

State of Delaware

**Annual Report on Teen Dating Violence and
Sexual Assault in Delaware Public Schools**
2022-2023



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

This report was amended on October 24, 2025.

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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 July 1, 2022 through June 30, 2023.

During the school year, school districts and charter schools, also referred to as local education agencies (LEAs), reported 206 incidents of teen dating violence, sexual assault, and consensual sexual misconduct; one count is redacted to protect student privacy. Middle schools reported 40% of the incidents and high schools reported 45%. Sexual harassment (81) followed by consensual sexual misconduct (72) and pornography, possession and production (31), 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 July 1, 2022 and June 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.

Incident Type	2019-2020	2020-2021	2021-2022	2022-2023
Consensual Sexual Misconduct	45	5	69	72
Sexual Assault	93	11	149	134
Teen Dating Violence	-	-	-	-

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.

Grade Level	2019-2020	2020-2021	2021-2022	2022-2023
% Elementary School	7%	6%	19%	15%
% Middle School	44%	38%	42%	40%
% High School	49%	56%	38%	45%

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.

Offense Category	2019-2020	2020-2021	2021-2022	2022-2023
Consensual Sexual Misconduct	45	5	69	72
Dealing in Child Pornography	-	-	-	-
Pornography, Possession & Production	13	-	26	31
Rape 4 th	-	-	-	-
Rape 2 nd	-	-	-	-
Sexual Abuse of a Child by a Person in a Position of Trust	-	-	-	-
Sexual Exploitation of a Child	-	-	-	-
Sexual Extortion	-	-	-	-
Sexual Harassment	58	7	91	81
Teen Dating Violence	-	-	-	-
Under 12: Unlawful Sexual Contact 3 rd – Employee Victim	-	-	-	-
Under 12: Unlawful Sexual Contact 3 rd – Student Victim	5	-	10	5
Unlawful Sexual Contact 3 rd	11	-	19	9

Offense Category	2019-2020	2020-2021	2021-2022	2022-2023
Unlawful Sexual Contact 2 nd	-	-	-	-
Unlawful Sexual Contact 1 st	-	-	-	-

Table 4. Total Reported Incidents by Local Education Agency

Table 4 displays the number of reported incidents of teen dating violence, sexual assault, and consensual sexual misconduct by LEA.

Local Education Agency	2019-2020	2020-2021	2021-2022	2022-2023
Academia Antonia Alonso	-	-	-	-
Academy of Dover Charter School	-	-	-	-
Appoquinimink School District	32	-	25	37
Brandywine School District	25	-	19	19
Caesar Rodney School District	-	-	6	11
Campus Community School	-	-	-	-
Cape Henlopen School District	6	-	11	5
Capital School District	29	-	17	17
Charter School of New Castle	-	-	-	-
Charter School of Wilmington	-	-	-	-
Christina School District	42	-	33	16
Colonial School District	11	-	20	-
Delaware Military Academy	-	-	-	-
Delmar School District	9	-	-	-
Design Thinking Academy ¹	5	N/A	N/A	N/A
Early College School at Del State	-	-	-	-

¹ No longer operating as a charter school after the 2019-2020 school year.

Local Education Agency	2019-2020	2020-2021	2021-2022	2022-2023
EastSide Charter School	-	-	-	-
Edison (Thomas A.) Charter School	-	-	-	-
First State Military Academy	-	-	-	-
First State Montessori Academy	-	-	-	-
Freire Charter School Wilmington	-	-	-	-
Gateway Charter School	-	-	-	-
Great Oaks Charter School	-	-	-	-
Indian River School District	7	-	15	16
Kuumba Academy Charter School	-	-	-	-
Lake Forest School District	-	-	-	9
Las Americas ASPIRA Academy	-	-	-	-
Laurel School District	-	-	7	9
Milford School District	-	-	9	8
MOT Charter School	6	-	-	-
New Castle County Vocational Technical School District	6	-	8	7
Newark Charter School	-	-	-	5
Odyssey Charter School	-	-	-	8
POLYTECH School District	-	-	-	11
Positive Outcomes Charter School	-	-	-	-
Providence Creek Academy Charter School	-	-	-	-
Red Clay School District	18	-	19	8
Seaford School District	-	-	-	-
Smyrna School District	-	-	9	6
Sussex Academy	-	-	-	-
Sussex Montessori School	-	-	-	-

Local Education Agency	2019-2020	2020-2021	2021-2022	2022-2023
Sussex Technical School District	-	-	-	6
Woodbridge School District	-	-	-	-

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 Pornography²

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,

² 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 Child³**

(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.

³ 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 Degree⁴**

(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

⁴ 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 Degree⁵**

(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

⁵ 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 Degree⁶**

(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

⁶ 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 Degree⁷**

(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.

⁷ 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 Assault⁸**

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 Child⁹**

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

⁸ See 14 Del. C. § 4161(15)

⁹ 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 Extortion¹⁰**

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;

¹⁰ 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 Harassment¹¹**

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 Child¹²**

(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.]

¹¹ See 11 Del. C. § 763

¹² 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**¹³

(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

¹³ 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 Suffocation¹⁴**

(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.

¹⁴ 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 Violence¹⁵**

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.

¹⁵ See 14 Del. C. § 4161(18)

- **Unlawful Sexual Contact in the Third Degree¹⁶**

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 Degree¹⁷**

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 Degree¹⁸**

(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.

¹⁶ See 11 Del. C. § 767

¹⁷ See 11 Del. C. § 768

¹⁸ See 11 Del. C. § 769

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