I've written in previous articles, it's important for us as educators to be aware of how vulnerable all of us — we as educators and our students — can be, even if our behavior never crosses a line or breaks the law.

That's because even with the expansive role teachers play in students' lives — as educators, coaches, counselors and mentors — there's a lack of clearly defined boundaries for teacher behavior. Practitioners in other professions characterized by intimate relationships, including counseling and psychology, receive training that helps them recognize the personal impact of these relationships and react accordingly. By contrast, teachers are expected to navigate these complex relationships, while caring deeply for students, with no training in how to define boundaries and identify when the emotions that arise from the shared space of teaching and learning are putting them and their students at risk. The gray areas left untouched by law and policy are vast, complex and highly dependent on the school, student, teacher and situation, and almost impossible for teachers to resolve correctly on their own every single time.

Ethical standards can help govern teacher behavior in these gray areas. They can hold teachers accountable to a higher level of responsibility than narrowly focused laws and regulations, and they can provide an avenue for teachers to discuss challenging issues and alert each other to the misperceptions we all can harbor. In their absence, we're often left to fumble through the gray areas alone and vulnerable to our own blind spots, biases and personal triggers.

What if I, as a high school English teacher, receive a love letter from a student? I'd likely be hesitant to discuss it with my peers, because I'd wonder if they would judge me personally for encouraging the student's behavior. I'd also be unlikely to share it with my principal, because he or she would focus first on the potential risk to the student and the school, and scrutinize my actions in and out of the classroom. And if other teachers happened to know the student, they'd be reluctant to warn me for all the same reasons. And in any case, gossip and innuendo would inevitably follow, and it might spread beyond the school into the community.

The way teachers are currently prepared and expected to work with each other doesn't allow us to address our personal challenges with the help of our peers and professional advice. In many places, even the clearly defined legal boundaries aren't discussed in teacher preparation programs or licensure requirements, much less the gray areas that can cause problems well within the letter of the law.

Professional ethics can help regulate teacher conduct, but not in the ways you'd expect. Unlike the law or school policies, ethical decision making isn't absolute — it doesn't say you can or cannot do this or that. It starts with the gray areas that exist in the countless interactions and decisions that make up teachers' day-to-day work. It acknowledges that in these cases, there often aren't easy answers. It challenges us to consider the consequences of our actions and to balance the competing tensions we face on a daily basis. And, it gives us permission to discuss them with each other in a nonjudgmental way, informed by standards the profession as a whole has defined.

Teaching has countless gray areas, but all professions do — otherwise they wouldn't rely on their practitioners to make the "right" decisions. Embracing these gray areas with ethical decision making is good for students, teachers, schools, communities and the profession as a whole. It places the responsibility in teachers' hands where it belongs, but it also provides the tools we need to successfully navigate the complexity of the profession, with the support of peers and an agreed-upon code of behavior. That's a big part of what makes any profession a profession, and improving teachers' understanding of professional ethics can improve education for the better.

Would You Know an Ethical Dilemma If You Saw One?

By Troy Hutchings, ETS | October 3, 2016

Teachers generally enter the profession with an innate desire to do what's best for students. So it stands to reason that when they encounter situations where they're in danger of doing just the opposite, they'd know.

The reality is far more complicated. Even the most experienced and committed educators may not always be aware when their decisions, no matter how well-intentioned, could put them on a path that can jeopardize their relationships with students, peers and the reputation of the school in the community.

Consider a high school track coach who notices that one of his student athletes doesn't have running shoes — and doesn't have the money to buy them. Chances are that coach wouldn't think twice about paying for the shoes out of his own pocket. Then, after noticing the same student walking home through a rough part of town after practice, the coach may offer to give him a ride. That's when the coach discovers the student's family is being evicted, so he helps the student get a job working for a friend so he can help support his family.

All of this is well-intentioned, and it may well benefit the student and his family immeasurably, but the coach may have violated one or more school policies in the process. If the student is undocumented or too young to work, he may also have put his friend into legal jeopardy as an employer. And that's just the beginning — the student's teammates may tell their parents about the special treatment he is receiving without being aware of the hardships he faces. This, in turn, could lead to gossip and insinuations, which could spread via social media — which, in turn, could get back to the principal and lead him or her to investigate accusations of preferential treatment. So we wind up in a situation where a well-intentioned educator, doing exactly what we expect our best educators to do, ends up damaging his reputation and, quite possibly, valued relationships with students and parents.

We believe — and demand — that our schools should treat all students fairly. But the reality is that just as surgeons treat patients differently based on their diagnosis, the patient history and other underlying conditions, teachers also treat students differently, based on their learning styles and needs in and out of the classroom.

"Fair isn't equal" is a phrase that is used — and often overused — in education circles, but it truly reflects the delicate balance teachers face when trying to meet the needs of all their students — something that teachers do almost reflexively. And as in the example of the track coach above, it's easy to miss the long-term implications of small actions that have the potential to snowball over time and damage the credibility of individual teachers, the school and the profession as a whole.

As I've written earlier in this series, this tension is at the heart of why teaching is a high-risk profession. And it creates countless ethical dilemmas that teachers must navigate — often alone, and without the kind of training that can help them recognize these situations early enough to think through the potential implications. Teachers are only rarely trained on the specific laws and regulations governing educator behavior in their state or district. At best, they may be asked to sign a document acknowledging they have read and understand district policy. Almost never do they receive training on education law or licensure issues. As a result, on a day-to-day basis, they are guided by their own personal sense of what's right and our societal expectations that excellent teachers go above and beyond to help all students. But there's a massive chasm between those two guideposts of the law and personal morality. And when situations arise where neither provides a clear answer, teachers may find themselves facing an ethical dilemma without even knowing it — or knowing what to do.

Along with acknowledging the risks they face in the thousands of decisions and interactions they make on a daily basis, educators must also be aware of how easy it is to not realize that they're facing these kinds of potentially dangerous dilemmas until after policies have been broken and trust eroded. And since it's so easy to develop blind spots that prevent us from seeing the long-term implications of seemingly benign actions, teachers need ways to help each other identify these situations that don't smack of personal judgment, finger-pointing, or bias.

This, in particular, is where grounding teachers in a framework of professional ethics — in pre-service training and in ongoing professional learning with their peers — can be the most powerful. A large part of the power of professional ethics comes from how they can help guide teachers as they navigate the complexities of their role. But as in the case of the track coach described above, it's difficult to always be aware of the implications of these complexities as teachers are right in the middle of them, trying to do what's best for students facing difficult, and sometimes seemingly insurmountable, challenges. As we'll discuss in forthcoming columns, the real power comes from no longer having to go it alone.

Peers and Professional Ethics

By Troy Hutchings, ETS | October 10, 2016

As an educator, I first realized the power of professionals supporting each other as they navigate tricky interpersonal situations not in the classroom or a faculty lounge, but in a doctor's office. And I wasn't the professional — I was the patient.

As part of a routine examination, the doctor made an offhand — and completely harmless — comment. I wasn't offended or threatened. In fact, we both laughed. I left the appointment and went about my business without thinking anything of it until the doctor called me later in the day.

It turns out that offhand comment bothered the doctor enough that he went to the head of the department — his supervisor — to discuss it. And that supervisor didn't tell him whether what he said was right or wrong. Instead, he asked the doctor how he felt about his behavior. And that was enough for him to realize he had crossed a line that — importantly — I wasn't even aware of as the patient.

As with teachers and students, there's a clear power imbalance in the relationship between doctors and patients — which is why physicians are trained to be hypersensitive to situations where they may be putting that relationship in jeopardy.

More importantly, they're trained to discuss these situations, uncomfortable as they may be, with peers and supervisors in a nonjudgmental fashion that focuses first on the obligations of the profession, not the personalities at play.

Now consider a similarly awkward situation in a school setting — for example, the not uncommon scenario where a high school teacher receives a love note from a student we've touched on in previous columns. The teacher would be unlikely to approach his or her principal about the note — the principal would almost certainly respond by investigating the teacher out of an abundance of caution. The teacher may not feel comfortable going to his or her peers for advice — the risk of judgment and gossip would be too great, particularly if word got around, jumped to social media, and spread beyond the walls of the school into the community. But just as importantly — and possibly more so — would colleagues feel comfortable taking the teacher aside before the letter was written and warning him or her to be careful about how students might respond to the passion and personal interest he or she exhibits in the classroom?

That silence reinforces the isolation that makes our profession so challenging. As educators, it's too easy to fall into an "us and them" mindset — believing that the teachers who exhibit poor judgment, violate trust, or worse, are somehow different from the rest of us. But that mindset creates a situation where it simply doesn't feel safe to ask for professional advice — or to offer it when we see a peer unaware of how well-intentioned actions might snowball into more serious situations over time.

To me, that's the greatest of the many challenges we face in introducing professional ethics to education. As we've discussed before, we will need to acknowledge just how vulnerable our role as educators really is. We will need to dispel misperceptions about what professional ethics are — not a code of conduct or fixed rules that limit teacher decision making, but guidelines that empower them to think through the ramifications of the countless small decisions they make. We will have to identify ways to immerse educators in a framework of professional ethics, both before and once they are teaching, so they become just as internalized in their day-to-day thinking as pedagogy and instruction. But above all, we as a profession will have to become comfortable with the idea of sharing our challenges with each other — and responding to those challenges in a way that's not judgmental or based on our personal opinions, but as an agreed-upon part of our professional obligations to each other.

Despite these challenges — not the least of which is cutting against the grain of the culture of the lone educator working in solitude once the classroom door is closed — I am optimistic that we can move the profession in this direction. When I speak with educators about professional ethics and how they can help address these kinds of dilemmas, it often feels like a weight has been lifted from them — the discussions can, and often do, last hours. I think that's in large part because these educators are realizing for the first time how little they've shared with their peers about their own struggles in navigating the complexities of their profession, and how powerful a shared concept of doing so could be.

These kinds of conversations have power. In other professions, they've driven real change. For example, when the American Psychological Association (APA) developed its first code of ethics in the 1950s, it went to the field, asking practitioners to describe different scenarios for which there were no easy answers. More than 2,000 psychologists wrote in with ethical dilemmas that became the framework of the APA's guiding principles. More importantly, these dilemmas established the APA's principles as ways for practitioners to resolve problems of practice and they created a precedent that has served that profession well as it has collaboratively addressed new challenges in the years that followed. In small steps, these same kinds of conversations are shaping an emerging focus on professional ethics in education, which we'll explore in more detail in the columns that follow.

Breaking the Silence

By Troy Hutchings, ETS | October 14, 2016

It's a situation too many teachers face: after an all-day event like a debate tournament, the activities bus returns to school in the evening. All the students are picked up except one, who tells the debate team sponsor that he doesn't have a ride home. The district's policy specifically prohibits teachers from transporting students in their personal vehicles, but it's getting late and no one in his family is answering their phones.

So this teacher breaks policy, and not for the first time in this same situation. Every time she's driven a student home after a tournament, she's worried a little about what might happen if she was caught — would she receive a letter in her personnel file? Be fired? Would her peers wonder if she had other motives for driving students around? But ultimately, she knows that she has a moral obligation to ensure her students' safety, and not leaving a student alone in an empty school parking lot late at night trumps whatever ramifications might come out of violating the district's rules.

All too often, teachers are put in situations like this where they feel like they have no choice but to break policy. So, more often than not, they do so quietly — often without telling their coworkers and peers. And this can be as problematic as the policy itself.

If this particular teacher talked with her peers about this situation, she'd realize she wasn't alone. She would learn that the sports coaches and band director at her school do the same thing all the time, and are just as concerned about what could happen to them and their students. She might also learn that a teacher who transferred to another school a few years before was moved because a student took a selfie of the two of them on a similar ride home and posted it on Facebook®, prompting a complaint to the school board by her parents.

More importantly, if all the coaches and club sponsors at this school were aware of their common problem and comfortable with talking about it, they could acknowledge the collective risk they — not just the one teacher unfortunate enough to wind up on Facebook — all face. And they could come up with a solution that would keep teachers from being put in this situation in the first place.

In this series of columns, we've revisited many times the isolation teachers face as they navigate the complexities of their multiple and overlapping roles — as a teacher, club sponsor, mentor and role model. Introducing a structure through which teachers can safely discuss these complexities and the thousands of interactions they have with students, parents, peers and others is one of the true strengths of introducing professional ethics to education. But even more powerful is this idea that these conversations can bring about lasting change that improves the environment in which teaching and learning takes place for everyone.

We've talked about the challenges of introducing professional ethics to the classroom, but progress is being made. Developed by and for educators, the *Model Code of Ethics for Educators* identifies five core principles to guide the profession: responsibility to the profession, responsibility for professional competence, responsibility to students, responsibility to the school community, and responsible and ethical use of technology. Just as importantly, the Model Code builds on these principles by distilling them into 86 discrete standards. These standards, which provide added depth to each of the core principles, are the key to connecting the aspirations of professional ethics with the day-to-day realities of the profession.

The Model Code, which holds educators to a higher standard of professional conduct and responsibility than existing laws and regulations, also can help policymakers create similar expectations that can be embedded in their own licensure and certification programs in ways that reflect the needs of their own states. In this way, codes of conduct can be replaced with broader — yet more demanding of individual educators — professional expectations. But that's just the beginning.

Establishing a professional code of ethics is one thing. Ensuring that all teachers are immersed in it so it can ultimately become second nature and a regular part of how teachers go about their many duties is another thing altogether. Already we're seeing incoming teachers being exposed to professional ethics in several states. Georgia has made them a key part of its pre-service training on professional conduct, using a training and assessment program called the Georgia Ethics Assessment. Delaware also has incorporated training into its induction and mentoring processes using *ProEthica™* online ethics training. Both states have made a commitment to introducing new teachers to professional ethics during a formative point in their careers, at the same time they are learning to master content and pedagogy, so they can become an equally integral — and engrained — part of their practice.

Doing so more broadly will require states, individual districts and schools, and teacher preparation programs to provide focused, intentional training that supports educators at all stages of their careers. This training can't be a simple "one-and-done" PD session — it must immerse educators in the kinds of ethical challenges they face and how they connect to the core principles of professional ethics. We've seen firsthand how this training — and the discussions among teachers that come out of it — can help educators understand the complexities of teaching and approach decision making with a solid understanding of the principles of professional ethics. Once training on professional ethics becomes widely incorporated into teacher preparation, licensure and ongoing professional learning, we'll see teaching become a much less isolated, much more aware, and much more empowered occupation — by which I mean a profession in the true sense of the word.

Although this work is just beginning, one surprise has been an early ally in the cause of professional ethics and training. The insurance companies that cover schools and districts were among the first to recognize that empowering teachers in this way has a far greater impact than adding additional layers of regulations and monitoring. That's because professional ethics and training put responsibility back in the hands of the individual — but with an important twist. By encouraging teachers to discuss issues in an atmosphere of collective understanding, that individual teacher is no longer alone. The silence has been broken.

Professional Ethics and Professionalizing Education

By Troy Hutchings, ETS | October 21, 2016

Throughout this series, we've discussed what professional ethics mean for education. But what would happen if they became a way of life and a regular part of the working lives of teachers, the largest professional field in the United States?

At first, the changes would largely be structural — teachers would receive training on professional ethics in preparation programs, have discussions involving ethical issues with mentors as they navigate the early years of their careers, and ideally, continue to get refreshers in the form of regular professional development in which teams of teachers revisit the principles of professional ethics and are encouraged to discuss with each other how they apply to their own challenges in the classroom.

All of this would go a long way toward helping individual teachers navigate the complexities of their role and become more aware of the potential unintended consequences of the thousands of decisions they make on a daily basis. But over time, once the idea of professional ethics has become ingrained in the field as a whole — and as important to teaching and learning as content and pedagogy — the impact could be transformative.

Educators would avoid falling into the trap of assuming that misconduct is a discrete event and something that only happens to teachers who somehow lose sight of their personal moral compass. Instead, they would acknowledge the collective risk that all teachers face as a result of the demands of their overlapping roles and the intensely personal relationships they are expected to foster, and recognize the value of professional ethics as a governing principle to help them navigate these competing and highly nuanced tensions.

In turn, this understanding would give teachers permission to approach each other in candid, professional discussions about uncomfortable subjects — including how their actions might be misconstrued by students. Just as doctors and counselors are trained to discuss ethical dilemmas and their impact with one another, the framework that professional ethics provides can allow teachers to approach each other and acknowledge blind spots in a way that's focused on professional obligations, not personal judgment.

This kind of professional environment would allow teachers to self-regulate as a field, much as codes of ethics guide doctors, lawyers and other professionals. And the collective awareness of professional obligations fostered by this environment would allow many situations to be addressed before damage is done and teachers' reputations — and students' lives — face irrevocable harm. But that's just the beginning.

In light of professional standards that help educators govern themselves and their peers, district policies and education law could ultimately become far less complex and overly prescriptive. To revisit one example, there would be no need to explain in voluminous HR manuals why a $25 gift is unacceptable and a $24.99 one is perfectly fine if educators are trained to recognize the ethical challenges that receiving any gift present and address them in ways that reflect the unique nature of every situation. And where policies impact large numbers of teachers, the ability to collectively discuss them could help change them for the better.

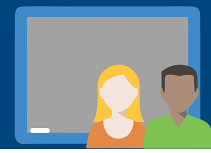
If these kinds of conversations are brought to light in transparent ways, parents and the community as a whole also could understand the challenges teachers face in a richer way. In the short term, that could mean a parent wouldn't be offended when a teacher declines an invitation to a family event, but over time, this understanding could lead to a much deeper respect for teachers — and the profession as a whole.

And the profession itself could be strengthened in another way, by helping reduce the large numbers of teachers who leave the field, often early in their careers.

While there are many reasons that teachers leave the classroom, one of the most important ones is the sense of agency — the idea they often aren't trusted to draw on their training and experience to make decisions that are best for their students. Instead of being straightjacketed by the inflexible policies and procedures that have been put into place in the absence of established professional ethics, teachers could become far more empowered — and empowerment is one of the things that make people less likely to leave a job. The conversations that professional ethics help engender also could help shatter the sense of isolation that many new teachers feel as they navigate the beginnings of their careers.

I've written before about how education in this country evolved in ways that, unlike professions like medicine and the law, made assumptions rooted in our cultural expectations about parenting about how teachers should rely on their own engrained sense of personal values to guide them. Not only has that assumption left too many educators unprepared for the complexity of their role and the challenges of navigating their relationships with students and colleagues, I would argue that it also has ultimately diminished the profession. Now we have an opportunity to reconcile our expectations of teachers with a framework that holds them to a higher standard than policy or the law, while creating a collective network of support that protects individual educators, children and the profession. Perhaps more than anything, that's what professional ethics can bring to the field — a rethinking of teaching as a true profession, in the eyes of policymakers, the public, and most importantly, in the eyes of teachers themselves.

What *Educators* Need to Know About Sexual Misconduct with Students



AS A MATTER OF fact

National Children's Advocacy Center

Educator sexual misconduct [1] compromises a wide range of behaviors including, but not limited to, sexual innuendo; inappropriate touching; inappropriate text messaging, email, or social media contact with a student; soliciting sex from a student; or sexual contact with a student.

Who are the Perpetrators? [2-8]

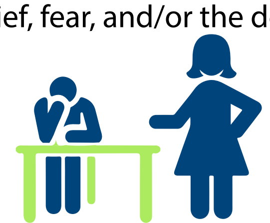
- Perpetrators may be classroom teachers, administrators, coaches, counselors, tutors, volunteers, or any others who work in an educational setting.
- Perpetrators may be either male or female.
- Perpetrators may be well-respected and highly regarded by other teachers, administrators, parents, and the community.

Manipulation of Student/Staff/Community [2, 4, 10, 11, 12]

- Manipulation, also known as "grooming", is a deliberate and carefully orchestrated process by which sexual offenders target, initiate, and maintain sexually abusive relationships with children and adolescents.
- Manipulation behaviors may, on the surface, appear innocent in nature, and distinguishing between sexually motivated manipulation and normal child/adult interactions can be difficult.
- Successful manipulation involves the student, the student's family, school staff, and the community, which increases the likelihood that sexual misconduct can be initiated and maintained without detection.
- Offenders often target vulnerable or marginal students who have prior academic, emotional, or behavioral problems, because these students are more likely to keep silent or if they do "tell", are less likely to be believed.
- Offenders may target students who are facing family challenges or adversities because those students are often susceptible to inappropriate attention from an adult.
- Offenders persuade students to keep silent by manipulating students' affections, through threats or by exploiting the power differential between themselves and students.

Challenges of Student's Allegations [2, 12, 13]

School personnel and the community may not know who or what to believe and may feel confusion, anger, disbelief, fear, and/or the desire to defend the alleged offender.



"Because of the power differential, the reputation difference between the educator and the student, or the mindset that children/adolescents are untruthful, many reports by students are ignored or given minimal attention" (Shakeshaft, 2004, p. 33).

Warning Signs [4]

- Obvious or inappropriate preferential treatment of the student.
- Excessive time spent alone with the student.
- Time spent with the student outside of class or other school functions.
- Repeated time spent in private spaces with the student.
- Driving the student to or from school.
- Befriending parents and making visits to the student's home.
- Acting as the student's confidante.
- Inappropriate calls, texts, or emails to the student.
- Overly affectionate behavior with the student.
- Flirtatious behavior or off-color remarks with the student.
- Schoolmates suspect an improper relationship between the educator and student, and make jokes or references about it to other students or adults.

How to Protect Students [1, 2, 6, 13, 15]

- Perform criminal background checks on all school employees, volunteers, and any person who may be in direct, unsupervised contact with students.
- Ask for and contact all references and prior employers about prospective employees.
- Include in employee handbook the school's "Code of Conduct" which clearly defines
  - sexual misconduct with students,
  - school personnel's obligations and responsibilities toward maintaining appropriate boundaries with students,
  - whom to report if an employee observes violations,
  - specific state statutes regarding mandatory reporting,
  - and how the school will respond to situations involving inappropriate behavior with students.
- Provide training that includes a combination of
  - annual workshops for all school personnel, students, and parents focusing specifically on sexual exploitation of students;
  - information on how to recognize and manage behavior that could lead to boundary violations;
  - written materials in policy books and manuals;
  - posters and flyers that remind students and staff (including department and administrative offices) about appropriate conduct;
  - and legal responsibilities for reporting behavior that may indicate sexual misconduct and the consequences for failing to report.
- Create a response team that works with students and administrators to handle situations of educator misconduct.
- Work with school counselors to develop a peer helper program that would allow victims to have someone within their peer group to talk to and assist with reporting.

How Educators Should Respond [1, 12, 14]

Educators are mandated reporters and are legally required to contact law enforcement or child protective services immediately after a disclosure or if there are reasonable suspicions of sexual misconduct. For additional information regarding requirements of mandated reporting, go to the following site: https://www.childwelfare.gov/pubPDFs/educator.pdf

Do's and Don'ts

DO provide practical and emotional support to the student who discloses sexual misconduct by school personnel, regardless of personal feelings about the alleged offender or the student.
DO convey acceptance and neutrality to the student regarding the allegations.
DO create a safe learning environment for the student after disclosure of sexual misconduct by school personnel.
DO maintain confidentiality.

DON'T investigate or try to prove the truth of an allegation.
DON'T subject the student to detailed questioning.

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