



United Educators

Children on Campus

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Children on Campus

By design and by happenstance, minors frequent college and university campuses. Wherever they are—the grounds, the recreational facilities, the residence halls, or anyplace else—their safety is a vital concern to the institution, and so is the potential liability that comes with their presence on campus.

Where Are the Children?

Depending on the institution, children may be as much a part of the environment as faculty or students. Some children reside on campus. Typically, they are:

- youngsters who live with their families in married-student or faculty housing; or
- 16- or 17-year-old students, who attend freshmen or sophomore classes and live in student residence halls.

Other minors come to the campus on a regular basis to attend an educational or recreational program, such as:

- a day-care center;
- a lab school;
- a summer camp;
- an early-college entry program; or
- a tutoring or community-service program.

Some minors just pass through, making short visits on occasion or coming just once. They may be:

- prospective students;
- subjects of research studies;
- companions of a parent or other family member who studies or works at the institution;
- participants in school field trips;
- spectators or participants in a sporting event, play, concert, or other program;
- attendees at a graduation ceremony;
- joggers, skateboarders, or rollerbladers; exercising through the grounds;

- clientele of the recreational facilities, such as a pool, ballfield, playground, or climbing wall;
- library patrons; or
- neighbors cutting through the campus on foot or on a bike.

Your institution's interactions with children—and, therefore, its liability—may also go farther afield than your campus. Faculty, staff, or students may be involved with children in off-campus programs through tutoring, student teaching, or community service activities. (We are excluding from this discussion the more technical issue of children's visits for medical or clinical treatment.)

The campus visits that concern us most are those in which parents are not present to supervise their children. Should harm come to minors then, educational institutions may be held liable.

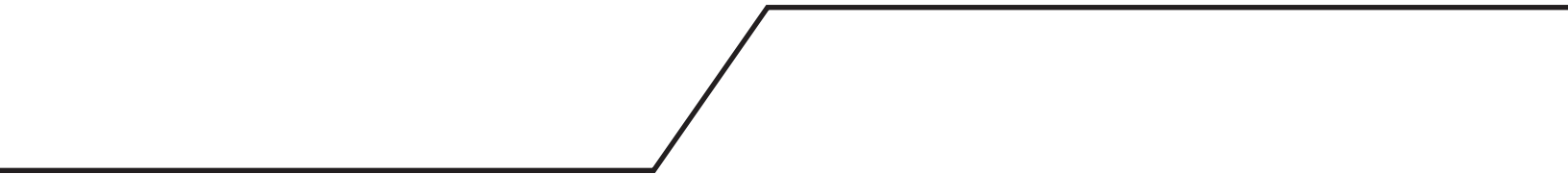
Even if parents are present, however, institutions may be held liable, as you'll see in some examples of the kinds of things that can go wrong when minors are on campus.

What Might Go Wrong?

The short answer is, Everything. Consider for a moment a campus office—not a scientific lab with breakable vials or x-ray machines, not a laboratory with chemicals and solvents, just a mundane office not too different from one you may have seen 20 years ago. It holds great attractions for a toddler: scissors, paper cutters, shredding machines, pencil sharpeners, open electrical outlets, hot coffee, and swivel chairs, to name a few. As any parent knows, a toddler has the skill and imagination to turn any one of those objects into an accident. Picture your entire campus, and you have an idea of how many danger zones there are. Consider some of the possible situations:

Accidental Injuries. Typically these injuries occur in one of four ways:

1. Falling objects may hit a child. These accidents are most likely if a child pulls something down from a desk or other height, and it falls on the child. Most of the office objects I mentioned could cause one



of these injuries. They may also occur if someone tosses an object, out of a window, for example, hitting a child. A UE member recently confronted that situation. An infant, riding in a car her father was driving, was killed when a rock that allegedly came from a university dump truck passed through the car's windshield.

2. Injuries may occur from falls. A child may fall out of a window, off a bicycle, or off a stairwell, for example. You may have read about a case involving Montana State University in 1995. A district judge ruled that the institution was liable for an accident on the stairwell of the school's library and that its negligence caused the accident. A mother was walking with her 3-year-old and an older son on the library's staircase when the younger boy fell through the stair balusters, fracturing his skull. The library had been built in the 1960s, and at the time of the accident, the balusters didn't adhere to the 1995 code, which required them to be no more than four inches apart. A state jury ordered MSU to pay \$261,000 to the woman to compensate her for the emotional and psychological distress she suffered seeing her child fall. The school and the mother had agreed to reduce any sum the jury awarded by 20 percent to account for her share of negligence.

3. Sports injuries also cause accidental injuries. Young children who enjoy organized sports—and approximately 30 million of them do in the U.S.—as well as those who play recreational sports, like bike riding and skate boarding, are highly susceptible to injuries. Approximately 775,000 of those youngsters go to hospital emergency rooms or clinics for treatment each year. We recently received a report from one of our member schools about a child who hit his head when he rode his bike down a set of steps and fell.

4. Drowning claims the lives of about 1,500 children each year in the United States. Toddlers and adolescent males are most at risk. You may have seen reports that Eckerd College agreed to pay \$1.55 million to settle a lawsuit brought by the mother of a 15-year-old boy who appears to have drowned while practicing underwater endurance breath-holding in the school's swimming pool. The institution, which admitted no negligence, has added another lifeguard since the drowning.

Some other possible situations involve:

Motor Vehicle Accidents. Motor vehicle crashes cause an estimated 90,000 injuries and 5,800 pedestrian deaths annually. They are the leading cause of death for children ages 4 to 14. Schools may be involved when minors are passengers in vehicles used for campus purposes or are pedestrians injured by campus buses or cars.

Medical Problems. Other situations may involve medical problems. Allergic reactions to foods or insect bites, sprained ankles, splinters, and falls from bikes are just some of the medical problems institutions have to address. One report we received from a member institution involved a child who fell off her tricycle while at a university's day-care center. The fall caused her teeth to push into her gums. The child's mother claimed the day-care worker was negligent for not getting immediate medical attention and notifying her. She said the child had to "suffer needlessly" for several hours.

Custody Problems. There may also be custody problems. These situations typically involve the release of a minor to a non-custodial parent. One recent incident at a UE member institution concerned a student teacher who was working at an elementary school. A mother complained that her children's photographs appeared in an article in the university's magazine. She was distressed because of a court order preventing their father from seeing the children.

Sexual Molestation. Another possible situation—one that's been so much in the news recently—involves sexual molestation. These cases may involve child-to-child, student-to-child, or staff-to-child cases. Recently a minor, who used a member school's swimming pool for activities it sponsored, alleged sexual molestation by an employee over a three-year period. The institution has been sued for negligent hiring, retention, and supervision; negligent failure to provide and maintain a safe business premise; and negligent supervision of minor business invitees by the defendant.

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Teenagers and Sexual Activity or Assault. In other situations, teenagers may participate voluntarily in sexual activity or be sexually assaulted. The mother of a sexually active 15-year-old student at the University of Alabama at Birmingham sued the institution under Title IX, claiming student-on-student sexual harassment. The suit argued that the institution's "deliberate indifference to sexual harassment" deprived the girl of access to educational opportunities. The court disagreed, saying that even if the facts in the complaint were true, they do not invoke Title IX. The opinion stated, "This court is unable to conclude that Congress, in enacting Title IX, meant to create liability in public universities for the willing actions of college students, regardless of their age." Benefield ex rel. Benefield v. Board of Trustees of University of Alabama at Birmingham, 214 F.Supp.2d 1212 (N. D. Ala. 2002).

Another case involved a 17-year-old who was staying in a dormitory at the University of Southern Maine while attending a pre-season soccer program. Following a fraternity party, she and a young man walked to her dorm and took the elevator together, getting off at different floors. She propped her door open. He entered the room and sexually assaulted her. The girl and her parents sued the institution, claiming negligence, negligent infliction of emotional distress, and breach of implied contract. The Superior Court found for the university, but the state Supreme Court overturned the negligence claim, ruling that the university had a duty to reasonably warn and advise the student, as a "business invitee," of steps to improve personal safety. Stanton v. University of Maine System, 773 A.2d 1045 (Me. 2001).

Adult Topics and Activities. Problems may also occur with minors being exposed to adult topics and activities. They may be in classes in which sexually oriented material or other controversial topics are discussed or in dormitories with older students who introduce them to these subjects or behavior. Other circumstances may pertain to the abuse of alcohol, whether by campers, athletic recruits, early entrants to universities or colleges, or minors visiting friends on campus.

Distractions. Finally, children's presence on campus may cause problems because they distract from campus business. Young children can prove distracting to other workers, interfere with their parents' work, and create an atmosphere that makes it difficult for staff, faculty, or students to

perform efficiently. A student at a UE member institution alleged that a young child was allowed to run loose and create a large disturbance during an examination. This student said the disruption caused him to do poorly on the exam.

What Can You Do?

As you can see, the potential risks are great, and the cost in human hardship and in legal liability may also be great. But there is also much you can do to minimize the risks and protect your institution from liability.

Policy. Perhaps the first step is to establish a policy that specifies what kinds of visits are acceptable. This policy would depend on when, where, and why children come to your campus.

Some institutions' policies say minor children are not permitted on campus unless they are enrolled in classes, participating in a college-approved event that requires adult supervision, or visiting under the immediate supervision of their parent or guardian. Policies may also denote certain areas as being off-limits to children, such as those with hazardous materials or equipment and those in which classes or exams are taking place.

It is advisable to get legal assistance in drafting a policy. You'll want to know the age at which people reach majority in your state and for what purpose. In some states, for example, a minor may give consent for certain health procedures, whereas parental consent is needed in others.

You might also minimize the risks by addressing specific exposures in places children are likely to be.

Premises. You can do this by childproofing your campus, at least those areas where children's programs will take place. Check the rooms, entryways, and play areas from a child's perspective and a teenager's. Can children or teens climb through windows, open doors, get caught in closets, or fall through balustrades? Can they gain access to fire escapes or the roof? Your answers should be "no."

These aren't the only areas to check. Be sure, through frequent rigorous inspections, that the campus premises are well maintained, safe, and secure. As property owner, your institution is held responsible for the premise's maintenance and security, even if another group is leasing it for a youth program. Appendix B below is a risk

management audit guide for camps, and other youth-oriented programs, on campus.

Vehicle Drop-Off. Also, evaluate vehicle drop-off spots—where parents leave their kids and pick them up and the van and bus stops. Ask yourself the following:

- Do vans, buses, and parents drop children off and pick them up in lightly trafficked areas?
- Can children leave the vehicles and get back on them without walking in the street?
- Are there enough supervisors to make sure children are safe getting on and off the vehicles?

Supervision. Provide appropriate supervision at all times. Adequate supervision can mitigate some of the potential problems.

For camps held on campuses, the courts have looked at what constitutes a reasonable ratio of supervisors, whether instructors or counselors, to campers. The factors they've considered include the participants' ages and maturity level, their propensity for rowdy behavior, their skill level, and the type of activity in question.

Background checks are important screening devices for supervisors, counselors, volunteers, and others who will work with children. UE's "Policy Guidance on Preventing Molestation in Schools," which is in the appendix, provides further information on hiring practices and other ways to reduce the risks.

Drivers. Select vehicle drivers carefully. Consider choosing qualified drivers who have experience with the vehicles you use. You may want to think about hiring bus drivers with commercial driver's licenses. Consider prohibiting college-age students, or students under 21, from driving with passengers who are minors.

Whatever vehicles you use, inspect them frequently to ensure they're safe and store vehicle keys so that approved drivers are the only ones with access to them.

Medical Situations. How can you be prepared for medical problems? Be sure to have parents provide information on whom to contact in an emergency and to keep it up-to-date. Ask parents of young children to let you know whenever they will not be at their regular phone number.

Have parents complete a medical history form and a consent form authorizing the institution to provide certain medical services if needed. Medical personnel should let the children's supervisors know of any chronic conditions (such as asthma, diabetes, or allergies to bees or nuts) that they should watch for and what to do—or not do—if they occur.

Generally, university staff should be able to provide emergency first aid until medical personnel arrive. It may be helpful to post charts showing various first aid procedures and provide telephone scripts for relaying emergency information.

Even with a consent form, every effort should be made to reach a parent or guardian before any emergency treatment is given.

Custody Solutions. Avoid custody problems. Specific people should be authorized to deliver and pick up each child, and each day at arrival and departure, a supervisor should carefully monitor these procedures. Some institutions require that people who sign the children in and out and show a picture ID. If a parent is delegating someone else to pick the child up, some schools require advance notice in writing, a statement of that person's relationship to the child, and a picture ID.

Do not let children leave with anyone who is not authorized to pick them up. Do not let staff take the children home.

Sexual Molestation. Steps in preventing child molestation include training all staff to recognize the warning signs of molestation, conducting background checks, and following up promptly on complaints, rumors, and other concerns. Other good practices include having two adults present with children at all times and, during weekends and evenings, prohibiting staff from having private contact with children such as babysitting or sleepovers. A fuller description of the characteristics of molestation situations and prevention steps appears in Appendix A below.

Adult Topics and Activities. Avoid inappropriate topics and activities. Depending on where minors go on college and university campuses, they may be exposed to language, pictures, opinions, or behavior their parents would consider unacceptable. Let the parents know what to expect before their children arrive. It may be advisable for their parents to enroll them somewhere else.

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- If computers the children will use in a class or a library do not have filters, let the parents know.
- If minors will be taking credit courses, it may be advisable to state in the college catalog that students in those classes may encounter a range of language, images, viewpoints, and belief systems.
- If a program would put minors in residence halls with older students, parents should be told. They may prefer the children to live off campus with them. Or you might insist that young students live off campus with a parent or guardian.

Some schools have implemented rules to minimize underage drinking on their campus. These may include prohibiting underage students from living on campus or taking school trips without a parent. The visits made to colleges and universities by high school seniors recruited for sports teams have been notorious for alcohol abuse, sexual abuse, and gambling. Recently some schools have instituted policies to eliminate that behavior. In their letters to students and their parents, they outline the expected appropriate behavior and the curfews. A strict policy against alcohol and drugs on campus can reinforce those messages.

When Someone Else Brings the Kids to You.

Children may come to your facility through an arrangement with another organization. You may, for example, rent out your pool, dorms, or other facilities to organizations for specialized programs. Through contractual risk-transfer mechanisms responsibility for the children's safety would fall to that group should an accident occur.

When an independent entity is on the campus to conduct a children's activity, then indemnification is an appropriate risk transfer method. The independent entity should provide a certificate of insurance with all endorsements, outlining coverages

and amounts, and designating the school as an Additional Insured. By being an additional insured, the school has full rights to coverage for any losses arising from the children's activity. Also, the insurer must notify the school of any material changes to, or cancellation of, the policy. It is also important that the "additional insured" clause continues to protect the school after termination of the activity on the campus. Many claims are not presented until long after the actual date of injury. Thus, it is important to ascertain continued coverage for any future claims arising from the activity.

Put It in Writing. Whatever policies your institution establishes, let the parents know verbally and in writing.

Waivers and permission slips tell the parents about activities and acknowledge their approval. It is advisable to have the children's parents or guardians sign an informed consent release form that acknowledges their knowledge and consent for their children to participate in the activity; a full and clear explanation of the activity; any risks involved in participation; and any transportation involved. Be as specific as possible in stating what is involved, the potential risks, and the voluntary nature of participation.

For transportation, also consider using waivers. However, courts often invalidate waivers on the grounds that a participant did not fully appreciate the rights being waived or that the waiver did not specifically indicate that it included the school's liability for negligence. Despite their legal vulnerability, if properly drafted and executed, waivers may help block liability. Moreover, a parent or guardian who has signed a waiver may be less likely to initiate a lawsuit than someone who has not. A waiver may assist a school in asserting the legal defense of "assumption of risk."

Resources and References

Dallas County Community College District, *Risk Management. Minor's Handbook*.
http://www.dcccd.edu/dsc/riskmanagement/minor's_handbook.html

Michigan Tech Occupational Safety and Health Services. Safety, Health, and Environmental Policies.
<http://www.admin.mtu.edu/fm/oshs/text-only/section3.htm>

National Coalition for Campus Children's Centers. Sponsors the CAMPUSCARE-I Listserv discussion list devoted to topics related to concerns of staff, faculty, and administrators in laboratory schools or children's centers on university or college campuses. <http://www.campuschildren.org/>

The Relative Risks of School Travel: A National Perspective and Guidance for Local Community Risk Assessment – Special Report 269 (2002), Committee on School Transportation Safety, National Research Council, National Academy of Sciences.
<http://www.nap.edu>

National Highway Traffic Safety Administration, School Bus Safety Program. (The site provides links to extensive information including its Getting to School Safely Community Action Kit.)
<http://www.nhtsa.dot.gov/people/injury/buses/>

"School Bus Safety Rules," National Safety Council. <http://www.nsc.org/library/facts/schlbus.htm>

"Serving Minors in Student Health: A Unique Challenge," by Marilyn Dickson, in *I Journal: Insight Into Student Services*, May 2002. <http://www.ijournal.us/home.htm>

University of Colorado at Boulder, sample waivers.
<http://www.colorado.edu/RiskMgmt/Resources/waivers.html>

University of California, Irvine, sample waivers. <http://www.mrm.uci.edu/waivers.html>

William & Mary, Virginia Institute of Marine Science, Safety Office. Teenagers in Laboratories.
<http://www.vims.edu/admin/safety/teen-labor.html>

Appendix A

Purpose

This document provides guidance on how to prevent molestation in schools. Every school needs to accept the possibility that an adult connected with the school may molest one or more of its students. Preventing molestation is an on-going responsibility involving many *people, policies, and practices*.

The people include not only school administrators but also teachers, librarians, coaches, bus drivers, custodians, and all other responsible adults. Children and their families also play key roles. While some might view school administrators alone as bearing responsibility to address molestation, the task actually requires broad investment from everyone.

The policies include school rules covering topics such as sexual harassment and assault, applicant background checks, employee misconduct, and volunteer screening. Because multiple policies may be involved, they need to be consistent and avoid confusing or contradictory information.

The practices involve limiting the opportunities for molestation, responding quickly and appropriately to suspicious situations, and taking action when warranted.

Definition

Molestation – Noncoital sexual activity between a child and an adolescent or adult; it can include viewing sexual materials, genital or breast fondling or oral-genital contact (from the *American Academy of Pediatrics*).

Common Characteristics of Molestation Situations

The typical molestation case involves a pedophile who creates opportunities for contact with children. The molester may be an employee or volunteer. He, or less often she, selects as victims children who are struggling academically or personally, come from troubled homes, have low self-esteem, or have difficulty expressing themselves. Special education students may be special targets. The molester creates opportunities to be alone with the children, whether on school premises or elsewhere. The

molestation may occur during school hours, during after school activities, or at other times. Coaches, music teachers, tutors, and volunteers have frequent opportunities to be alone with children, and molesters are often drawn to these roles.

Molesters rely on lies and deception. They typically threaten their victims to avoid disclosure. They might, for example, threaten to tell a child's parents about some misdeed if the child reports the sexual activity. Molesters are not usually strangers. They are familiar people often well regarded for their special interest in children. Indeed, a victim's parent may welcome the special attention that the molester gives to the child. Molesters, though, are masters at manipulating children and other adults to evade detection. In very general terms, molesters trespass over important social boundaries, to the great detriment of children.

Framework for Administration

Responsible school administrators can take many prevention steps to reduce the possibility of molestation problems. They can gather key information in advance, have good policies in place, and adopt thorough checks on employees and volunteers.

Legal and governmental information. Research in advance the state laws on sexual offender registration and child abuse reporting. Useful details include the school's rights and responsibilities under these laws, which government agencies oversee them, and how to contact those agencies.

School policies. Check the school or district policies involving sexual harassment and assault, employee misconduct, hiring, and volunteer screening. Understand how they would apply to a molestation problem. Avoid using criminal law terminology in your school policies, which tends to raise the expectations of victim and embarrassment of the accused. Useful policy provisions include:

- A prohibition on consensual sexual relationships between any employee or volunteer and students, including students who have reached the age of consent
- A limitation on physical touching of students to situations with a clear educational purpose

Policy Guidance: Preventing Molestation in Schools

- An admonition to avoid or limit private behavior, such as closed door meetings with students or after-hours activities involving only one student
- The administration's right to investigate employee or volunteer misconduct even if no complaint has been filed
- A requirement that employees report known misconduct and questionable behavior on the part of fellow employees, volunteers, and students
- An obligation that current employees notify the school of any criminal convictions that take place during their period of employment
- A requirement that at least two chaperones (preferable a male and female) accompany student trips away from school.
- A time deadline for reporting allegations of molestation in order to retain the right to refuse to investigate stale matters. Include a statement that permits the school to investigate the matter outside of the time period, if the school deems such investigation necessary.
- A "fairness" standard of review for allegations of molestation and other misconduct
- Policy language that avoids criminal terminology. Policies can refer to "information gathered" rather than "evidence," "knowledgeable people" rather than "witnesses," and "standard of review" rather than "burden of proof."
- Train interviewers and those performing reference checks to identify potential red flags. These include unexplained gaps in service, frequent transfers, and failure to list supervisor contact information.
- Perform criminal background checks permitted under federal, state, and local laws in every jurisdiction where a potential employee lives and has lived. Legislative guidance on federal background checks can be found in the National Child Protection Act of 1993 and Volunteers for Children Act (links listed below). While criminal background checks rarely reveal negative information, consider a school's situation if it failed to conduct a check on an applicant who did have a criminal history of molestation.
- Determine if your state permits the fingerprinting of all employees and, if it does, adopt a fingerprinting system.
- Verify Social Security information.
- Institute multiple screening methods that rely upon a combination of references, background checks, licensing information, and other relevant information in making final hiring decisions.
- Cross-reference information received from multiple sources to uncover discrepancies.
- Use teacher license authorities to confirm potential teachers' licensing history.

Hiring and screening practices. Thorough application processes and background checks can help keep molesters off the premises. Here are some ideas to consider:

- Adopt a common application form for all prospective employees. Include on the form questions including work history, criminal convictions, and necessary identification information that will assist in further background searches. A complete application form reduces the chance that a district will omit obtaining some important information. Include a clear statement on the application that incomplete or false information may result in one or more of the following: disciplinary action, firing, prosecution, or license revocation.
- Ask applicants for permission to obtain a copy of their personnel record from their current employer, provided state or local law permits access to the file.
- Conclude all necessary checks before extending an offer of employment. If this is not feasible, make the offer provisional.
- Establish probationary periods for new employees and review their interactions with students before the probationary period expires.
- Routinely check for criminal convictions of current employees. For staff with professional licenses, maintain a system to track license expiration dates and check that licenses are renewed on a timely basis. Participate in clearinghouses that share licensing information with other schools.

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- Develop an interview and screening process for school volunteers. Include tutors, trip chaperones, walk-on coaches, and other volunteers. For all regular volunteers who will have one-on-one contact with children, conduct background checks.
- Do not assume that all molesters are single and childless. A molester may be married, perhaps as part of an elaborate “cover” to hide the illegal conduct. In unusual cases, both spouses may participate in molestation. Note, too, that molesters may be parents, even parents of children in your school.

Framework for Awareness

Schools are well advised to educate their employees and volunteers about the problem of molestation. Encourage them to report suspicious behavior by adults or signs that a child may have suffered sexual abuse. Suspicious behavior by adults includes:

- Close personal interactions with students such as touching, embracing, and sharing intimate moments
- Special one-on-one relationships with particular students
- Abnormal relationships with employee peer group
- Private interactions with students that could lead to “he-said-she-said” situations
- Student relationships that are best described as “socializing.” Take particular note if employees are meeting with students off school grounds
- Joke-telling that includes off-color material or remarks
- Flirtatious behavior with students

Help employees and volunteers understand the signals of possible child sexual abuse. Physical indicators of sexual abuse include:

- Difficulty walking or sitting
- Torn clothing
- Stained or bloodied underwear

- Pain or itching in the genital area
- Venereal disease
- Pregnancy
- Marked changes in weight

Behavioral indicators of sexual abuse include:

- Inappropriate knowledge of sexual acts
- Sexual play or sexually explicit drawings
- Age-inappropriate behavior including seductive or masturbatory actions
- Unexplained late arrivals and absences from school
- Wearing two or more sets of clothing at the same time (“double dressing”) and inappropriate dress for weather conditions
- Significant changes in weight
- Overt changes in signs of affection
- Significant personality changes (a shy child becomes outspoken; an outspoken child becomes shy or noticeably more reserved).

Framework for Reporting, Investigation, and Discipline

Good awareness programs should be coupled with good mechanisms for reporting problems, investigating them, and imposing discipline. Administrators are well advised to encourage all employees and volunteers to report suspicious behavior promptly. A toll-free number for anonymous reporting can be a useful device. Too often, though, school administrators ignore complaints that are brought to their attention. They disbelieve the suspicions and allegations, allowing the harm to children to continue.

Here are some elements of a reporting and investigation system:

- Define, in advance, relationships and responsibilities of all parties when a report is filed, including notifications to government agencies such as social services and criminal justice systems. Implement those steps when needed.

- Involve more than one person in conducting and monitoring the handling of a complaint.
- Consult with police immediately to ensure possible criminal evidence and necessary testimony are collected.
- Require employee suspected of molestation to discontinue any contact with students.
- Ensure that the child involved in the allegations and other students are protected going forward.
- Consult with legal counsel on possible immediate disciplinary action and conduct of investigation. Assess whether an investigation should proceed under attorney-client privilege, so information is shielded from disclosure in litigation.
- Prepare for press coverage.
- Recognize and acknowledge that teachers, staff, or students may be under acute emotional stress. Provide counseling services.

Disciplinary Action. In taking disciplinary action against an employee found guilty of sexual misconduct, consider these steps:

- Record in the employee's personnel file the allegations, the outcome of the investigation, and any disciplinary action.
- Do not agree with employees or unions to expunge molestation findings after any period of time.
- Do not terminate an investigation of sexual misconduct charges against a teacher in exchange for resignation.
- Report necessary information to state licensing entities and other clearinghouses.

Framework for References

When supplying information about a former employee, schools may be hesitant to provide a truthful response out of fear of reprisal from the individual. When the safety of children may be at stake, caution dictates responding with a frank and truthful statement of known facts.

- Refuse to provide employees accused of sexual misconduct with positive or innocuous referrals before concluding the investigation.
- Refuse to negotiate gag order clauses in termination agreements with former employees accused of sexual abuse.
- Support legislative efforts to grant immunity to public employees who provide good-faith reference information about former employees to potential employers.
- Provide factual and candid responses to inquiries by other potential employers. Stick to known facts without editorializing.

Molestation Checklist for Schools

- ✓ Accept the possibility that an employee or volunteer at your school may molest a child.
- ✓ Develop a policy for screening applicants and volunteers, including questions on job applications, reference checks, and criminal background checks.
- ✓ Require current employees to report any criminal convictions. Implement a system to monitor that licensed employees renew their licenses on a timely basis.
- ✓ Teach employees and volunteers the signs of child sex abuse. Key physical indicators include:
 - Difficulty walking or sitting
 - Torn clothing
 - Stained or bloodied underwear
 - Pain or itching in the genital area
 - Venereal disease
 - Pregnancy
 - Marked changes in weight

Key behavioral indicators include:

- Inappropriate knowledge of sexual acts
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- Unexplained late arrivals and absences from school
 - Wearing two or more sets of clothing at the same time (“double dressing”) and inappropriate dress for weather conditions
 - Significant changes in weight
 - Overt changes in signs of affection
 - Significant personality changes (a shy child becomes outspoken; an outspoken child becomes shy or noticeably more reserved)
- ✓ Teach employees and volunteers the types of suspicious adult behavior that may suggest molestation. Key indicators of inappropriate adult activity include:
- Close personal interactions with students such as touching, embracing, and sharing intimate moments
 - Special one-on-one relationships with particular students
 - Abnormal relationships with employee peer group
 - Private interactions with students that could lead to “he-said-she-said” situations
 - Student relationships that are best described as “socializing.” Take particular note if employees are meeting with students off school grounds
- Joke-telling that includes off-color material or remarks
 - Flirtatious behavior with students
- ✓ Do not ignore clues or rumors that molestation may be occurring. Be prepared to respond promptly to concerns that victims, other children, parents, volunteers, or staff may raise.
- ✓ Appreciate that child molesters are usually well known and well liked. They may target victims who are disadvantaged or impaired. They are also masters at manipulation and deception. Watch for molestation among coaches, music teachers, and tutors, who have frequent occasion to be alone with students. Appreciate that special education students may be at special risk for molestation.
- ✓ When beginning an investigation into possible molestation, place the highest priority on protecting children. Consult with legal counsel about possible immediate disciplinary steps and about whether to conduct an investigation under the shield of the attorney-client privilege.
- ✓ Give honest references to future employees about employees who have been suspected of molestation, who have been investigated for molestation, or who have resigned before or during an investigation.

This report was developed in the fall of 2002 by the Advisory Committee of the Public School Program of United Educators Insurance. The committee includes representatives from: Albuquerque Public Schools, Alliance of Schools for Cooperative Insurance Program, Middle Cities Risk Management Trust, Miami-Dade School District, Missouri United School Insurance Council, New York School Insurance Reciprocal, Oklahoma Schools Insurance Group, New Hampshire Public Risk Management Exchange, Southern California Schools Management, Schools Excess Liability Fund, and Ventura County Schools Self-Funding Authority.

Resources on Molestation in Schools

National Child Abuse Hotline
800-422-4453

Books and Articles

"Background Checks on School Personnel"
www.ed.gov/databases/ERIC_Digests/ed324767.html

"Child Sexual Abuse," American Academy of Child & Adolescent Psychiatry
www.aacap.org/publications/factsfam/sexabuse.htm

"Child Sexual Abuse Prevention: Tips for Parents,"
City of Fullerton, CA
www.ci.fullerton.ca.us/police/tips/childabs.html

"Don't Neglect Thorough Background Checks When Hiring Employees"
www.nsba.org/sbn/1999/102699-7.htm

Educators, Schools, and Child Abuse, by Diane D. Broadhurst, National Committee to Prevent Child Abuse, 1984, rev'd 1994.

"Is the Teacher in the Classroom Next Door a Convicted Felon"
www.education-world.com/a_issues/issues059.shtml

"Passing the Trash by School Districts Frees Sexual Predators to Hunt Again," Education Week
www.edweek.org/ew/vol-18/15mobile.h18

"Responding to Complaints of Sexual Abuse" www.aasa.org/publications/sa/1994_10/shakeshaft.htm

Teachers that Sexually Abuse Students, by Stephen Rubin and John S. Biggs, Technomic Publishing Company, 1999.

Online Resources

American Bar Association Center on Children and the Law
<http://www.abanet.org/child/home.html>

Department of Health and Human Services. Hotline Numbers by State
http://www.acf.dhhs.gov/programs/cb/publications/rpt_abu.htm

Higher Education Center Against Violence and Abuse
www.minicava.umn.edu
Electronic clearinghouse of resources

National Association of State Directors of Teacher Education and Certification (NASDTEC)
www.nasdtdec.org
A nationwide database of teachers whose licenses have been denied, revoked or suspended

National CASA Foundation. How to Report Abuse
<http://www.casanet.org/library/abuse/report-abuse-list.html>

National Child Protection Act of 1993 - Federal Criminal Background Checks
<http://incestabuse.about.com/gi/dynamic/offsite.htm?site=http://thomas.loc.gov/cgi-bin/query/z%3Fc103:H.R.1237.ENR>

National Clearinghouse on Child Abuse and Neglect of the U.S. Department of Health and Human Services
<http://www.calib.com/nccanch/prevmnth/welcome/index.cfm>

National Organization for Victim Assistance
www.try-nova.org

Pavnet Online: Partnership Against Violence
www.pavnet.org
Federal interagency electronic resource about effective violence prevention initiatives

Safe Schools Coalition
www.ed.mtu.edu/safe

Sex Offender Registry by State
<http://www.prevent-abuse-now.com/register.htm>

Volunteer for Children Act
<http://envirotex.eh.doe.gov/data/uscode/42/5119.shtml>

Appendix B

1. Which office is responsible for coordinating camp activity?

2. Identify camp

- Name of camp
- Names of entities that operate camp
- Name of director
- Number of campers
- Number of paid staff
- Number of volunteers
- Short description of camp (include any areas of specialization)

3. Identify institutional relationship to the camp and the institution's role in its operations

- Allows use of facilities, but no institutional involvement in operations or management
- Promotes camp run by another entity. Gives camp special privileges or access to resources
- Joint operation with another entity
- In-house operation by school

4. Promotional materials

- Accurately reflect relationship of camp to school
- Accurately depict skill level of camp

5. Supervision

Screening of employees and volunteers

- Job description
- Application
- Interviews
- Reference checks
- Criminal checks (if required by state law)
- DMV checks

Training

- In issues such as identification, reporting, and response to suspected abuse situations
- In specific activities that counselors supervise such as water sports
- In general camp operations and policies
- In safety and emergency procedures

Camp organization (Who watches over employees and volunteers?)

Camper/counselor ratio

- For specific activities
- For free time activities
- For residence halls
- For field trips

** This audit is reprinted from the United Educators publication Camps on Campus.*

Audit Guide for Camps on Campus

6. Facilities

Dormitories

- Which ones are being used by the camp?
- During what dates will each dormitory be used by the camp?
- What other groups, if any, will be using the dormitory?

Athletic facilities

- Gyms
- Pools and other water sports facilities
- Fields
- Locker rooms
- Other athletic facilities

Food-service facilities

Health-service facilities

Laboratories

Who is responsible for safety inspections prior to use?

Who is responsible for clean-up, maintenance after use?

7. Other school resources used by the camp

- Transportation (school buses, vans, cars)
- Watercraft and other equipment
- Computer network

8. Are medical forms and participation agreements used?

9. State reporting requirements for suspected molestation/abuse

10. Visitors/pickups

- Parental visits allowed? How often?
- What are the procedures for signing children in? Signing out?
- Extra contracts required

11. Insurance Needs

For all camp-institution relationships

- General Liability
 - Coverage for specific activities
 - No exclusions for sexual molestation
 - Minimum limits of \$1 million for camp operations
 - Name of carrier
 - Occurrence, not claims-made
 - Indemnification issues
- Auto
 - Limits of \$500,000 to \$1 million
 - Name of carrier
- Educators Legal Liability (or the camp operator's E&O, D&O, and EPLI)
 - Covers employees of camps
 - Name of carrier
- Accident insurance
- Workers' compensation

For camps run by a separate entity (all of the above plus the following)

- Certificate of Insurance
- Institution named as Additional Insured

For co-sponsored camps

- Indemnification: Which entity controls/insures which activities
- No assumption of another's sole negligence

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