

Safe Havens

Preventing student sexual abuse starts with you

Anne H. Littlefield and Lyndon Haviland

School districts have legal and ethical obligations to promote safe and healthy environments in which students can thrive. Victims of childhood sexual abuse experience myriad adverse health and educational outcomes.

School leaders must consider prevention education as a critical strategy to improve the health and well-being of students.

While many would prefer to think of childhood sexual abuse as a rare occurrence, research shows that it is experienced by an estimated 25 percent of girls and 16 percent of boys in the U.S. by the age of 18.

Districts can prevent or reduce the likelihood of sexual victimization of students both through training and through adoption of certain employment practices and policies. By adopting a robust approach that includes prevention, intervention, and support measures, schools will reduce the opportunity for sexual abuse, create a supportive environment for disclosure, promote positive outcomes for victimized children, and create a safe and healthy environment for all students.

TRAINING

Most states require certified school staff to report child abuse and neglect, including childhood sexual abuse, when they suspect such abuse. While 48 states have “mandated reporting laws,” however, only 23 require training for mandated reporters. For many states, the training mandate is a new requirement.

Not surprisingly, the extent of each state’s training requirements varies tremendously. Nearly two-thirds of the states requiring mandated reporter training merely say that such training must be provided, but

offer little, if any, guidance as to the parameters of the required training. Fewer than 10 state statutes requiring training expressly outline the extent, frequency, and/or content of the training.

While legal requirements vary in each state, each district should adopt a training regimen that promotes a safe and healthy environment for students with respect to the identification of and support for victims of childhood sexual abuse.

What elements should district training include?

- Determine the legal requirements in your jurisdiction, and develop and use a comprehensive training program to satisfy those requirements.
- Train all staff, volunteers, and school board members in the recognition and reporting of child abuse and neglect, including childhood sexual abuse.
- If the law in your jurisdiction gives discretion with respect to the content of training, adopt a training regimen that is research-based and reflects best practices in child sexual abuse identification and prevention.
- Ensure accountability by designating a school leader to supervise and coordinate training. Some state laws include mandates for administrators to certify compliance with training requirements. However, even if your state does not impose such a mandate, consider a policy mandate to designate one individual administrator as responsible for the district’s efforts.
- Require refresher training. District policy that requires refresher training will ensure consistency in implementation of training programs, allow for current legal and educational considerations, and demonstrate a district commitment to preventing childhood sexual abuse.

SCREENING EMPLOYEES

Establishing school policies and procedures that prevent individuals with a history of acts of sexual victimization of children from having contact with students is the cornerstone of any district's prevention strategy.

In 2010, the U.S. Government Accountability Office (GAO) conducted a study to examine the circumstances surrounding cases where K-12 schools hired or retained individuals with histories of sexual misconduct and determine the factors contributing to such employment actions.

The GAO's findings are both instructive and troubling. People with histories of sexual misconduct are hired or retained by districts in a variety of student contact capacities. The GAO identified certain factors contributed to hiring or retention of such individuals. Those factors included:

- Allowing teachers who engaged in sexual misconduct with students to resign rather than report them to law enforcement, and giving those teachers positive references to subsequent employers.
- Not performing pre-employment criminal history checks or taking advantage of national databases.
- Failing to inquire into troubling information regarding criminal histories on employment applications.

Even in the absence of a state law requirement, districts should adopt strong policies for screening of all employees or volunteers. As screening practices may prevent predators from gaining access to children, as well as reduce districts' liability when negligence is alleged, such policies may well have a significant positive impact on students.

What elements should a district screening policy include?

- Satisfy legal requirements for pre-employment and volunteer screening.
- Screen all staff and volunteers.
- Conduct criminal background and sex offender registry checks.
- Conduct thorough reference checks. If a former employer will only confirm position titles and dates of hire, it may be a red flag. A telephone conversation in conducting a reference is far more likely to yield information than a written reference.
- Ensure fidelity to your screening processes. Having

a strong screening process on paper will not protect children if school personnel routinely cut corners by bypassing screening requirements. Monitor those charged with ensuring that screening policies are being followed, and discipline such employees when screening policies are not adhered to.

INTERVENTION

In all states, educators found to have sexually abused children will face criminal consequences; and in most states, revocation of a teaching certificate also follows from such a conviction. That said, in many cases where sexual abuse in a school setting is suspected, individuals will resign while an investigation is pending, and also may be able to escape criminal prosecution due to the high evidentiary standards of a criminal trial.

Prosecutors and school officials alike wrestle with difficult decisions about asking child victims to provide legal evidence of sexual abuse, as participating in criminal trials or teacher termination hearings can have devastating emotional consequences for children.

As a result, some educators will move on and get new jobs prior to a formal termination proceeding. The GAO study criticized such district practices, noting that "these teachers were able to truthfully inform prospective employers that they had never been fired from a teaching position and eventually were able to harm more children. In certain cases, school officials actually provided positive recommendations or reference letters for the teachers."

By reporting cases of suspected sexual abuse to child welfare agencies and/or the police, public agencies will continue investigations of such employees, even while school district officials will have no further role to play. Certain district policies and procedures for managing employee discipline and termination will also serve to protect children, as noted below.

What policies and practices should a district adopt for the discipline and termination of abusing individuals?

- Place employees on administrative leave with pay during sexual abuse investigations. If a district receives a report of possible sexual abuse by a school employee, it is better to ensure that the employee no longer has access to school children while the report is investigated.
- Impose discipline for boundary violations. If an employee engages in conduct that infringes on professional boundaries, whether or not actual sexual abuse

is suspected, impose written discipline promptly. This will send a clear message that the district is vigilant about student/staff relationships and will not tolerate inappropriate conduct.

- Train administrators to clearly word disciplinary documents. If a school staff member is being disciplined for a boundary violation, the administrator issuing written discipline should use specific language to describe the offense so that a history of behaviors of concern is well-documented.
- Prohibit administrators from providing references unless reviewed/approved in advance. Requiring all references to be reviewed and approved by district officials may prevent a situation where a former employee presents a 'friendly' reference to a future employer and gains access to children elsewhere.

SUPPORT

A student report of sexual abuse presents significant challenges for a school district. Legal considerations include 1) analysis of mandatory reporting obligations, 2) Title IX/sexual harassment investigation procedures, 3) possible bullying implications, 4) student confidentiality issues, and 5) to the extent that the disclosure implicates a school employee—possible discipline and/or termination of a school employee.

Unfortunately, the legal obligation to investigate and remediate sexual abuse of a student requires a robust information gathering process that typically involves not only school personnel, but child welfare agencies, and police. However, in the midst of the firestorm that such a disclosure necessarily involves, it is vital that school administrators and relevant school staff give priority consideration to the needs of the victim for support, sensitivity, and confidentiality.

It is not realistic to expect our school staff members and/or administrators to perform as competent forensic interviewers or have the knowledge and training of mental health professionals. That said, adherence to a few fundamental principles will not only promote positive mental health and social outcomes for the victim in the school setting, but will also create a climate in which student victims feel safe in making such reports. When student victims feel safe in coming forward, sexual victimization of children will necessarily decrease and those responsible for perpetrating crimes against

children will be held accountable.

What fundamental principles should school district personnel follow in handling disclosures of sexual abuse of students?

- Determine and adhere to any procedures required by law or district policy. As a student's disclosure of sexual abuse triggers mandatory reporting obligations, ensure that school personnel adhere to the mandated reporting obligations.
- Respect and reassure the student making the report. Research shows that only 4 percent to 8 percent of child sexual abuse reports are fabricated. It is vitally important to convey an attitude of respect and belief to the student making the report.
- Get mental health professionals involved. Most districts employ at least one school psychologist and/or social worker on staff. Have a mental health professional participate in any interviews of the student.
- Provide continuing student mental health support after disclosure. Support should include promoting an open dialog with the family and any private mental health providers retained by the family to assist the child.
- Preserve the confidentiality of the student's disclosure, to the extent possible. It is increasingly challenging to maintain confidentiality in this age of social media and instantaneous communications. Districts need to discipline staff members who spread rumors.

School administrators can foster a safe and healthy school environment by requiring evidence based prevention training for all staff, volunteers, and school board members. Knowing the facts is an essential first step to building a safe environment for students. It is only by actually discussing the issue in our educational settings, whether at school board meetings, in leadership team meetings, in PTA/PTO meetings, and with students themselves, as well as by adopting the commonsense policies and procedures discussed herein, that we will make meaningful progress in addressing this public health epidemic.

Anne H. Littlefield (alittlefield@goodwin.com) is a partner at Shipman & Goodwin law firm in Hartford, Connecticut. Lyndon Haviland (lyndon@haviland.net) is a global public health expert and interim CEO of Darkness to Light, a nonprofit providing childhood sexual abuse prevention education training.