

## **Child Abuse, Neglect, and Sexual Misconduct Reporting Protocol for Administrators**

All administrators have the same child abuse, neglect and sexual misconduct reporting duties that non-administrators do under Board Policy 3421, 3421P(a), RCW 26.44.030, and RCW 28A.400.317. Administrators also have the additional duties set forth below in order make the child abuse reporting system work.

### **The Site Administrator's Role**

The site administrator's role in dealing with inappropriate behavior by adults with students is three-fold: first, act as a positive role model in your interactions with children; second, annually remind staff of their duties set forth in BP 3421P(a); and third, curb behavior which lacks legitimate educational reasons, such as boundary invasion behavior. The site administrator shall:

1. At the beginning of the school year faculty or staff meeting, remind staff to read their staff handbook section entitled, "Staff Child Abuse, Neglect and Board Policy 3421P (a) Sexual Misconduct Reporting Protocol" and conduct a careful and serious discussion concerning what touching of students is appropriate for staff members, in what situations, and with students of the ages attending the school.
2. Receive and document any report of problem behavior by a staff member or adult. At the very least, the report should provide as much detail as possible about:
  - a. What happened;
  - b. What was said and by whom was it said;
  - c. When and for how long;
  - d. Names of witnesses;
  - e. Any other problems or suspicions in the past;
3. Inform the person making the report that you will notify the appropriate agency if such a report is warranted (see item 8 below).
4. Thank the person for making the report and remind and direct him/her to maintain absolute confidentiality concerning the matter so that it may be properly looked into.
5. Unless imminent harm is about to occur with a child, first notify the appropriate District Office administrator of the situation to discuss how to proceed.
6. In coordination with the District Office, implement the agreed upon plan for addressing the situation.
7. Maintain confidentiality yourself. Do not discuss the matter with the media or public. Refer all such inquiries to the appropriate District Office administrator. Refrain from saying "no comment" if the press calls. Merely refer the inquiry to the District Office.

8. If any educator has reasonable cause to believe that a child has suffered abuse or neglect, that educator must report this concern at his or her first opportunity, but in no case later than within 48 hours. Generally report intra-family abuse to Department of Children and Family Services (360) 565-2240 or 888-801-6627 and other abuse to law enforcement. (See Board Procedure 3421P (a) regarding mandatory reporting of child abuse.)
9. Inform the parent of the situation after discussing the matter with the appropriate person at the District Office. This should be done within 48 hours. (RCW 28A.320.160.) (This is not applicable if the parent is the possible abuser.) The parent must be informed regarding their rights under the Washington Public Disclosure Act, chapter 42.56 RCW, to request the public records regarding school employee discipline. This information should also appear in the annual notice.

### **District Office Administrator's Role**

1. Upon receiving the call from site administration or a staff member, the appropriate District Office person should make the following notifications:
  - a. Superintendent.
  - b. The District's Title IX officer.
  - c. The District's Special Ed Director, if the child is in special education.
  - d. The District risk management officer.
  - e. The site principal.
2. Upon receiving word of the matter, the Title IX Officer shall immediately review his/her files to determine whether there has been any past problems with the staff member which would be relevant. The Director of Human Resources shall also review the staff member's personnel file, looking for anything which memorializes similar prior problems. The information obtained should be provided to the Superintendent or designee handling the matter.
3. In all serious situations, or situations where it is difficult to determine how to proceed, work with the District insurance/risk pool claims administrator.<sup>1</sup>
4. Such a plan of action normally involves the following:
  - a. An investigation to accurately determine the facts. If the police are investigating, you may need to defer your investigation until they are finished. Regardless of whether the police have investigated, the District has an independent duty to investigate.<sup>2</sup>

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<sup>1</sup> Experience, judgment, and common sense will determine whether you are dealing with a "serious situation." Anytime the situation is such that an educator thinks Department of Children and Family Services or the police should be contacted, and the alleged abuser is a District employee, it is a serious situation. Anytime a person is engaging in repeat-boundary invasion behavior which could be construed as sexual grooming, it is a serious situation. In such situations, it is mandatory to seek guidance from the District Office.

<sup>2</sup> In serious situations involving allegations of sexual misconduct, the District should consider using an outside person to investigate the allegations. The school district's insurance provider can be useful in making this determination. However, if in-house people are to be used to investigate, follow the guidelines below.

- b. Informing the parent of the situation. It is normally best not to delay informing the parent. Often the principal is the best person to do this.
  - c. If any educator has reasonable cause to believe that a child has suffered abuse or neglect, that educator must report this concern at his or her first opportunity, but in no case later than within 48 hours. Generally report intra-family abuse to Department of Children and Family Services (360) 565-2240 or (888)-801-6627 and other abuse to law enforcement (360) 452-4545 or 911). (See Board Procedure 3421P (a) regarding mandatory reporting of child abuse.)
  - d. At the very beginning, a District Office level decision must be made whether to place the staff member on administrative leave. Such leave must be paid administrative leave.
  - e. Document the results of the investigation. Such documentation should always be placed in a file in the Title IX office so that the District may maintain an institutional memory of the situation. Such information should also be placed in the staff member's personnel file.
  - f. Either written discipline or a written clarification and reminder should occur. At the very least, a letter should also be placed in the staff member's personnel file. Depending on the situation, the letter may be one of reprimand and direction or a reminder on how to conduct oneself appropriately around children. This letter should memorialize that an investigation took place, the conclusion of the investigation, and any direction or directives given to the staff member.
  - g. It may be appropriate to address the issue in the staff member's normal written evaluation.
  - h. In some situations, discipline beyond a letter of reprimand is warranted, up to and including termination. Normal District discipline policies shall be followed in such cases.
  - i. Create and maintain an Institutional Memory of the misconduct by documenting it. If the misconduct occurs again, those dealing with the future misconduct will be able to more adequately assess the extent of the staff member's problem. Institutional memory may be created by forwarding a copy of any letters of reprimand or clarification, as well as any other discipline to the following:
    - The staff member's personnel file.
    - The site principal.<sup>3</sup>
    - The Title IX officer.
  - j. If for some reason a Collective Bargaining Agreement allows negative materials to be removed from a personnel file at a future date, the removed material should be forwarded to the Title IX officer for permanent maintaining.<sup>4</sup>
5. All responses to media should be through one spokesperson for the District, normally the Superintendent.

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<sup>3</sup> If the employee transfers to another school, the site principal should endeavor to forward the letter to the teacher's new principal for that principal's file.

<sup>4</sup> In some situations removal of material from the employee's personnel file may violate RCW 28A.400.301 discussed below. The material in such situations should not be removed.

6. Please also see below regarding job references and written agreements relating to individuals who have engaged in abuse or sexual misconduct with children.

### **In-House Investigation Guidelines**

Because of the frequent threat of litigation in such situations, it is recommended that an outside investigator be used to investigate allegations of sexual misconduct with students. When an in-house investigation is to be conducted, the following guidelines apply:

1. The person investigating should be independent from the incident, without any agenda or bias. The person should be trained in conducting such investigations.
2. Begin investigating as soon as possible after making the determination with the District Office that an in-house investigator will be used, and law enforcement has cleared the District to investigate, if law enforcement is involved.
3. *Initial Interviews:* Generally it is best to interview people in the following order:
  - a. Interview the person making the report first.
  - b. Next, witnesses or potential witnesses.
  - c. Then the child/children who may be the victim(s)<sup>5</sup>.
  - d. After that, one should consult with the District Office to determine what to do next.  
Options at this point would likely include:
    - Follow-up or additional witness interviews
    - McGrath “Environmental Scan” interviews<sup>6</sup>
    - Interview the accused
4. *Interview Technique:* Ask general questions, rather than leading questions, especially with children. Do not ask leading questions. Let them provide you with the information. Do not provide them with information in your questions. Otherwise there may be a question of whether what they are telling you is what they remember or what has been suggested to them. When interviewing a potential victim, always find out how the person felt about what happened. Try to determine the impact of the conduct on any victim.
5. *Confidentiality:* Each witness should be informed that they are to maintain confidentiality about what they have been questioned about. Parents of child witnesses should be informed about the interview of their child prior to the interview in situations where this is feasible in case the parent wishes to be present for the interview. In other situations, another adult whom the child trusts may be present, if the child wishes, during the interview. Do not promise confidentiality of the interview.

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<sup>5</sup> Parental permission should be obtained to conduct child interviews. Sometimes a parent will want to be present during the interview.

<sup>6</sup> These are interviews with a random sample of other students on general issues about the school, conducted in a manner which will provide the opportunity for children to share whether anything has been happening to them which causes them to feel uncomfortable.

6. Interviewing the Accused:
  - a. Before the interview, inform the person of their right to have *Weingarten* union representation at their meeting since the matter being discussed could have potential disciplinary ramifications. In this regard, review the Collective Bargaining Agreement to determine whether there are any special rules for such an interview.
  - b. Have two administrators present for the interview, the person asking the questions and a second administrator familiar with the situation who will take careful and meticulous notes.
  - c. Proceed with carefully planned questions, using mostly general questions to obtain as much information as possible. Follow up questions can be more specific, focusing on specific facts in the accused staff member's earlier responses.
  - d. It is very important in questioning to ask the hard and tough questions and to ask follow-up questions where answers are not completely clear so that the interviewer has a clear picture of what happened.
7. *Document the Investigation:* Document what each person interviewed said in an investigation report. If anything other than factual findings are to be included in the report, the District Office should approve. However, in all situations where it is concluded that the staff member did not do anything which would constitute misconduct or inappropriate behavior, that conclusion must be explicitly stated in the investigation report, along with the reasons for reaching the conclusion.<sup>7</sup>
8. Either in the investigation report or separately, discussion should take place amongst the key administrators and investigator to arrive at conclusions regarding the matter. In arriving at conclusions, one should not decide that conclusions cannot be reached merely because it is one person's word against another's. If it is possible, decide who you think is telling the truth.
9. As per the "District Office Administration's Role" in section 4.f above, proceed through the disciplinary or reminder process, and create detailed institutional memory of the matter.

### **Superintendent's OSPI Reporting Responsibilities**

When the Superintendent believes that sufficient reliable information exists that a certified staff member within the District is not of good moral character, or is not personally fit, or has committed an act of unprofessional conduct, then the Superintendent must, within a reasonable period of time of obtaining such information, make a written complaint to the Superintendent of Public Instruction concerning the matter. If the District is considering action to discharge the staff member in question, the District Superintendent need not file such a complaint until ten (10) calendar days after making the final decision to serve or not serve formal notice of discharge. (WAC 180-86-110.) Such a written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation by the Superintendent of Public Instruction is warranted. (WAC 180-86-110.)

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<sup>7</sup> Failure to do so could create a document subject to disclosure under the Public Records Act. (Ch. 42.56, RCW.)

**Written Agreements and Employee References**

RCW 28A.400.301 prohibits the Board or any official of a school district from entering into any collective bargaining agreement, individual employment contract, resignation agreement, severance agreement, or any other contract or agreement “that has the effect of suppressing information about verbal or physical abuse or sexual misconduct by a present or former staff member or of expunging information about that abuse or sexual misconduct from any documents in the [District’s] personnel, investigative, or other files relating to verbal or physical abuse or sexual misconduct by the [staff member].”

In answering reference questions about staff members who have engaged in misconduct, the person taking the call may not take action that has the effect of suppressing information about verbal or physical abuse or sexual misconduct by a present or former staff member. While it is permissible to refer all calls concerning a particular staff member to a prearranged District spokesperson, that person must candidly abide by RCW 28A.400.301.

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