

San Simon Unified School District

Staff Training
August 5, 2024

by
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Topics for Today

Tips and Reminders Concerning the Following:

- Mandatory Reporting
- Bullying
- Discrimination and Harassment
- Title IX Updates
- Social Media Guidelines for Staff
- McKinney Vento Reminders
- Special Education Reminders

Mandatory Reporting

When in Doubt... Report!



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Reporting Criminal Activity

- It's not just your job, ... It's the law!
- A.R.S. § 15-515: If any school personnel see **weapons** or **drugs** on school property, they must report the violations to the school administrator who must then report to law enforcement.
- A.R.S. § 15-341(A)(30): [School personnel] must report **serious offenses**; deadly weapons, dangerous instruments, serious physical injury; and conduct that poses a threat of death or serious physical injury to students, employees and others on school property to law enforcement, and may report all other crimes.

“Serious Offense” Includes:

- 1st/2nd degree murder or manslaughter
- Aggravated assault
- Sexual assault
- *Any dangerous crime against children.*
- Arson of an occupied structure.
- Armed Robbery.
- Burglary in the first degree.
- Kidnapping.
- Sexual conduct w/ minor under 15 years of age.



TIP:

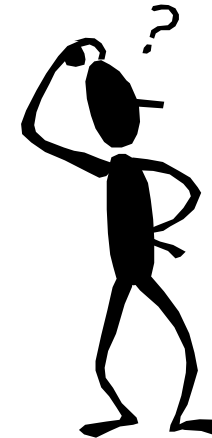
When it comes to the safety of your students, staff, and campus, don't get hung up on definitions.

If you suspect criminal activity, report this to your School Resource officer or to your local law enforcement agency. What do you have to lose by reporting? What do you risk if you do nothing?

Reporting Abuse or Neglect



Who Has the Duty to Report?



All “School Personnel” Must Report

- It’s not just the duty of the Principal or School Nurse.
- ALL School Personnel have a duty to report (to law enforcement or DCS) if they have reasonable belief that a minor has been harmed (in a physical, sexual, or neglectful manner).
- This can include, but is NOT limited to: Principals, nurses, teachers, cafeteria workers, secretaries, paraprofessionals, coaches, bus drivers, custodians, psychologists, ...

A Report is Required by:

ANY person who

- REASONABLY believes
- A MINOR is the victim of
 - Physical injury
 - Abuse
 - Child abuse
 - A reportable offense (sex offense) or
 - Neglect
- Inflicted by OTHER THAN ACCIDENTAL means or not explained by the medical history

Report to Whom?

Shall IMMEDIATELY REPORT or cause a report to be made to:

- A law enforcement officer.
- Department of Child Safety at 1-888-SOS-CHILD—or if not an emergency, report at:
<https://dcs.az.gov/report-child-abuse>
 - EXCEPT if the suspected abuser does NOT have the care, custody, control of the child—then ONLY CALL LAW ENFORCEMENT.
- Or, if a Native American child on a reservation, to tribal police or a social service agency.

What is meant by “physical injury”?

- ***Intentional/Non-accidental***
- Impairment of physical condition and includes:
 - Skin bruising
 - Bleeding
 - Failure to thrive
 - Malnutrition
 - Dehydration
 - Burns
 - Fracture of any bone
 - Soft tissue swelling
 - Or any physical condition that imperils health or welfare
- The injury need not be serious or life threatening to be “reportable.”

“Abuse” Means:

- The infliction or allowing physical injury; or
- Inflicting or allowing: sexual abuse, sexual conduct with a minor, sexual assault, child molestation, commercial sexual exploitation of a minor, sexual exploitation of a minor, incest, or child prostitution.
- Physical injury resulting from permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug.
- Unreasonable confinement of a child.

What is Meant by “Reportable Offense”

“Reportable Offense”

Includes:

- Indecent Exposure
- Public Sexual Indecency
- Sexual Abuse
- Sexual Conduct With a Minor

(Note: You are not required to report the consensual sexual contact of minors with other minors ages 14,15,16, or 17)

- Sexual Assault
- Molestation of a Child
- Bestiality
- Sexual Misconduct by a Behavioral Health Professional
- Unlawful Sexual Conduct by Corrections Personnel
- Voyeurism
- Unlawful Distribution of Nude Images

“Reportable Offense”

Includes:

- Commercial Sexual Exploitation of a Minor
- Sexual Exploitation of a Minor
- Luring and Aggravated Luring a Minor for Sexual Exploitation
- Admitting Minors to Public Displays of Sexual Conduct
- Furnishing Harmful Items to Minors Via the Internet
- Surreptitious Photographing, Videotaping, Filming or Digitally Recording of a Minor
- Child Prostitution
- Incest
- Unlawful mutilation or Knowing Transportation of a female under 18 for the purpose of mutilation

What is Meant by “Neglect”

“Neglect” Includes:

- A parent, guardian or custodian failing to provide the child with supervision, food, clothing, shelter or medical care if that failure causes unreasonable risk of harm to the child's health or welfare,
- Permitting a child to enter or remain in any structure or vehicle [that is used for] manufacturing a dangerous drugs.
- Deliberate exposure (or reckless disregard of whether or not the child is present) of a child by a parent, guardian or custodian to sexual conduct, to sexual contact, oral sexual contact or sexual intercourse, bestiality, or explicit sexual materials.



TIP:

Again, don't get hung up on definitions.

If you suspect that a child has been harmed or is at risk of being harmed in some physical, sexual, or neglectful manner, make a report to DCS or to your local law enforcement agency (or SRO).

What do you have to lose by reporting? (NOTHING!)

What do you risk if you do nothing? (EVERYTHING!)

What is the Penalty for Not Reporting?

Penalty for NOT Reporting

- Failure to Report:
 - Class 1 Misdemeanor
 - Fine of up to \$4000
 - Up to 6 months in jail
 - Up to three years probation
- Failure to Report a “Reportable Offenses”
 - Class 6 Felony
 - Fine of up to \$150,000
 - Presumptive one year prison term, minimum six months
- Statute of Limitations – 7 year discovery rule
- Can also result in loss of your job (See District Policy GDQD “Discipline, Suspension, and Dismissal” and JLF “Reporting Child Abuse”)



Can I Get in Trouble for Making a Report?

Immunity When Making a Report

- Abuse Reporting: “A person furnishing a report, . . . under this section... shall be immune from any civil or criminal liability by reason of such action unless the person acted with malice. . . .” A.R.S. § 13-3620(J).
- General Reporting: “A school district and its employees are immune from liability for any good faith actions taken in furtherance of this paragraph.” --A.R.S. § 15-341(A)(33)
- You have nothing to lose by making a report!

How Much Information do I Need to Make a Report?

How Much Information Do I Need to Report?

- Not very much!
- You DON'T need to investigate, you just need to report to the agencies that will end up doing the investigation.
- You don't need to have witnessed the suspected abuse first hand. Second information is sufficient to trigger your obligation.
- Just report what you know.

When in doubt...

- Report!

Bullying Reminders

Policy JICK- Student Bullying, Harassment, Intimidation

A student who is experiencing bullying, harassment, intimidation or believes another student is experiencing bullying, harassment, or intimidation is to report the situation to the principal or another school employee.

A school employee who becomes aware of or suspects a student is being bullied, harassed or intimidated shall immediately notify the school administrator. School personnel shall maintain confidentiality of the reported information.

Policy JICK- Student Bullying, Harassment, Intimidation

Bullying: Bullying may occur when a student or group of students engages in any form of behavior that includes such acts as intimidation and/or harassment that:

- A. has the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm or damage to property,
- B. is sufficiently severe, persistent or pervasive that the action, behavior, or threat creates an intimidating, threatening, or abusive environment in the form of physical or emotional harm,
- C. occurs when there is a real or perceived imbalance of power or strength, or
- D. may constitute a violation of law.

Policy JICK- Student Bullying, Harassment, Intimidation

Bullying of a student or group of students can be manifested through written, verbal, physical, or emotional means and may occur in a variety of forms including, but not limited to:

- A. verbal, written/printed or graphic exposure to derogatory comments, extortion, exploitation, name calling, or rumor spreading either directly through another person or group or through cyberbullying,
- B. exposure to social exclusion or ostracism,
- C. physical contact including but not limited to pushing, hitting, kicking, shoving, or spitting, and
- D. damage to or theft of personal property.

Policy JICK- Student Bullying, Harassment, Intimidation

Cyberbullying: Cyberbullying is, but not limited to, any act of bullying committed by use of electronic technology or electronic communication devices, including telephonic devices, social networking and other Internet communications, on school computers, networks, forums and mailing lists, or other District-owned property, and by means of an individual's personal electronic media and equipment.

Policy JICK- Student Bullying, Harassment, Intimidation

Harassment: Harassment is intentional behavior by a student or group of students that is disturbing or threatening to another student or group of students.

Intentional behaviors that characterize harassment include, but are not limited to, stalking, hazing, social exclusion, name calling, unwanted physical contact and unwelcome verbal or written comments, photographs and graphics.

Harassment may be related, but not limited to, race, religious orientation, sexual orientation, cultural background, economic status, size or personal appearance.

Harassing behaviors can be direct or indirect and by use of social media.

Policy JICK- Student Bullying, Harassment, Intimidation

Intimidation: Intimidation is intentional behavior by a student or group of students that places another student or group of students in fear of harm of person or property.

Intimidation can be manifested emotionally or physically, either directly or indirectly, and by use of social media.

Additional Considerations

When bullying becomes
harassment and discrimination ...

Protected Class

- If a student is the victim of bullying, harassment, or intimidation based on a protected class, you may have an obligation to follow additional policies and procedures.
- Protected classes include:
 - Race
 - Color
 - Religion or creed
 - National origin or ancestry or citizenship
 - Sex (including gender, pregnancy, sexual orientation, and gender identity)
 - Physical or mental disability
 - Genetic information

Relevant Board Policies

- All other complaints of discrimination and harassments (race, color, national origin, religion, disability, and the like) should be handled pursuant to Policy JB Equal Educational, Opportunities.
- All complaints of sexual harassment involving students shall be handled pursuant to Governing Board Policy ACAA, Title IX Sexual Harassment.

Title IX Sexual Harassment Basics

See something, say something...

What Changed?

1. DEFINITIONS
2. GRIEVANCE PROCEDURES
3. OBLIGATIONS

We are sensitive to the fact that these new regulations create hot-button issues for some persons.

Important Changes in Definitions

Definitions Expanded “Sex Discrimination” to Include

- Sex stereotypes
- Sex characteristics
- Pregnancy or related conditions
- Sexual orientation
- Gender identity

Definition of Complaint is Broader

CURRENTLY requires a written complaint

“Formal complaint means a document filed by a complainant... alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment...may be be filed in person, by mail, or by email... that contains the complainant’s physical or digital signature...”

New Definition of Complaint

Can Be Oral

Complaint means an oral or written request to the recipient that *objectively can be understood as a request for the recipient to investigate and make a determination* about alleged discrimination under Title IX or this part.

Current Definition of Complainant

Complainant means an individual who is alleged to be the victim of “current” conduct that could constitute sexual harassment (or sex discrimination)

New Definition of Complainant

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment (or sex discrimination) whether it occurred in the past or the victim is applicant to an educational program or activity

Educational Program/Activity

- Includes all the operations of the District regardless of where they are located - even outside the U.S.
- No longer requires “control” by District
“..no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or to otherwise be subjected to discrimination under any academic extracurricular, research, occupational training, or other education program or activity operated. . .” by the District

Definition of Sexual Harassment

Current

Conduct on the basis of sex that satisfies one or more of the following (3 prongs):

1. Quid Pro Quo
2. Severe, Pervasive and Objectively Offensive
3. Certain Sexual/Dating Violence Offenses

Definition of Sexual Harassment

Current Type 1 – Quid Pro Quo

A District employee conditions the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct

Definition of Sexual Harassment

NEW Type 1 – Quid Pro Quo

An employee, agent or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

Definition of Sexual Harassment

Current Type 2

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;

Sex-Based Harassment

NEW Type 2 - (“Hostile Environment”)

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e. that creates a hostile environment).

5 Hostile Environment Factors

1. Degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
2. Type, frequency, and duration of the conduct;
3. Parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct:

5 Hostile Environment Factors

4. Location of the conduct and context in which the conduct occurred; and
5. Other sex-based harassment in the recipient's education program or activity;

Definition Expanded to Include Parental Status Discrimination

Parent = has a child under age 18 or a child over 18 who is incapable of self-care because of a physical or mental disability

Examples of Parental Status

- Biological parent
- Adoptive parent
- Foster parent
- Stepparent
- Legal custodian or guardian
- In loco parentis
- Actively seeking legal custody, guardianship, visitation, or adoption

Definitions Expanded to Include Pregnancy-related Discrimination

- Includes “perceived” pregnancy
- Pregnancy or related conditions
 - Pregnancy
 - Childbirth
 - Termination of pregnancy
 - Lactation
 - Recovery (from pregnancy, childbirth, termination of pregnancy, lactation or other related medical condition)

Examples of Pregnancy Related Conditions

- Fatigue
- Dehydration
- Nausea (morning sickness)
- Anemia
- Bladder dysfunction
- Infertility
- Recovery from miscarriage or abortion
- Prenatal or postpartum depression

Requirements re Pregnancy

- Employee, student or legal representative must notify the District of the pregnancy
- Modifications or accommodations
- Student can inform Title IX coordinator (ex. student will be late because of doctor's appointment)

Definition of Sexual Harassment

Current Type 3 – Sexual Offenses/Dating Violence

NO CHANGES to this third type of Title IX Sexual Harassment but remember that this third type is still included in Title IX...

Sexual Assault

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

20 U.S.C. 1092(f)(6)(A)(v)

Sexual Assault

Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

- Forcible Rape—(Except Statutory Rape)
- Forcible Sodomy
- Sexual Assault With An Object
- Forcible Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent

Sex Offenses, Nonforcible—(Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

- Incest
- Statutory Rape

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for his or her safety or the safety of others;
or
- B. Suffer substantial emotional distress

34 U.S.C. 12291(a)(30)

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- 1) the length of the relationship;
- 2) the type of relationship;
- 3) the frequency of interaction between the persons involved in the relationship

34 U.S.C. 12291(a)(10)

Domestic Violence

Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

34 U.S.C. 12291(a)(8)

Pending Lawsuits

These lawsuits ask the courts to block the new rules alleging that the regulations exceed the Agency's rule-making authority to expand "sex" to include "gender identity, sexual orientation, sex stereotypes, and sex characteristics and that some provisions violate the First Amendment's protections for Free Speech and Religion.

Bottom Line

Any allegation of sexual harassment (direct, indirect, verbal, written, etc.) must immediately be referred to the Title IX Coordinator.

Make sure your staff understand to immediately report any allegation of sexual harassment to the principal

Social Media Guidelines

SBE Guidelines

- A.R.S. § 15-203(A)(44) requires the State Board of Education (Board) to establish best practices for social media and cellular telephone use between students and school personnel, including teachers, coaches, and counselors.
- The Board adopted some draft guidelines in February and May 2022

McKinney-Vento Act Reminders

- The McKinney-Vento Act provides rights and services to children and youth experiencing homelessness, which includes those who are:
 - sharing the housing of others due to loss of housing, economic hardship, or a similar reason;
 - staying in motels, trailer parks, or camp grounds due to the lack of an adequate alternative;
 - staying in shelters or transitional housing;
 - or sleeping in cars, parks, abandoned buildings, substandard housing, or similar settings

McKinney-Vento Act Reminders

- School district duties include
 - Ensuring that homeless children and youth are identified and enrolled in school, and have a full and equal opportunity to succeed in school.
 - Participating in professional development and other technical assistance offered by the state.
 - Ensuring school personnel receive professional development and other support.

McKinney-Vento Act Reminders

- School district duties include
 - Ensuring that homeless children, youth, and families receive referrals to health, dental, mental health, housing, substance abuse, and other appropriate services.
 - Disseminating public notice of McKinney-Vento rights in locations frequented by parents and youth, in a manner and form understandable to them

McKinney-Vento Act Reminders

- School district duties include:
 - Homeless children and youth must be enrolled in school immediately, even if they lack documents or have missed application or enrollment deadlines during any period of homelessness.
 - SEAs and LEAs must develop, review, and revise policies to remove barriers to the identification, enrollment, and retention of homeless students in school, including barriers due to fees, fines, and absences.

Sped Reminders

What is a disability under the IDEA?

Under the Individuals with Disabilities Education Act (IDEA), a student is a "student with a disability" if the student:

- 1) Meets the definition of one or more of the specific categories of disabilities listed in the statute; and
- 2) Needs special education and related services as a result of his/her disability or disabilities.
See 34 CFR §300.8 (a)(1).

What is a Disability Under Section 504?

For a student to qualify for Section 504 protection as a student with a “disability,” the student must meet three criteria:

The student must:

- (1) Have a mental or physical impairment,
- (2) Which substantially limits,
- (3) One or more major life activities.

Again, following the enactment of the ADAAA, eligibility is to be determined as broadly as possible.

IDEA and Section 504

- EVERYONE is responsible for the success of all students, including students with disabilities.
- Students with 504 plans or IEPs are not just the responsibility of the special education teachers.
- Everyone is responsible for ensuring that students:
 - Receive any special education and related services listed on an IEP or 504 plan
 - That accommodations are implemented across all relevant settings
 - That any complaints about bullying or discrimination are promptly referred to administration.
 - That any Title IX or bullying matters be appropriately addressed by the 504 or IEP team.

Your Turn!

Any Questions???

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