



Child-On-Child Sexual Abuse: The Often Forgotten Reportable Offense

Insights

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Most states, including Florida, have updated their child abuse reporting requirements to include child-on-child sexual abuse, often referred to as juvenile abuse. Typically these provisions are fairly comprehensive and include any sexual behavior by a child toward another child which occurs without consent, without equality (lacking the same level of power in the relationship), or as a result of coercion.

This can include making obscene phone calls, the showing or taking of lewd photographs, or varying degrees of direct sexual contact, such as fondling, digital penetration, rape, and various other sexually aggressive acts. Sometimes the relative ages of the children are qualifiers.

Schools that do not regularly update their child abuse policies or train their employees may find their employee responsiveness to the reporting requirements is lacking. Many schools have found out through embarrassing media scrutiny that reportable events went unreported. In addition to the public relations concerns, employees who fail to report abuse can be criminally charged in most states.

Individual Obligation To Report

The other issue to be addressed, at least in annual training, is the employee's individual obligation to report abuse. In most states, a school can no longer require that the employee first report the abuse to the head of school or an administrator. Rather, today, most state laws make clear that the employee has an individual obligation as a mandatory reporter to report abuse by calling a hotline number or making an online report.

Schools can certainly remind employees that they are free to seek assistance through an appropriate administrator at the school. After all, the concept of reporting abuse to a governmental agency could be a daunting and downright scary experience, and schools should provide support for any employee who requests it.

Some schools also require action by any employee who initially considers a matter to be reportable as child abuse but then independently decides it is not. These employees are often instructed to seek out an appropriate administrator or the head of school so upper administration can ensure their assessment was accurate. There have been many circumstances in which an employee erroneously

believed, for example, that a non-school event is not reportable, when in fact it was. Having this “failsafe” procedure may ensure that all such incidents are reported.

The 21st Century Scourge Of Sexting

Finally, many employees and administrators do not always realize that sexting may constitute reportable abuse in certain circumstances. Under many state laws, a reportable incident may occur even if the photo does not fit into the definition of juvenile sexual abuse set forth above. In many states, any photograph, video, or image of a minor taken by another minor is reportable as child abuse if it evidences nudity, partial nudity, or lewd or sexual acts by minors; is then transmitted over the internet; and the image reflects coercion or is transmitted to a large number of individuals.

Child abuse authorities have not clearly defined how many people constitute a “large number” of individuals. Our advice to school clients is that if the image is transmitted over the internet to more than three people, the school should report it out of an abundance of caution. After all, a mere three people can transmit the image to many more recipients, and it may quickly fill the internet.

Your obligation, at the end of the day, is to protect the child. When child abuse authorities receive reports of sexting, they typically turn the matter over to law enforcement. In most cases, law enforcement approaches the situation with the intent to remove the images from the internet. In the most egregious circumstances they charge students with crimes, but more often they take an educational approach. They may also confiscate the student’s electronic devices.

Conclusion

All of these issues are good reasons for you to regularly update your institution’s child abuse policies (the laws change frequently) and to repeatedly train your employees. We know that many administrators feel there are more important subjects to cover during teacher workweek or in-service days. However, it is far better to spend an hour or two at the beginning of each school year addressing these important issues (along with student-adult boundaries) than incorrectly believing that your community members understand their obligations and your school’s expectations.

For more information, contact the author at SBogdan@fisherphillips.com or 954.847.4705.

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Suzanne K. Bogdan

Partner

954.847.4705

Email

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