

State of Delaware

**Annual Report on Teen Dating Violence and  
Sexual Assault in Delaware Public Schools**

2022-23



As required by 14 *Del. C.* § 4166(e)(3), the Delaware Department of Education must annually prepare a report which summarizes all reported incidents of teen dating violence and sexual assault.

February 2, 2024

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## **EXECUTIVE SUMMARY**

Annually, the Delaware Department of Education (DDOE) prepares a report on teen dating violence and sexual assault, and this year marks the ninth year this report has been prepared. The DDOE's Annual Report summarizes all reported incidents of teen dating violence and sexual assault that were reported by local education agencies (LEAs) during the 2022-2023 school year, which was from June 1, 2022 through July 30, 2023.

During the school year, the LEAs reported 126 incidents, all of which were sexual assaults. No incidents of teen dating violence were reported. Like the prior year, middle schools reported almost half of the incidents (46%). Sexual harassment followed by pornography, possession and production, were the top offense categories reported by LEAs.

## BACKGROUND AND OVERVIEW

In June 2012, the Delaware General Assembly passed the Liane Sorenson Act, which required school districts and charter schools to establish policy on teen dating violence and sexual assault (*see Appendix A*). The Delaware Domestic Violence Coordinating Council (DVCC) was authorized by statute to review these policies and to identify and maintain a non-academic training program on teen dating violence and sexual assault for school administrators, nurses and counselors serving grades 7 through 12. Additionally, the DDOE was tasked with preparing an annual report summarizing the reported incidents of teen dating violence and sexual assault in schools and submitting the report to the DVCC.

In June 2014, the DVCC and the Child Protection Accountability Commission (CPAC) created a model policy titled “Guidelines for Responding to Teen Dating and Sexual Violence in Delaware Schools,” and it included definitions, guidelines on mandatory reporting and confidentiality, and a protocol for responding to incidents. Following this, the LEAs established similar policies in their Student Codes of Conduct. Additionally, the DVCC created a two-hour non-academic training on teen dating violence, which is available through the DDOE’s professional development management system. For almost 10 years, these resources have been in place to support LEAs in their response to teen dating violence and sexual assault.

During the 2022-2023 school year, the DVCC and Child Protection Accountability Commission (CPAC) revamped the model policy with input and support from the DDOE and LEA representatives. Upon approval, the “Model Policy for Responding to Student Sexual, Physical and Emotional Misconduct in Delaware Schools” was disseminated to the LEAs in October 2023 to make updates to the Student Codes of Conduct by the next school year (*See Appendix C*). In January 2024, the DVCC also began to partner with representatives from CPAC and DDOE to update its non-academic training on teen dating violence and sexual assault. This new training will be available for the 2024-2025 school year.

With the updates to policy and training, the LEAs will have the most current information available to support them in the identification and response to teen dating violence and

sexual assault. As part of that response, the LEAs are required to report these incidents to the DDOE via the state's student information system within 5 working days following the incident. These reports are required by both the DDOE Regulations and Title 14 of the Delaware Code. The DDOE Regulation 601 requires the LEAs to report teen dating violence and two sexual offenses, sexual harassment and pornography, possession and production, to DDOE. All other offenses are mandatory reports to DDOE under the School Crimes statute [14 *Del. C.* § 4112(b)]. These offenses are as follows: Promoting Sexual Solicitation of a Child, Rape, Sexual Exploitation of a Child, Sexual Extortion, Sexual Solicitation of a Child, Stalking, Strangulation, Unlawful Sexual Contact and Dealing in Child Pornography.

While the definitions are standard for criminal offenses (*see Appendix B*), not all incidents end up in an arrest. Instead, the incidents are categorized based upon the definitions and interpretations of the LEA's Student Code of Conduct, and the LEAs may record the incident as a school level offense in the state's student information system. School level offenses are not reportable offenses to the DDOE and therefore are not represented in the data. The DDOE prepares this annual report on teen dating violence and sexual assault utilizing only the required offenses reported by LEAs with an incident date between June 1, 2022 and July 30, 2023. Additionally, the incident location is limited to only those occurring on school property or at a school function. Due to the lack of standardized definitions and the inclusion of only reportable offenses, please use caution with drawing conclusions from the data.

## SUMMARY OF REPORTED INCIDENTS

Much of the data below is presented over a 4-year period. As a reminder, for the 2019-2020 school year, school buildings closed in March 2020, and many schools, especially high schools, were not back to in-person learning at all or did not return to in-person learning until the end of the 2020-2021 school year.

**Table 1. Total Reported Incidents**

Table 1 displays the total number of incidents of teen dating violence and sexual assault reported by LEAs over a 4-year period.

<b>Incident Type</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
Teen Dating Violence	72	0	1	0
Sexual Assault	74	10	117	126
<b>Total</b>	<b>76</b>	<b>10</b>	<b>118</b>	<b>126</b>

**Table 2. Percentage of Incidents by Grade Level**

Table 2 shows the percentage of total reported incidents disaggregated by grade level over a 4-year period. *\*For the 2022-2023 school year, another 2% of incidents were from other K-12 programs.*

<b>Grade Level</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023*</b>
% Elementary School	13.1%	10%	19%	23%
% Middle School	38.1%	30%	55%	46%
% High School	48.7%	60%	26%	29%

**Table 3. Number of Incidents by Offense Category**

Table 3 shows the number of incidents disaggregated by reportable offense category over the 4-year period.

<b>Offense Category</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
Teen Dating Violence	4	0	1	0
Pornography, Possession & Production	*	*	*	33
Rape 4 <sup>th</sup>	0	0	1	1
Rape 2 <sup>nd</sup>	1	0	1	0
Sexual Exploitation of a Child	*	*	*	1
Sexual Harassment	53	8	93	73
Unlawful Sexual Contact 3 <sup>rd</sup>	15	2	20	13
Unlawful Sexual Contact 2 <sup>nd</sup>	2	0	1	2
Unlawful Sexual Contact 1 <sup>st</sup>	0	0	0	3
Dealing in Child Pornography	1	0	1	0
<b>Total</b>	<b>76</b>	<b>10</b>	<b>118</b>	<b>126</b>

*\*Offense was not included in the data request for the prior school years.*

**Table 4. Number of Incidents by Offense Category and LEA**

Table 4 shows the number of incidents disaggregated by reportable offense category and LEA for the 2022-2023 school year.

	<b>Teen Dating Violence</b>	<b>Pornography, Possession &amp; Production</b>	<b>Rape 4<sup>th</sup></b>	<b>Sexual Exploitation of a Child</b>	<b>Sexual Harassment</b>	<b>Unlawful Sexual Contact 3<sup>rd</sup></b>	<b>Unlawful Sexual Contact 2<sup>nd</sup></b>	<b>Unlawful Sexual Contact 1<sup>st</sup></b>
Appoquinimink					29	1		
Brandywine		5			10			
Caesar Rodney					4			
Cape Henlopen		1			1	2		
Capital		8			5	1		
Christina			1		3	1		3
Colonial		1						
Delmar					1	1		
Indian River		1			1	3		
Lake Forest		2			5			
Laurel		3			3	1	1	
Milford		2		1	1			
New Castle Vo-Tech					3		1	



	<b>Teen Dating Violence</b>	<b>Pornography, Possession &amp; Production</b>	<b>Rape 4<sup>th</sup></b>	<b>Sexual Exploitation of a Child</b>	<b>Sexual Harassment</b>	<b>Unlawful Sexual Contact 3<sup>rd</sup></b>	<b>Unlawful Sexual Contact 2<sup>nd</sup></b>	<b>Unlawful Sexual Contact 1<sup>st</sup></b>
Polytech		2						
Red Clay		2			4	1		
Seaford		1						
Smyrna		5						
Sussex Tech						2		
Woodbridge								
Charters					3			
<b>Totals</b>	<b>0</b>	<b>33</b>	<b>1</b>	<b>1</b>	<b>73</b>	<b>13</b>	<b>2</b>	<b>3</b>

## APPENDIX A: LEGISLATION

### § 4166. Teen dating violence and sexual assault awareness and prevention.

(a) *Teen dating violence and sexual assault training program.* —

The Delaware Domestic Violence Coordinating Council shall identify and maintain a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving 1 or more of the grades in grades 7 through 12.

(b) *Teen dating violence and sexual assault policies.* —

Each school district and charter school serving 1 or more of the grades in grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault that includes, at a minimum, all of the following components:

- (1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each, and the consequences for committing offenses.
- (2) Guidelines on mandatory reporting and confidentiality as required by the law of this State and school district or charter school policy.
- (3) A protocol for responding to incidents of teen dating violence and sexual assault which includes all of the following:
  - a. Procedures regarding initial response.
  - b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required.
  - c. Procedures for the documentation of incidents.
  - d. Procedures for working with victims.
  - e. Procedures for working with perpetrators.

(c) [Repealed.]

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the health standards adopted by the Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) *Dissemination of policy and accountability.* —

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

(2) Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy is distributed annually to all students, parents, faculty, and staff.

(3) The Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The Department shall submit the report to the Domestic Violence Coordinating Council by October 15 of each year.

(f) *Immunity.* —

A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence or sexual assault in good faith and to the appropriate person using the procedures specified in the school district's or charter school's teen dating violence and sexual assault policy, but there is no such immunity

if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

(g) *Relationship to reporting requirements.* —

Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. For purposes of this subsection, “school property” and “school function” mean as defined in § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h), (i) [Repealed.]

(j) *Short title.* —

This section shall be known and may be cited as the “Liane Sorenson Act.”

## APPENDIX B: DEFINITIONS

### ▪ Dealing in Child Pornography<sup>1</sup>

A person is guilty of dealing in child pornography when:

- (1) The person knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any book, magazine, periodical, pamphlet, video or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;
- (2) The person knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly receives for the purpose of selling or sells any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;
- (3) The person knowingly distributes or disseminates, by means of computer or any other electronic or digital method, or by shows or viewings, any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination;
- (4) The person, intentionally compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses any photograph, image, file, data or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act. For the purposes of this subsection, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if such photograph, image, file or data was compiled, entered,

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<sup>1</sup> See 11 *Del. C.* § 1109

accessed, transmitted, received, exchanged, disseminated, stored, made, printed, reproduced or otherwise possessed by, through or with any computer located within Delaware and the person was aware of circumstances which rendered the presence of such computer within Delaware a reasonable possibility; or

(5) The person knowingly advertises, promotes, presents, describes, transmits or distributes any visual depiction, exhibition, display or performance with intent to create or convey the impression that such visual depiction, exhibition, display or performance is or contains a depiction of a child engaging in a prohibited sexual act or in the simulation of such an act.

Unlawfully dealing in child pornography is a class B felony unless the prohibited sex act is “partial nudity” as defined in § 1100 of this title, then it is a class D felony.

▪ **Promoting Sexual Solicitation of a Child<sup>2</sup>**

(a) A person is guilty of promoting sexual solicitation of a child if the person, being 18 years of age or older, intentionally or knowingly:

(1) Promotes, entices, offers, encourages, solicits or otherwise attempts to cause any child to engage in a prohibited sexual act; or

(2) Uses a computer, cellular telephone, or other electronic device to communicate with another person to solicit, request, command, importune, entice, encourage or otherwise attempt to cause that person to engage in a prohibited sexual act with a child.

(b) For purposes of this section, “child” means:

(1) An individual who is younger than 18 years of age; or

(2) An individual who represents himself or herself to be younger than 18 years of age; or

(3) An individual whom the person committing the offense believes to be younger than 18 years of age.

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<sup>2</sup> See 11 *Del. C.* § 1112B

(c) For the purposes of this section, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or in the instance of any manner of electronic communication or other communication that does not occur in person, the offense is committed in this State if such communication either originated in this State or is received in this State.

(d) For the purposes of this section, it is not a defense to prosecution that at the time the conduct described in subsection (a) of this section occurred:

- (1) The solicited prohibited sexual act did not occur; or
- (2) The person was engaged in a fantasy or role playing at the time of the commission of the offense.

(e) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(f) Promoting sexual solicitation is a class C felony except as provided in subsection (g) of this section.

(g) Promoting sexual solicitation of a child is a class B felony if the defendant meets in person or attempts to meet in person with another person and a child, or otherwise produces or delivers a child to another person, for the purpose of the person engaging in a prohibited sex act with the child.

▪ **Rape in the Fourth Degree<sup>3</sup>**

(a) A person is guilty of rape in the fourth degree when the person:

- (1) Intentionally engages in sexual intercourse with another person, and the victim has not yet reached that victim's sixteenth birthday; or
- (2) Intentionally engages in sexual intercourse with another person, and the victim has not yet reached that victim's eighteenth birthday, and the person is 30 years of age or older, except that such intercourse shall not be unlawful if the victim and person are married at the time of such intercourse; or
- (3) Intentionally engages in sexual penetration with another person under any of the following circumstances:
  - a. The sexual penetration occurs without the victim's consent; or

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<sup>3</sup> See 11 Del. C. § 770

b. The victim has not reached that victim's sixteenth birthday.

(4) [Repealed.]

(b) Paragraph (a)(3) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment or to a law-enforcement officer who is engaged in the lawful performance of his or her duties.

Rape in the fourth degree is a class C felony.

▪ **Rape in the Third Degree<sup>4</sup>**

(a) A person is guilty of rape in the third degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the victim has not reached that victim's sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached that victim's fourteenth birthday and the person has reached that person's nineteenth birthday and is not otherwise subject to prosecution pursuant to § 772 or § 773 of this title; or

(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

b. The victim has not reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim.

(3) [Repealed.]

(b) Paragraph (a)(2) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the

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<sup>4</sup> See 11 Del. C. § 771



purpose of diagnosis or treatment, or to a law-enforcement officer who is engaged in the lawful performance of his or her duties.

(c) Notwithstanding any law to the contrary, in any case in which a violation of subsection (a) of this section has resulted in the birth of a child who is in the custody and care of the victim or the victim's legal guardian or guardians, the court shall order that the defendant, as a condition of any probation imposed pursuant to a conviction under this section, timely pay any child support ordered by the Family Court for such child.

(d) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

Rape in the third degree is a class B felony.

▪ **Rape in the Second Degree<sup>5</sup>**

(a) A person is guilty of rape in the second degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the intercourse occurs without the victim's consent; or

(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or

b. The sexual penetration occurs without the victim's consent, and was facilitated by or occurred during the course of the commission or attempted commission of:

1. Any felony; or

2. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion or criminal trespass in the first, second or third degree; or

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<sup>5</sup> See 11 Del. C. § 772

c. The victim has not yet reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or

d. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

e. The victim has not yet reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

f. The sexual penetration occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

g. The victim has not yet reached that victim's twelfth birthday, and the defendant has reached that defendant's eighteenth birthday.

h. [Repealed.]

(b) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(c) Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of rape in the second degree in violation of this section shall be 10 years at Level V.

Rape in the second degree is a class B felony.

▪ **Rape in the First Degree<sup>6</sup>**

(a) A person is guilty of rape in the first degree when the person intentionally engages in sexual intercourse with another person and any of the following circumstances exist:

(1) The sexual intercourse occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

(2) The sexual intercourse occurs without the victim's consent and it was facilitated by or occurred during the course of the commission or attempted commission of:

a. Any felony; or

b. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion; or criminal trespass in the first, second or third degree; or

(3) In the course of the commission of rape in the second, third or fourth degree, or while in the immediate flight therefrom, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

(4) The sexual intercourse occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

(5) The victim has not yet reached that victim's twelfth birthday, and the defendant has reached that defendant's eighteenth birthday.

(6) [Repealed.]

(b) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

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<sup>6</sup> See 11 *Del. C.* § 773

(c) Notwithstanding any law to the contrary, a person convicted of rape in the first degree shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:

- (1) The victim had not yet reached that victim's sixteenth birthday at the time of the offense and the person inflicts serious physical injury on the victim; or
- (2) The person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or
- (3) The person is convicted of rape against 3 or more separate victims; or
- (4) The person has previously been convicted of unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States.

Rape in the first degree is a class A felony.

▪ **Sexual Assault<sup>7</sup>**

Means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. "Sexual assault" includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

▪ **Sexual Exploitation of a Child<sup>8</sup>**

A person is guilty of sexual exploitation of a child when:

- (1) The person knowingly, photographs or films a child engaging in a prohibited sexual act or in the simulation of such an act, or otherwise knowingly creates a visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

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<sup>7</sup> See 14 *Del. C.* § 4161(15)

<sup>8</sup> See 11 *Del. C.* § 1108

(2) The person knowingly, finances or produces any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(3) The person knowingly publishes or makes available for public distribution or sale by any means, including but not limited to computer, any book, magazine, periodical, pamphlet, photograph, Internet site or web page which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly publishes or makes available for public distribution or sale by any means, including computer, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(4) The person permits, causes, promotes, facilitates, finances, produces or otherwise advances an exhibition, display or performances of a child engaging in a prohibited sexual act or the simulation of such an act.

Sexual exploitation of a child is a class B felony unless the prohibited sex act is “partial nudity” as defined in § 1100 of this title, then it is a class D felony.

▪ **Sexual Extortion<sup>9</sup>**

A person is guilty of sexual extortion when the person intentionally compels or induces another person to engage in any sexual act involving contact, penetration or intercourse with the person or another or others, or to produce a visual depiction of the person or another who is nude, or who is engaging in sexual conduct, with the person or another or others by means of instilling in the victim a fear that, if such sexual act or production is not performed, the defendant or another will:

(1) Cause physical injury to anyone;

(2) Cause damage to property;

(3) Engage in other conduct constituting a crime;

(4) Accuse anyone of a crime or cause criminal charges to be instituted against anyone;

(5) Expose a secret or publicize an asserted fact, whether true or false, intending to subject anyone to hatred, contempt or ridicule;

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<sup>9</sup> See 11 *Del. C.* § 774

- (6) Falsely testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
- (7) Reproduce, distribute, exhibit, publish, transmit, or otherwise disseminate a visual depiction of any person who is nude, or who is engaging in sexual conduct; or
- (8) Perform any other act which is calculated to harm another person materially with respect to the other person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

Sexual extortion is a class E felony.

- **Sexual Harassment<sup>10</sup>**

A person is guilty of sexual harassment when:

- (1) The person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or
- (2) The person suggests, solicits, requests, commands, importunes or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense or alarm to that person.

Sexual harassment is an unclassified misdemeanor.

- **Sexual Solicitation of a Child<sup>11</sup>**

(a) A person is guilty of sexual solicitation of a child if the person, being 18 years of age or older, intentionally or knowingly:

- (1) Solicits, requests, commands, importunes or otherwise attempts to cause any child to engage in a prohibited sexual act; or
- (2) Uses a computer, cellular telephone or other electronic device to communicate with another person, including a child, to solicit, request, command, importune, entice, encourage or otherwise attempt to cause a child to engage in a prohibited sexual act.
- (3) [Repealed.]

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<sup>10</sup> See 11 Del. C. § 763

<sup>11</sup> See 11 Del. C. § 1112A

- (b) For purposes of this section, “child” means:
- (1) An individual who is younger than 18 years of age; or
  - (2) An individual who represents himself or herself to be younger than 18 years of age; or
  - (3) An individual whom the person committing the offense believes to be younger than 18 years of age.
- (c) For the purposes of this section, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or in the instance of any manner of electronic communication or other communication that does not occur in person, the offense is committed in this State if such communication either originated in this State or is received in this State.
- (d) For the purposes of this section, and notwithstanding any section of this title to the contrary, it is a defense to prosecution that at the time the conduct described in subsection (a) of this section occurred the person was married to the child.
- (e) For the purposes of this section, it is not a defense to prosecution that at the time the conduct described in subsection (a) of this section occurred:
- (1) The solicited prohibited sexual act did not occur; or
  - (2) The person was engaged in a fantasy or role playing at the time of the commission of the offense.
- (f) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.
- (g) Sexual solicitation of a child is a class C felony, except as provided in subsection (h) of this section.
- (h) Sexual solicitation of a child is a class B felony if the defendant meets in person or attempts to meet in person with the child for the purpose of engaging in a prohibited sexual act.

▪ **Stalking**<sup>12</sup>

(a) A person is guilty of stalking when the person knowingly engages in a course of conduct directed at a specific person and that conduct would cause a reasonable person to:

- (1) Fear physical injury to himself or herself or that of another person; or
- (2) Suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(b) A violation of subsection (a) of this section is a class G felony.

(c) Stalking is a class F felony if a person is guilty of stalking and 1 or more of the following exists:

- (1) The person is age 21 or older and the victim is under the age of 14; or
- (2) The person violated any order prohibiting contact with the victim; or
- (3) The victim is age 62 years of age or older; or
- (4) The course of conduct includes a threat of death or threat of serious physical injury to the victim, or to another person; or
- (5) The person causes physical injury to the victim.

(d) Stalking is a class C felony if the person is guilty of stalking and 1 or more of the following exists:

- (1) The person possesses a deadly weapon during any act; or
- (2) The person causes serious physical injury to the victim.

(e) **Definitions.** — The following terms shall have the following meaning as used in this section:

- (1) “Course of conduct” means 3 or more separate incidents, including, but not limited to, acts in which the person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about another, or interferes with, jeopardizes, damages, or disrupts another’s daily activities, property, employment, business, career, education, or medical care. A conviction is not required for any predicate act relied upon to establish a course of conduct. A conviction for any predicate

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<sup>12</sup> See 11 Del. C. § 1312



act relied upon to establish a course of conduct does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code.

(2) "A reasonable person" means a reasonable person in the victim's circumstances.

(f) Notwithstanding any contrary provision of § 4205 of this title, any person who commits the crime of stalking by engaging in a course of conduct which includes any act or acts which have previously been prohibited by a then-existing court order or sentence shall receive a minimum sentence of 6 months incarceration at Level V. The first 6 months of said period of incarceration shall not be subject to suspension.

(g) Notwithstanding any contrary provision of § 4205 of this title, any person who is convicted of stalking within 5 years of a prior conviction of stalking shall receive a minimum sentence of 1 year incarceration at Level V. The first year of said period of incarceration shall not be subject to suspension.

(h) In any prosecution under this law, it shall not be a defense that the perpetrator was not given actual notice that the course of conduct was unwanted; or that the perpetrator did not intend to cause the victim fear or other emotional distress.

(i) In any prosecution under this section, it is an affirmative defense that the person charged was engaged in lawful picketing.

(j) This section shall not apply to conduct which occurs in furtherance of legitimate activities of law-enforcement, private investigators, security officers or private detectives as those activities are defined in Chapter 13 of Title 24.

▪ **Strangulation or Suffocation**<sup>13</sup>

(a) (1) A person commits the offense of strangulation if the person knowingly or intentionally impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person.

(2) A person commits the offense of suffocation if the person knowingly or intentionally prevents another person from breathing by blocking or obstructing the nose or mouth of the other person.

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<sup>13</sup> See 11 *Del. C.* § 607

(b) (1) Except as provided in paragraph (b)(2) of this section, strangulation or suffocation is a class D felony.

(2) Strangulation or suffocation is a class B felony if:

a. The person used or attempted to use a dangerous instrument or a deadly weapon while committing the offense; or

b. The person caused serious physical injury to the other person while committing the offense; or

c. [Repealed]

d. The person was subject to an existing court order prohibiting contact with the victim at the time of the offense; or

e. The person committed the offense against a pregnant female; or

f. The person committed the offense against a child.

(c) Notwithstanding any provisions of this Code to the contrary, any person who commits an offense under subsection (a) of this section within 5 years of a prior conviction under either subsection (a) or (b) of this section or a substantially similar section of another state, shall receive a minimum sentence of 1 year at Level 5.

(d) The absence of visible bodily injury shall not preclude a conviction under this section.

(e) It is an affirmative defense that an act constituting strangulation was the result of a legitimate medical procedure.

▪ **Teen Dating Violence<sup>14</sup>**

Means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

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<sup>14</sup> See 14 *Del. C.* § 4161(18)

- **Unlawful Sexual Contact in the Third Degree<sup>15</sup>**

A person is guilty of unlawful sexual contact in the third degree when the person has sexual contact with another person or causes the victim to have sexual contact with the person or a third person and the person knows that the contact is either offensive to the victim or occurs without the victim's consent.

Unlawful sexual contact in the third degree is a class A misdemeanor.

- **Unlawful Sexual Contact in the Second Degree<sup>16</sup>**

A person is guilty of unlawful sexual contact in the second degree when the person intentionally has sexual contact with another person who is less than 18 years of age or causes the victim to have sexual contact with the person or a third person.

Unlawful sexual contact in the second degree is a class F felony.

- **Unlawful Sexual Contact in the First Degree<sup>17</sup>**

(a) A person is guilty of unlawful sexual contact in the first degree when:

(1) In the course of committing unlawful sexual contact in the third degree or in the course of committing unlawful sexual contact in the second degree, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury to the victim or the person displays what appears to be a deadly weapon or dangerous instrument; or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument.

(2) [Repealed.]

(3) The person intentionally has sexual contact with another person who is less than 13 years of age or causes the victim to have sexual contact with the person or a third person.

(b) Unlawful sexual contact in the first degree is a class D felony.

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<sup>15</sup> See 11 Del. C. § 767

<sup>16</sup> See 11 Del. C. § 768

<sup>17</sup> See 11 Del. C. § 769

**APPENDIX C: MODEL POLICY FOR RESPONDING TO STUDENT  
SEXUAL, PHYSICAL AND EMOTIONAL MISCONDUCT IN  
DELAWARE SCHOOLS**



**STATE OF DELAWARE**

**MODEL POLICY FOR RESPONDING TO  
STUDENT SEXUAL, PHYSICAL AND EMOTIONAL MISCONDUCT  
IN DELAWARE SCHOOLS**

**August 16, 2023 (approved by CPAC)**

**September 18, 2023 (approved by DVCC)**

Prepared by:

Domestic Violence Coordinating Council & Child Protection Accountability Commission

# Model Policy for Responding to Student Misconduct in Schools

## PURPOSE

Delaware and federal law proscribe a variety of requirements on school responses to incidents involving students or occurring in schools. The requirements center around educational programming, model policies for adoption by school districts and charter schools, and accountability. This document is a model policy for the school response to acts of sexual, physical and emotional misconduct between students, encompassing teen dating violence and sexual assault, Delaware school crimes act and federal Title IX requirements. Model policies for responding to adult sexual misconduct in schools, bullying, suicide awareness and prevention and consent education will be provided separately.

This model policy provides guidance to Delaware schools and law enforcement agencies when responding to misconduct between students in the school environment. The purpose of this model policy is to provide a blueprint for creating a comprehensive and effective response to misconduct between students in accordance with the School Teen Dating Violence and Sexual Assault Act<sup>1</sup>, and as such, the following components are included:

- procedures for identifying sexual, physical and emotional misconduct between students;
- procedures regarding the immediate response by school employees and volunteers;
- procedures regarding notifications that are required by school employees and volunteers;
- procedures regarding the next steps and follow up actions with victims and alleged perpetrators that must be taken by school employees and volunteers; and,
- procedures regarding the response by law enforcement and school resource officers.

## AGENCIES RESPONSIBLE FOR IMPLEMENTATION

**Domestic Violence Coordinating Council** is responsible for identifying and maintaining a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving one or more of the grades in grades 7 through 12. The DVCC has the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.<sup>2</sup>

**Department of Education** is required to prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The Department shall submit the report to the Domestic Violence Coordinating Council by October 15 of each year.<sup>3</sup>

**School Districts or Charter Schools** are required to adopt a policy for responding to teen dating violence and sexual assault and submit a copy to the Department of Education. Each school district and charter school shall ensure that its policy appears in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy is distributed annually to all students, parents, faculty, and staff.<sup>4</sup>

**Child Protection Accountability Commission** is responsible for identifying and maintaining educational programming to be used by each school district and charter school for informing school district and charter school

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<sup>1</sup> See 14 *Del. C.* § 4166

<sup>2</sup> See 14 *Del. C.* § 4166

<sup>3</sup> See 14 *Del. C.* § 4166

<sup>4</sup> See 14 *Del. C.* § 4166

# Model Policy for Responding to Student Misconduct in Schools

employees, students, and parents about personal body safety and child abuse and about how to detect and report child abuse.

**Division of Family Services** is responsible for identifying and maintaining educational programming to be used by each school district and charter school for informing school district and charter school employees, students, and parents about personal body safety and child abuse and about how to detect and report child abuse.

## DEFINITIONS

- 1. Alleged Perpetrator** is the student who is suspected of committing an act of misconduct against another student.
- 2. Child Sexual Abuse** is any sexual act which is non-consensual or prohibited due to the ages of the child and perpetrator.
- 3. Parent** includes natural parent, adoptive parent, or any person, agency, or institution that has custody or guardianship over a student.<sup>5</sup>
- 4. Physical Misconduct** involves any intentional contact that causes physical harm to another student. Physical Misconduct includes, but is not limited to, teen dating violence, school crimes, other crimes and Title IX complaints.
- 5. Emotional Misconduct** involves a pattern of deliberate, non-contact behavior that has the potential to cause emotional or psychological harm to a student. Emotional Misconduct includes, but is not limited to, teen dating violence, other crimes and Title IX complaints.
- 6. Minimal Facts Questions** are questions that help reporters to obtain the information needed to make a clear and concise report of child abuse and neglect to the Division of Family Services, and it focuses reporters on the essential information – what, when, where and who?
- 7. School Employee** shall include all persons employed by a school district or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.<sup>6</sup> This includes school-based wellness center staff and volunteers and community agency staff.
- 8. School Environment** means within or on school property, and at school sponsored or supervised activities, including, for example, on school buses, at functions held on school grounds, at school sponsored extracurricular activities held on and off school grounds, and on field trips.<sup>7</sup>
- 9. School Crimes** means a school employee has reasonable suspicion that a student has been the victim of a violent felony, Assault III or Unlawful Sexual Contact III and the offense was committed by another student as outlined in Title 14 *Del. C.* §4112.
- 10. School Property** shall include any building, structure, athletic field, sports stadium that is owned, operated, leased or rented by any school district or charter school; any motor vehicle owned, operated, leased, rented or subcontracted by school district or charter school;<sup>8</sup> or remote learning platform.

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<sup>5</sup> See 14 *Del. C.* § 4112(a)(4)

<sup>6</sup> See 14 *Del. C.* § 4112(a)(7)

<sup>7</sup> See 14 DE Reg. 614

<sup>8</sup> See 14 *Del. C.* § 4112(a)(9)

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11. **School Volunteer** means a person 18 years of age or older who, without compensation, renders service to a school district or charter school. School volunteer includes parents who assist in school activities or chaperone school functions.<sup>9</sup>
12. **Sexual Misconduct** is conduct of a sexual nature that is committed without consent or by intimidation, coercion, threat or force, or the student is unable to consent due to the student's age.<sup>10</sup> Sexual Misconduct includes, but is not limited to, child sexual abuse, teen dating violence, school crimes, other crimes and Title IX complaints. Please also see attached Determining Age of Consent for Sexual Contact.
13. **Teen Dating Violence** means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.<sup>11</sup>
14. **Title IX of the Education Amendments of 1972** is federal legislation that prohibits discrimination on the basis of sex in educational programs and activities. Complaints or inquiries concerning sexual harassment or discrimination on the basis of sex should be directed to the School District or Charter School's Title IX Coordinator.
15. **Victim** is a student allegedly harmed by another student.

## CONFIDENTIALITY

### 1. School Counselors, School Nurses, Mental Health & Medical Professionals

These professions are bound by their professional licensure and code of ethics and as such they are required to maintain confidentiality. HIPAA (the Health Insurance Portability and Accountability Act of 1996) provides for confidentiality. However, certain information can be released under certain circumstances such as: law enforcement investigations, mandatory reporting (such as child sexual abuse) and in the course of certain judicial or administrative proceedings.<sup>12</sup> Additionally, students may give informed consent to release their information. Mental health and medical professionals are required to maintain confidentiality of all information acquired from clients in a professional capacity (including information regarding teen dating violence) except in the following situations:

- a student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim or victims (including themselves), or
- any reasonable suspicion of child abuse or neglect, or
- a student presents with the following: a stab wound; non-accidental poisoning; a bullet/gunshot wound; powder burn or other injury caused by the discharge of a firearm.

### 2. Other School Employees, Including Teachers & Administrators

These professions are not bound by confidentiality. Once a school employee knows or reasonably should know of possible sexual, physical or emotional misconduct between students that may have occurred on

<sup>9</sup> See 14 *Del. C.* § 4112(a)(10)

<sup>10</sup> Children who have not yet reached their twelfth birthday are deemed unable to consent to a sexual act under any circumstances. See 11 *Del. C.* § 761(l)

<sup>11</sup> See 14 *Del. C.* § 4161(18)

<sup>12</sup> See 45 C.F.R. § 164.512



# Model Policy for Responding to Student Misconduct in Schools

school property, the school employee must take immediate and appropriate action to explore the incident and keep the victim safe.<sup>13</sup> While these professionals are not bound by confidentiality, it is important that the reports are kept confidential and limited to certain individuals within the school to maintain the privacy of students. The procedures below will address in what specific circumstances reports to the Division of Family Services (DFS) and/or law enforcement are mandated.

## SEXUAL MISCONDUCT BETWEEN STUDENTS

### 1. IDENTIFICATION OF SEXUAL MISCONDUCT

A school employee or volunteer may develop reasonable suspicion that sexual misconduct between students has occurred when:

- the incident is witnessed;
- a student makes a disclosure, even if it is minimal in detail; or,
- indicators of possible sexual misconduct are known (such as a change in behavior or physical sign).

**School employees or volunteers shall not interview the victim or alleged perpetrator when sexual misconduct is suspected; only Minimal Facts Questions should be asked.**

### 2. IMMEDIATE RESPONSE BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Separate Victim & Alleged Perpetrator** - Separate the victim and alleged perpetrator, keeping the victim in a location that allows for safety and confidentiality.
- **Assess Need for Medical or Mental Health Intervention** - Assess for injuries and need for medical or mental health intervention. Contact 911 and the School Nurse for medical assistance and connect the victim with mental or emotional health resources.
- **Ask the Minimal Facts Questions** - Gather minimal information from the victim regarding the incident, using **Minimal Facts Questions**. School employees should be seeking information only to determine **what** is alleged to have happened, **when** it happened, **who** is the alleged perpetrator, and **where** it happened. No written statement should be sought from the victim at any point. Document initial findings in Required DDOE Incident Report submitted via E-School Reporting Platform.

### 3. REQUIRED IMMEDIATE NOTIFICATIONS

The following 3 notifications are required:

- **DFS Report Line** – The school employee or volunteer shall make an **immediate** report to the Division of Family Services (DFS) for any **sexual misconduct between students**, regardless of the victim's age and the relationship between the students. This report shall be made **regardless of where the offense occurred**. Call 1-800-292-9582.

<sup>13</sup> See 14 Del. C. § 4112

# Model Policy for Responding to Student Misconduct in Schools

- **Law Enforcement** – An **immediate** 911 report to law enforcement shall also be made by the School Principal or a Designee for any **sexual misconduct** between students, regardless of the victim’s age and the relationship between the students. Notification to a School Resource Officer, if one is assigned to the school, fulfills the obligation to report to law enforcement. This report shall be made **regardless of where the offense occurred.**
- **DOE, School District Central Office & Title IX Coordinator** – The school employee or volunteer or the school administrator shall notify the Delaware Department of Education (DDOE), School District Central Office and the Title IX Coordinator for the school. **Document time, date and method of notification to law enforcement and DOE in Comment Section of E-School Incident report.** The school shall not initiate its Title IX investigation until law enforcement concludes the evidence gathering process of the criminal investigation. Schools should work closely with legal counsel to determine when to initiate the Title IX investigation.

## 4. NEXT STEPS BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Document Victim’s Statement** - Document the details of the victim’s disclosure being sure to include the victim’s exact words. Do not require victim or alleged perpetrator to write a statement.
- **Protect Physical Evidence** - Protect any physical evidence, whether related to the victim, suspect, or scene, which could be lost or destroyed prior to law enforcement arrival. Absent an urgent medical issue, the victim should not be examined for physical evidence or injury nor bathe or wash their hands. Any evidence, such as weapons or electronic devices, should be placed in a sealed envelope and secured in the school safe until delivered to law enforcement.
- **Identify Potential Witnesses** - Identify for law enforcement any potential witnesses, who may have been present or involved. Law enforcement will conduct interview of witness(es).
- **Do Not Conduct Interviews** – School employees shall NOT interview the alleged perpetrator or inform the alleged perpetrator of the pending criminal investigation.
- **Do Not Notify the Alleged Perpetrator’s Parents** - DFS and law enforcement will be responsible for notifying parents.
- **Do Not Investigate** - School employees shall NOT attempt to establish the credibility of a suspected incident of sexual misconduct.
- **Develop Safety Plan** - Develop and implement a safety plan with the victim as indicated in the Teen’s Guide to Safety Planning to increase, enhance and monitor the victim’s safety. Include IEP and 504 Teams as needed to ensure students with disabilities needs are addressed appropriately. Please see attached A Teen’s Guide to Safety Planning.
- **Discuss Protection from Abuse Order** - If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order. Please see attached Protection from Abuse Instruction Packet.

# Model Policy for Responding to Student Misconduct in Schools

- **Inform Victim of Title IX Rights** - Inform the victim of the right to file a complaint, when applicable, directly with the Title IX Coordinator. Refer victim to Title IX Coordinator as appropriate.

## 5. FOLLOW UP ACTIONS BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Administer Discipline** - After law enforcement concludes or declines its involvement, administer disciplinary consequences to the alleged perpetrator for the physical or emotional misconduct per the school's code of conduct.
- **Warn Against Retaliation** - Inform the alleged perpetrator that retaliation or threats of retaliation in any form designed to intimidate the victim, or those who are witnesses, or those investigating an incident shall not be tolerated.
- **Maintain Complaints** - Maintain sexual misconduct complaints in a file separate from academic records. This practice is recommended to prevent inadvertent disclosure of confidential information.

## 6. RESPONSE BY LAW ENFORCEMENT OR SCHOOL RESOURCE OFFICERS

The **Memorandum of Understanding for the Multidisciplinary Response to Child Abuse and Neglect** is the guiding document for the multidisciplinary response to child abuse and neglect, which includes the response to sexual misconduct between students. The procedures below are meant to serve as additional guidance for these incidents in the school environment.

- **Respond to School** - If the investigating officer will not be the School Resource Officer present at the school, the officer shall respond to the school on the date the incident is reported.
- **Assess Need for Medical or Mental Health Intervention** – Ensure the victim is in a location where the victim feels safe and confidentiality is protected. Assess the victim's immediate safety and medical needs.
- **Cross-Report to DFS** - Ensure report to DFS has been made. If not, report allegation to the DFS Report Line. Communicate and collaborate with the investigating DFS worker, **conducting a multidisciplinary team (MDT) investigation** for the misconduct requiring a DFS response.
- **Contact the Victim's Parents** - Contact the victim's parents to inform them that sexual misconduct has occurred.
- **Utilize the Children's Advocacy Center** - Victims ages 3 through 12, and all suspected child victims of trafficking, shall be interviewed at the Children's Advocacy Center (CAC). All other victims may be interviewed at the CAC.
- **Interview Victim** – If the victim is not being interviewed at the CAC, law enforcement will interview the victim in a confidential setting and shall be audio-recorded. Law enforcement will invite DFS to observe the interview.

# Model Policy for Responding to Student Misconduct in Schools

- **Obtain Statements from Witnesses** - Obtain statements from witness(es), when possible, including statements from persons observing the incident and persons providing corroborative details.
- **Collect Physical Evidence** - Collect and document physical evidence, including any already collected by the school. For physical evidence needing to be collected from the victim, such as DNA or saliva evidence, the collection should occur at a local hospital by a forensic nurse examiner (FNE) or sexual assault nurse examiner (SANE). Law enforcement and DFS will determine the most appropriate setting to photograph the victim's injuries and the most appropriate person to take the photographs.
- **Discuss Protection from Abuse Order** - If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order.
- **Refer Victim to Services** - Refer victim and caregivers to resources, ensuring police-based victim services are notified of this allegation.
- **Communicate Outcome to School** - Communicate investigation progress and outcome to the School Principal or a Designee.

## RESOURCES FOR SEXUAL MISCONDUCT

### Delaware Resources:

- 24-Hour Domestic Violence Hotlines
  - New Castle County: 302-762-6110
  - Kent County / Sussex County: 302-422-8058
- Rape Crisis Providers
  - New Castle County – [YWCA Sexual Assault Response Center](#) – (800) 773-8570
  - Kent & Sussex Counties – [Contact Lifeline](#): 302-761-9100
- Division of Family Services Child Abuse and Neglect Report Line
  - Report Line: 1-800-292-9582
  - Online Reporting Portal: <https://www.iseethesigns.org>
- Community Legal Aide Society (CLASI) Legal Services (Kent and Sussex County): <http://www.declasi.org/>
- Delaware Coalition Against Domestic Violence: [www.dcadv.org](http://www.dcadv.org)
- Delaware Domestic Violence, Sexual Violence and Stalking Policy: <https://dvcc.delaware.gov/background-purpose/dynamics-domestic-abuse/state-delaware-domestic-violence-policy/>
- Delaware Victim Center: <https://dsp.delaware.gov/victim-services/>
- Delaware Victims Services: <https://www.delawarevictimservices.org>

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- [Delaware Volunteer Legal Services \(New Castle County\): https://www.dvls.org/](https://www.dvls.org/)
- Domestic Violence Advocacy Program: <https://courts.delaware.gov/forms/download.aspx?id=120608>
- Domestic Violence Coordinating Council Resource Guide: [https://dvcc.delaware.gov/wp-content/uploads/sites/87/2022/09/DVCC-Resource-Guide\\_08.2022.pdf](https://dvcc.delaware.gov/wp-content/uploads/sites/87/2022/09/DVCC-Resource-Guide_08.2022.pdf)
- Domestic Violence Coordinating Council Resources: <https://dvcc.delaware.gov/background-purpose/dynamics-domestic-abuse/teen-dating-violence-resources/>
- Family Court Protection From Abuse Process: <https://courts.delaware.gov/family/pfa/index.aspx>
- Mandatory Reporting of Child Abuse and Neglect Resource Guide: <https://courts.delaware.gov/forms/download.aspx?id=136188>
- Statutory Reporting Requirements for School Employees: <https://courts.delaware.gov/forms/download.aspx?id=136168>

## National Resources:

- Rape, Abuse & Incest National Network: [www.RAINN.org](http://www.RAINN.org)
- National Sexual Assault Hotline: 1-800-656-4673
- Love is Respect's A Teen's Guide to Safety Planning: <https://www.loveisrespect.org/pdf/Teen-Safety-Plan.pdf>

## Training:

- Community Outreach from the Delaware Domestic Violence Coordinating Council: <https://dvcc.delaware.gov/training/>
- Law Enforcement Officers Education Reimbursement Program: <https://cjc.delaware.gov/le-reimbursement-program/>
- Office of the Child Advocate: <https://courts.delaware.gov/childadvocate/training.aspx>
- Online Training Center at the Delaware Coalition Against Domestic Violence: <https://dcadv.org/what-we-do/training-and-certification/online-training-center.html>

# Model Policy for Responding to Student Misconduct in Schools

## PHYSICAL & EMOTIONAL MISCONDUCT BETWEEN STUDENTS

### 1. IDENTIFICATION OF PHYSICAL OR EMOTIONAL MISCONDUCT

A school employee or volunteer may develop reasonable suspicion that physical or emotional misconduct between students has occurred when:

- the incident is witnessed;
- a student makes a disclosure, even if it is minimal in detail; or,
- indicators of possible physical or emotional misconduct are known (such as bruising or changes in behavior).

**School employees or volunteers shall not interview the victim or alleged perpetrator when physical or emotional misconduct is suspected; only Minimal Facts Questions should be asked.**

### 2. IMMEDIATE RESPONSE BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Separate Victim & Alleged Perpetrator** - Separate the victim and alleged perpetrator, keeping the victim in a location that allows for safety and confidentiality.
- **Assess Need for Medical or Mental Health Intervention** - Assess for injuries and need for medical or mental health intervention. Contact 911 and the School Nurse for medical assistance and connect the victim with mental or emotional health resources.
- **Ask the Minimal Facts Questions** - Gather minimal information from the victim regarding the incident, using **Minimal Facts Questions**. School employees should be seeking information only to determine **what** is alleged to have happened, **when** it happened, **who** is the alleged perpetrator, and **where** it happened. No written statement should be sought from the victim at any point. Document initial findings in Required DDOE Incident Report submitted via E-School Reporting Platform.

### 3. REQUIRED IMMEDIATE NOTIFICATIONS

The following 4 notifications are required:

- **School Principal** – A school employee or volunteer shall make an immediate notification to the School Principal or a Designee for any physical or emotional misconduct involving school crimes between students.
- **Law Enforcement** – An **immediate** 911 report to law enforcement shall also be made by the School Principal or a Designee for any physical or emotional misconduct between students that qualifies as a school crime or that may be any other crime, regardless of the victim’s age and the relationship between the students. An exception to this reporting does exist for offenders less than 12 years old for misdemeanor crimes.<sup>14</sup> Notification to a School Resource Officer, if one is assigned to the

<sup>14</sup> When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. See 14 *Del. C.* § 4112(b)(6)

# Model Policy for Responding to Student Misconduct in Schools

school, fulfills the obligation to report to law enforcement. This report shall be made **for incidents that occurred on school property or at a school function but may be made for incidents occurring outside the school environment.**

- **DOE, School District Central Office & Title IX Coordinator** – The school employee or volunteer, or the school administrator shall notify the Delaware Department of Education (DDOE), School District Central Office and the Title IX Coordinator for the school for **any physical or emotional misconduct involving school crimes or Title IX violations.** Document time, date and method of notification to law enforcement and DOE in Comment Section of E-School Incident report. The school shall not initiate its Title IX investigation until law enforcement concludes the evidence gathering process of the criminal investigation. Schools should work closely with legal counsel to determine when to initiate the Title IX investigation.
- **Victim’s Parents** – The School Principal or a Designee shall make reasonable efforts to notify the victim’s parents. Written notification of the incident to the victim’s parents shall be sent within 3 business days for any physical or emotional misconduct involving school crimes.

## 4. NEXT STEPS BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Document Victim’s Statement** - Document the details of the victim’s disclosure being sure to include the victim’s exact words. Do not require victim or alleged perpetrator to write a statement.
- **Protect Physical Evidence** - Protect any physical evidence, whether related to the victim, suspect, or scene, which could be lost or destroyed prior to law enforcement arrival. Absent an urgent medical issue, the victim should not be examined for physical evidence or injury nor bathe or wash their hands. Any evidence, such as weapons or electronic devices, should be placed in a sealed envelope and secured in the school safe until delivered to law enforcement.
- **Identify Potential Witnesses** - Identify for law enforcement any potential witnesses, who may have been present or involved. Law enforcement will conduct interview of witness(es).
- **Do Not Conduct Interviews** – School employees shall NOT interview the alleged perpetrator or inform the alleged perpetrator of the pending criminal investigation.
- **Do Not Notify the Alleged Perpetrator’s Parents** - Law enforcement will be responsible for notifying parents.
- **Do Not Investigate** - School employees shall NOT attempt to establish the credibility of a suspected incident of physical or emotional misconduct.
- **Develop Safety Plan** - Develop and implement a safety plan with the victim as indicated in the Teen’s Guide to Safety Planning to increase, enhance and monitor the victim’s safety. Include IEP and 504 Teams as needed to ensure students with disabilities needs are addressed appropriately. Please see attached A Teen’s Guide to Safety Planning.

# Model Policy for Responding to Student Misconduct in Schools

- **Discuss Protection from Abuse Order** - If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order. Please see attached Protection from Abuse Instruction Packet.
- **Inform Victim of Title IX Rights** - Inform the victim of the right to file a complaint, when applicable, directly with the Title IX Coordinator. Refer victim to Title IX Coordinator as appropriate.

## 5. FOLLOW UP ACTIONS BY SCHOOL EMPLOYEES & VOLUNTEERS

- **Administer Discipline** - After law enforcement concludes or declines its involvement, administer disciplinary consequences to the alleged perpetrator for the physical or emotional misconduct per the school's code of conduct.
- **Warn Against Retaliation** - Inform the alleged perpetrator that retaliation or threats of retaliation in any form designed to intimidate the victim, or those who are witnesses, or those investigating an incident shall not be tolerated.
- **Maintain Complaints** - Maintain physical or emotional misconduct complaints in a file separate from academic records. This practice is recommended to prevent inadvertent disclosure of confidential information.

## 6. RESPONSE BY LAW ENFORCEMENT OR SCHOOL RESOURCE OFFICERS

- **Respond to School** - If the investigating officer will not be the School Resource Officer present at the school, the officer shall respond to the school on the date the incident is reported.
- **Assess Need for Medical or Mental Health Intervention** – Ensure the victim is in a location where the victim feels safe and confidentiality is protected. Assess the victim's immediate safety and medical needs.
- **Contact the Victim's Parents** - Contact the victim's parents to inform them that physical or emotional misconduct has occurred.
- **Interview the Victim** - Victims of any age may be interviewed at the Children's Advocacy Center (CAC). If the victim is not being interviewed at the CAC, law enforcement will interview the victim in a confidential setting and shall be audio-recorded.
- **Obtain Statements from Witnesses** - Obtain statements from witness(es), when possible, including statements from persons observing the incident and persons providing corroborative details.
- **Collect Physical Evidence** - Collect and document physical evidence, including any already collected by the school. For physical evidence needing to be collected from the victim, such as DNA or saliva evidence, the collection should occur at a local hospital. Law enforcement will determine



# Model Policy for Responding to Student Misconduct in Schools

the most appropriate setting to photograph the victim's injuries and the most appropriate person to take the photographs.

- **Discuss Protection from Abuse Order** - If applicable, inform the victim and caregivers of the right to file for a PFA, providing contact numbers and websites for resources to assist with filing for the PFA Order.
- **Refer Victim to Services** - Refer victim and caregivers to resources, ensuring police-based victim services are notified of this allegation.
- **Communicate Outcome to School** - Communicate investigation progress and outcome to the School Principal or a Designee.

## RESOURCES FOR PHYSICAL & EMOTIONAL MISCONDUCT

### Delaware Resources:

- 24-Hour Domestic Violence Hotlines
  - New Castle County: 302-762-6110
  - Kent County / Sussex County: 302-422-8058
- Child, INC.: <https://www.childinc.com>
- Community Legal Aide Society (CLASI) Legal Services (Kent and Sussex County): <http://www.declasi.org/>
- Delaware Coalition Against Domestic Violence: [www.dcadv.org](http://www.dcadv.org)
- Delaware Domestic Violence Resources: <https://courts.delaware.gov/forms/download.aspx?id=145228>
- Delaware Domestic Violence, Sexual Violence and Stalking Policy: <https://dvcc.delaware.gov/background-purpose/dynamics-domestic-abuse/state-delaware-domestic-violence-policy/>
- Delaware Victims Services: <https://www.delawarevictimservices.org>
- Delaware Volunteer Legal Services (New Castle County): <https://www.dvls.org/>
- Domestic Violence Advocacy Program: <https://courts.delaware.gov/forms/download.aspx?id=120608>
- Domestic Violence Coordinating Council Resource Guide: [https://dvcc.delaware.gov/wp-content/uploads/sites/87/2022/09/DVCC-Resource-Guide\\_08.2022.pdf](https://dvcc.delaware.gov/wp-content/uploads/sites/87/2022/09/DVCC-Resource-Guide_08.2022.pdf)
- Domestic Violence Coordinating Council Resources: <https://dvcc.delaware.gov/background-purpose/dynamics-domestic-abuse/teen-dating-violence-resources/>
- Family Court Protection From Abuse Process: <https://courts.delaware.gov/family/pfa/index.aspx>
- Mandatory Reporting of Child Abuse and Neglect Resource Guide: <https://courts.delaware.gov/forms/download.aspx?id=136188>
- People's Place: <http://peoplesplace2.com>
- Statutory Reporting Requirements for School Employees: <https://courts.delaware.gov/forms/download.aspx?id=136168>

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## National Resources:

- Love is Respect's A Teen's Guide to Safety Planning: <https://www.loveisrespect.org/pdf/Teen-Safety-Plan.pdf>
- REAL Relationships: [www.RealRelationshipsDE.org](http://www.RealRelationshipsDE.org)

## Training:

- Community Outreach from the Delaware Domestic Violence Coordinating Council: <https://dvcc.delaware.gov/training/>
- Law Enforcement Officers Education Reimbursement Program: <https://cjc.delaware.gov/le-reimbursement-program/>
- Office of the Child Advocate: <https://courts.delaware.gov/childadvocate/training.aspx>
- Online Training Center at the Delaware Coalition Against Domestic Violence: <https://dcadv.org/what-we-do/training-and-certification/online-training-center.html>

# Model Policy for Responding to Student Misconduct in Schools

## DETERMINING AGE OF CONSENT FOR SEXUAL CONTACT

- Consensual sexual contact between two students does not generally require a mandatory report to DFS and law enforcement, even when that sexual contact results in a pregnancy. However, there are certain situations where sexual contact does require a mandatory report. These situations are dependent on the age of the minor, as outlined below.
- Any suspected, sexual misconduct against a student by another student must be reported.<sup>15</sup>



<sup>15</sup> See 11 Del. C. §§ 761, 767-778(a), 780.



A TEEN'S

# GUIDE TO SAFETY PLANNING

If you have questions about dating in general or a specific relationship, or if you are in an unhealthy or abusive relationship, you deserve support and resources to help you with your situation. You are not alone; our peer advocates are here for you 24/7.

Loveisrespect advocates are trained on issues related to dating abuse and healthy relationships, as well as crisis intervention. This means that when you contact a loveisrespect advocate, they will listen to your situation, assess how you're feeling in the moment, and help you figure out the next best steps for you. You might brainstorm a safety plan together, or the advocate may be able to find some local resources for you, whether it's a counselor, support group, legal service or whatever you might need.



**CALL**

1-866-331-9474

(1-866-331-8453 TTY for Deaf/hard of hearing individuals)



**CHAT**

Start a live chat by visiting [loveisrespect.org](https://loveisrespect.org)



**TEXT**

Text\* "loveis" to 22522

Message & Data Rates apply on text for help services.



love is respect **Org**



This project described was supported by Grant Number 90EV0426 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services.



## WHAT IS A SAFETY PLAN?

A safety plan is a practical guide that helps lower your risk of being hurt by your abusive partner. It includes information specific to you and your life that will help keep you safe. A good safety plan helps you think through lifestyle changes that will help keep you as safe as possible on campus, in the dorms and other places that you go on a daily basis.



## WHY DO I NEED A SAFETY PLAN?

Everyone deserves a relationship that is healthy, safe and supportive. If you are in a relationship that is hurting you, it is important for you to know that the abuse is not your fault. It is also important for you to start thinking of ways to keep yourself safe from the abuse, whether you decide to end the relationship or not. While you can't control your partner's abusive behavior, you can take action to keep yourself as safe as possible.



## HOW DO I MAKE A SAFETY PLAN?

Take some time for yourself to go through each section of this safety plan. You can complete this guide on your own, or you can work through it with someone else that you trust.



### Keep in Mind

In order for this safety plan to work for you, you'll need to fill in personalized answers, so you can use the information when you most need it.

Once you complete your safety plan, be sure to keep it in an accessible but secure location. You might also consider giving a copy of your safety plan to someone that you trust.

Getting support from someone who has experience working with college students in abusive relationships can be very useful.

# MY SAFETY PLAN

I could talk to the following people at school if I need to rearrange my schedule in order to avoid my abusive partner, or if I need help staying safe at school:

- School Counselor
- Coach
- Teachers:

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- Principal Assistant/Vice principal
- School security
- Other:

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If I live with my abusive partner, I will have a bag ready with these important items in case I need to leave quickly (check all that apply):

- CELL PHONE & CHARGER SPARE MONEY
- KEYS
- DRIVER'S LICENSE OR OTHER FORM OF ID
- COPY OF RESTRAINING ORDER
- BIRTH CERTIFICATE, SOCIAL SECURITY CARD, IMMIGRATION PAPERS AND OTHER IMPORTANT DOCUMENTS
- CHANGE OF CLOTHES MEDICATIONS
- SPECIAL PHOTOS OR OTHER VALUABLE ITEMS
- IF I HAVE CHILDREN— ANYTHING THEY MAY NEED (IMPORTANT PAPERS, FORMULA, DIAPERS)

## Staying Safe at School:

The safest way for me to get to and from school is:

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---

If I need to leave school in an emergency, I can get home safely by:

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I can make sure that a friend can walk with me between classes. I will ask:

---

 and/or 

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I will eat lunch and spend free periods in an area where there are school staff or faculty nearby. These are some areas on campus where I feel safe:

---

 , and 

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## Staying Safe at Home:

I can tell this family member about what is going on in my relationship:

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There may be times when no one else is home. During those times, I can have people stay with me. I will ask:

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The safest way for me to leave my house in an emergency is:

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If I have to leave in an emergency, I should try to go to a place that is public, safe and unknown by my abusive partner. I could go here:

---

and/or here: 

---

I will use a code word so I can alert my family, friends, and neighbors to call for help without my abusive partner knowing about it. My code word is:

---



love is respect .org

**WE ARE HERE TO HELP**

CHAT: 24/7/365

CALL: 1.866.331.9474

TEXT: LOVEIS TO 22522

# MY SAFETY PLAN

## Staying Safe Emotionally:

My abusive partner often tries to make me feel bad about myself by saying or doing this: \_\_\_\_\_

When he/she does this, I will think of these reasons why I know my abuser is wrong:

\_\_\_\_\_,  
\_\_\_\_\_ and  
\_\_\_\_\_.

I will do things I enjoy, like:

\_\_\_\_\_,  
\_\_\_\_\_ and  
\_\_\_\_\_.

I will join clubs or organizations that interest me, like:

\_\_\_\_\_ or \_\_\_\_\_.

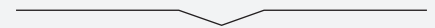
If I feel down, depressed or scared, I can call the following friends or family members:

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_



During an emergency, I can call the following friends, family members or residential life staff at any time of day or night:

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Phone #: \_\_\_\_\_

## Getting Help in Your Community:

For emergencies: 911

loveisrespect: 1-866-331-9474

Campus police station:

Phone #: \_\_\_\_\_

Location: \_\_\_\_\_

Campus Health Center:

Phone #: \_\_\_\_\_

Location: \_\_\_\_\_

Campus Women's or LGBTQ Center:

Phone #: \_\_\_\_\_

Location: \_\_\_\_\_

Local Free Legal Assistance:

Phone #: \_\_\_\_\_

Address: \_\_\_\_\_



# MY SAFETY PLAN

## These are things I can do to help keep myself safe everyday:

- I will carry my cell phone and important telephone numbers with me at all times.
- I will keep in touch with someone I trust about where I am or what I am doing.
- I will stay out of isolated places and try to never walk around alone.
- If possible, I will alert dorm or campus security about what is happening in my relationship so that my abuser is not allowed in my building.
- I will avoid places where my abuser or his/her friends and family are likely to be. I will keep the doors and windows locked where I live, especially if I am alone.
- I will avoid speaking to my abuser. If it is unavoidable, I will make sure there are people around in case the situation becomes dangerous.
- I will call 911 if I feel my safety is at risk.
- I can look into getting a protective order so that I'll have legal support in keeping my abuser away. I can see if there are any self-defense classes available at my college or university.
- I will remember that the abuse is not my fault and that I deserve a safe and healthy relationship.

## These are things I can do to help keep myself safe in my social life:

- I will ask my friends to keep their cell phones with them while they are with me in case we get separated and I need help.
- If possible, I will go to different malls, bars, banks, parties, grocery stores, movie theaters, dining halls, etc. than the ones my abusive partner goes to or knows about.
- I will avoid going out alone, especially at night.
- No matter where I go, I will be aware of how to leave safely in case of an emergency. I will leave if I feel uncomfortable in a situation, no matter what my friends are doing.
- If I plan on drinking, I will be sure to have a sober driver who is not my abusive partner.
- I will spend time with people who make me feel safe, supported and good about myself.

## These are things I can do to stay safe online and with my cell phone:

- I will not say or do anything online that I wouldn't in person.
- I will set all my online profiles to be as private as they can be.
- I will save and keep track of any abusive, threatening or harassing comments, posts, or texts. I will never give my password to anyone.
- If the abuse and harassment does not stop, I will change my usernames, email addresses, and/or cell phone number.
- I will not answer calls from unknown, blocked or private numbers.
- I can see if my phone company can block my abuser's phone number from calling my phone.
- I will not communicate with my abuser using any type of technology if unnecessary, since any form of communication can be recorded and possibly used against me in the future.