

213 – TEEN DATING VIOLENCE AND SEXUAL ASSAULT POLICY

I. PURPOSE

The purpose of this policy is to establish guidelines for the Bryan Allen Stevenson School of Excellence (BASSE) regarding the response to teen dating violence and the sexual assault of students in accordance with the School Teen Dating Violence and Sexual Assault Act found at 14 Del. C. §4112E. BASSE shall annually review this policy and the “Guidelines for Responding to Teen Dating and Sexual Violence in Delaware Schools” published by the Child Protection Accountability Commission.

II. DEFINITIONS

- A. Teen Dating Violence: As defined in 14 Del. C. §4112, “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. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships. Behaviors that may fall under this definition include, but are not limited to: stalking, physical abuse, threatening one’s economic security and ability to be self-sufficient, bullying, defaming, defining, trivializing, harassing, diverting, blaming, berating, taunting, put downs, name calling, yelling, making the victim feel worthless or crazy, embarrassing the victim in front of others, using technology to stalk, harass, or embarrass the victim.
- B. Sexual Assault: As defined in 14 Del. C. §4112, “Sexual Assault” 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, marriage, or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment (11 Del. C. §763); sexual contact (11 Del. C. §761); sexual intercourse (11 Del. C. §761); sexual penetration (11 Del. §761); and child abuse (10 Del. C. §901).
- C. School Environment: Shall mean within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at bus stops, at functions, held on school grounds, at extra-curricular activities held on and off school grounds, on school sponsored out-of-school events where school staff are present, and at functions held at the school in the evening.
- D. School Employee: Includes all persons employed by BASSE including bus drivers, substitute employees, volunteers, and persons hired by or sub-contracted by other state agencies to work on BASSE property or at BASSE sanctioned functions.
- E. Student: Any student enrolled in Kindergarten through Grade 12.
- F. Child: Means an individual who has not reached his or her 18th birthday.

G. Minor: Means an individual who has not attained the age of 18 years.

III. CONFIDENTIALITY

- A. School Counselors, School Nurses and other Medical Personnel are bound by their professional licensure and code of ethics and are bound by confidentiality due to HIPAA (Health Insurance Portability and Accountability Act). However, certain information may be released in specific circumstances, such as a law enforcement investigation, mandatory reporting, and in the course of certain judicial and administrative proceedings.
- B. Mental health and medical professionals shall maintain confidentiality of all information acquired from clients in a professional capacity unless the information must be or is permitted to be disclosed by an explicit statutory or regulatory exception, such as: a student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim (including him/herself), any suspicion of child abuse, or when a student presents with serious burns or respiratory tract burns, non-accidental poisoning, stab wounds, bullet wounds, gunshot wounds, powder burns, or other injury caused by the discharge of a gun, pistol, or other firearm.
- C. Other school employees shall maintain confidentiality of all information except when the employee knows or has reasonable suspicion that a crime has been committed, threat to the safety of a child or staff member, or a possible violation of school policy, including, but not limited to, this policy, the school's code of conduct, anti-bullying, suicide prevention, and anti-harassment and hate crime policies. The employee shall then share the confidential information to the extent necessary to take immediate and appropriate action to explore the incident and keep the victim safe.

IV. MANDATORY REPORTING

- A. In all cases, when a mandatory report is made by a school employee, either to the Division of Family Services (DFS) or to law enforcement, the employee making the report shall simultaneously notify the Head of School.
- B. School Crimes: Pursuant to 14 Del. C. §4112, an immediate report must be made by the Head of School or designee to the appropriate police agency with jurisdiction when a school employee has a reasonable suspicion that one of the following offenses has occurred to a student in the school environment: (1) a violent felony offense, (2) unlawful sexual contact, or (3) assault. Concurrently, an immediate report should be made by the Head of School or designee to the appropriate police agency with jurisdiction when an employee commits a violent felony offense, assault, or any sexual offense against a student regardless of where the incident takes place. This offense also requires an immediate report to DFS by any school employee who witnesses or who has firsthand knowledge of the incident.

- C. Sexual Abuse: Any abusive sexual behavior that is committed against a minor by another minor or adult, regardless of where the incident took place, must be reported to DFS. 16 Del. C. §903,904. Unless the perpetrator is a school employee (see above), sexual violence that occurs outside of the school environment against a student who is 18 years of age or older does not have to be reported to DFS. However, **all instances of sexual violence must be reported to law enforcement.**
- D. Teen Dating Violence: Teen Dating Violence must be reported to law enforcement under the following circumstances:
1. Violent Felony in the school environment. Includes assault in the first and second degree, unlawful sexual contact in the first and second degree and stalking.
 2. Assault III in the school environment.
 3. Unlawful Sexual Contact III in the school environment.
 4. Abusive Sexual Behaviors against a Minor regardless of where the incident occurs. Report to DFS as well.
 5. Abusive Sexual Behaviors against a Student 18 years of Age or Older in the school environment.
 6. Threats of Harm to Others (Mental Health Providers Only) e. Child Abuse and Neglect Any person who has reason to suspect child physical, sexual abuse or neglect must report it to the 24-hour DFS Child Abuse & Neglect Hotline at 1-800-292-9582.

V. PROTOCOL FOR RESPONDING TO TEEN DATING VIOLENCE AND SEXUAL ASSAULT

A. Procedures Regarding Initial Response:

1. Separate the victim from the alleged perpetrator. Do not, under any circumstances, meet with the victim and perpetrator together.
2. Contact the parents/caregivers of the victim and the alleged perpetrator to inform them that an incident of dating violence or sexual assault has been alleged.
3. Speak with the victim and alleged perpetrator separately. The alleged perpetrator should be told that any statements made may become part of any future disciplinary, delinquency, protection from abuse order (PFA), civil, or criminal proceedings.
4. Speak with bystanders and other potential witnesses who may have been present or involved. Encourage them to speak up directly on behalf of the victim if they should witness further incidents, or to get help from school officials.
5. Refer to the BASSE Code of Conduct regarding the appropriate consequences for the perpetrator's behavior.
6. Report incidents that fall under the mandatory reporting obligation as outlined above to law enforcement and/or DFS.

B. Protocol for Working with Victims:

1. The safety and well-being of the victim is paramount.
2. BASSE administrators shall conference with the victim. However, administrators should only attempt to talk with the victim if the victim's emotional state enables him/her to participate in the process.
3. Inform the victim of her/his right to file a school-based complaint of sexual harassment, dating violence or sexual violence with any counselor or administrator.
4. Support the victim in completing the complaint form and documenting the incident.
5. Identify immediate actions that can be taken to increase the victim's safety and ability to participate in school without fear or intimidation, including positive behavior supports and interventions. Include the victim in determining safety precautions. Monitor the victim's safety as needed.
6. Refer the victim to the school counselor for services and safety planning. Determine other needed or desired responses, such as providing outside resources.
7. Inform the victim and parent/caregiver of school and community resources as needed including their right to access advocacy and counseling services, file charges, or seek legal protection, such as a Protection from Abuse Order.
8. Encourage the victim to seek medical attention. The victim will not be responsible for out-of-pocket costs of obtaining a sexual assault exam.
9. Encourage the victim to report further cases of sexual violence.
10. For situations involving sexual harassment, inform the victim of his or her right to file a complaint alleging sexual harassment directly with school's Title IX Coordinator.
11. Inform the victim of his/her right to have a support person with him/her during all stages of the investigation.

C. Protocol for Working with Alleged Perpetrator:

1. BASSE officials shall make every reasonable effort to protect the due process rights of the alleged perpetrator.
2. Conference with the alleged perpetrator and parent/caregiver. Administrators should seek guidance from law enforcement before talking with the alleged perpetrator.
3. The alleged perpetrator should be told that any statements he/she makes may become part of any future disciplinary, delinquency, PFA, civil, or criminal proceedings.
4. Emphasize expectations for positive behavior.
5. Identify and implement disciplinary and other actions and consequences that will be taken to prevent further incidents.

6. Discuss implication of Protection from Abuse Order.
7. Inform the alleged perpetrator and parent/caregiver of help and support available at school or in the community as needed (i.e., domestic abuse intervention services).
8. Address the seriousness of retaliation against the victim for reporting the incident or cooperating with the investigation. 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.
9. Increase supervision of the alleged perpetrator as needed.
10. Document the meeting and any plan of action.

D. Documenting Incidents of Teen Dating Violence and Sexual Assault:

1. BASSE has developed a system for documenting mandatory reports of teen dating violence and sexual assault to ensure that all victims and alleged perpetrators receive consistent and fair treatment.
2. All allegations of teen dating violence and sexual assault shall be documented on a complaint form (Appendix B) and promptly investigated by a school administrator or designee.
 - a. The School Administrator or Designee shall thoroughly document the complaint, investigation and actions taken (See Appendix).
 - b. The Head of School shall maintain teen dating and sexual violence complaints in a file separate from academic records.
 - c. Any offense established shall be documented in the eschool platform.

VI. PROTOCOL FOR RESPONDING TO CHILD ABUSE AND NEGLECT

A. Protocol for Responding to Child Abuse and Neglect:

1. Any School employee who reasonably suspects child abuse or neglect of any minor in the State of Delaware shall report it to the DFS Child Abuse & Neglect Hotline at 1-800-292- 9582.
2. The employee shall simultaneously notify the Head of School.
3. Do not interview or probe a victim to obtain details about the abuse or neglect. Ask the following questions to obtain minimal facts needed to make a report:
 - a. how the victim was abused or neglected or why the victim is afraid he/she will be abused or neglected.
 - b. who is the alleged abuser; and
 - c. when and where the alleged abuse occurred.
4. Do not take photographs of the injuries or ask the victim to undress.
5. Within 72 hours of making an oral report, the reporter should complete and fax or mail the mandatory Reporting Form DFS. The form is available at www.Iseethesigns.org

6. The Head of School or designee shall maintain a record of any reports made to DFS.

B. Protocol for Working with Victims

1. Listen to and support the victim.
2. Allow the victim to tell you the abuse scenario if they have begun to do so – do not interrupt them.
 - a. Do not ask the victim questions if you have enough information to suspect abuse or neglect.
3. Tell the victim that you will need to tell another person about the suspected abuse (i.e. DFS).
4. If the victim has access to the alleged perpetrators, monitor the victim's safety.

C. Protocol for Working with Alleged Perpetrators:

1. Do not confront the alleged perpetrator or discuss the victim's disclosure.
2. Do not tell the alleged perpetrator that you are making a report.
3. If the alleged perpetrator has access to the victim, increase supervision of the alleged perpetrator as needed or call law enforcement if the perpetrator attempts to remove the victim and the victim is in danger.

VII. TEEN PREGNANCY

A. Teen pregnancy, in and of itself, does not require notification to DFS or law enforcement. However, it is important to be aware that research has consistently demonstrated that teen pregnancy is a risk factor for dating abuse in that there is an elevated presence and severity of abuse among pregnant teens. In addition, professionals must be alert to the possibility that a teen pregnancy may be the result of abuse.

1. Protocol for Responding to Teen Pregnancy:
 - a. Any suspicion of child abuse or neglect is required to be reported to DFS.
 - b. Minors, age 12 and older, have the right to seek certain medical care without parental consent when they say they are pregnant, exposed to the risk of becoming pregnant, or afflicted with a contagious, infectious or communicable disease. As such, a child accessing the services in this context does not require a professional to report child abuse or neglect, unless there is also a reasonable suspicion of child abuse or neglect.
 - c. Whenever abuse or neglect is suspected (i.e. the pregnancy is a result of rape or incest, or the minor was unable to consent to sex due to her age), a report shall be made to the 24- hour DFS Child Abuse & Neglect Report Hotline at 1-800-292-9582. Online reporting is also available at www.Iseethesigns.org

VIII. YOUTH-PRODUCED SEXUAL IMAGES (“Sexting”)

A. Protocol for Responding to Youth-Produced Sexual Images:

1. This section covers youth-produced images that are: nude, sexually suggestive, or sexually explicit and possessed and/or transmitted by way of cell phone, electronic device or online and done so with the intent to cause harm.
2. The taking of nude or explicit photos or sending nude/explicit pictures of someone under the age of 18 can be considered child pornography.
3. Any school staff member who witnesses or learns of any youth-produced sexual images shall take the following steps:
 - a. 1. Confiscate both the victim’s and the alleged perpetrator’s cell phones or electronic device. Do not view contents of the phone or electronic device. The phones should be given to law enforcement if it is suspected that a crime has been committed.
 - b. 2. Refer the matter to the Head of School, Principal, or School Climate and Culture Counselor.
4. Speak with any bystanders who may have seen the image or heard about the images. Encourage them to speak up on behalf of the victim if they should witness further incidents, or to get help from school staff members.
5. Contact the parents/caregivers of the victim and the alleged perpetrator to inform them that an incident of sexting has been alleged and is being investigated.

B. Protocol for Working with the Victims:

1. School administrators shall conference with the victim. However, administrators should only attempt to talk with the victim if the victim’s emotional state enables him/her to participate in the process.
2. Identify immediate actions that can be taken to increase the victim’s safety and ability to participate in school without fear or intimidation, including positive behavior support interventions. Include the victim in determining safety precautions. Monitor the victim’s safety as needed.
3. Inform the victim and parent/caregiver of school and community resources as needed including their right to access advocacy and counseling services, file charges, or seek legal protection, such as a Protection from Abuse Order.
4. Encourage the victim to seek medical attention.
5. Encourage the victim to report further incidents of sexting.
6. For situations involving sexual harassment, inform the victim of his or her right to file a complaint alleging sexual harassment directly with school’s Title IX Coordinator.
7. Inform the victim of his/her right to have a support person with him/her during all stages of the investigation.

C. Protocol for Working with Alleged Perpetrator:

1. School officials shall make every reasonable effort to protect the due process rights of the alleged perpetrator.
2. Conference with the alleged perpetrator and parent/caregiver.
3. The alleged perpetrator should be told that any statements he/she makes may be part of any future disciplinary, delinquency, PFA, civil, and/or criminal proceedings.
4. Emphasize expectations for positive behavior.
5. Inform the alleged perpetrator and parent/caregiver of help and support available at school or in the community as needed (i.e., domestic abuse intervention services).
6. Address the seriousness of retaliation against the victim for reporting the incident or cooperating with the investigation. 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.
7. Increase supervision of the alleged perpetrator as needed. viii. Document the meeting and any action plans.

D. Documenting Incidents of Sexting:

1. BASSE has developed a system for documenting breaches of BASSE's Code of Conduct as well as initiating mandatory reports to ensure that all victims and alleged perpetrators receive consistent and fair treatment.
2. All allegations of sexting or other youth-produced sexual images shall be promptly investigated by a school administrator or designee.
3. The School Administrator or Designee shall thoroughly document the investigation and actions taken.
4. Identify and implement disciplinary and other actions and consequences that will be taken to prevent further incidents.
5. Document allegations and offenses established in school as required.
6. The Head of School or designee shall report the incident to law enforcement if it is suspected that a crime has been committed.

IX. RESOURCES

A. Resources for Sexual Assault and Teen Dating Violence

1. Break the Cycle: 1-202-824-0707 or 1-310-286-3383
<http://www.breakthecycle.org>
2. Lifeline Rape Crisis
 - a. New Castle County: 302-761-9100
 - b. Kent and Sussex Counties: 1-800-262-9800
3. Prevention and Behavior Health Services 24-Hour Child Priority Response: 1-800-969- 4357
4. Domestic Violence Hotline
 - a. New Castle County: 302-762-6110
 - b. Kent and Sussex Counties: 302-422-8058

- c. Bilingual (Sussex): 302-745-9874
 - 5. National Dating Abuse Hotline 1-866-331-9474; TTY 1-866-331-8453
www.loveisrespect.org
 - 6. National Sexual Violence Research Center <http://www.nsvrc.org>
 - 7. Useful websites for teaching
 - a. <http://www.doe.k12.de.us/infosuites/staff/ci/content/areas/health.Shtml>
 - b. www.safeandrespectful.org
 - c. http://www.safeandrespectful.org/teachers/showcase_home.html
- B. Resources for Families and Victims of Child Abuse and Neglect
 - 1. Children and Families First Strengthening Families Program 1-800-734-2388
 - 2. Delaware Department of Justice – Family Division: 302-577-8400
 - 3. Department of Services for Children, Youth and Their Families: 302-633-2500 iv. Division of Family Services Child Abuse & Neglect Report Line: 1-800-292-9582
 - 4. Division of Prevention and Behavioral Health Services 24-Hour Child Priority Response (CPR): 1-800-969-4357
 - 5. Office of the Child Advocate: 302-255-1730
- C. Resources for Teen Pregnancy
 - 1. Children and Families First - The Adolescent Resource Center (ARC): 1-800-924-6977
 - 2. Delaware Adolescent Program, Inc.: <http://www.dapi.org/>
 - 3. Henrietta Johnson Medical Center: 302-655-6187
 - 4. La Red Health Center, Inc.: 302-855-1233
 - 5. Planned Parenthood of Delaware: 302-655-7296
 - 6. Safe Arms for Babies - Toll-free 24-hour hotline: 1-800-262-9800 vii.
<http://www.dhss.delaware.gov/dhss/dph/chca/dphahsab01.html>
- D. Resources for Youth-Produced Sexual Images
 - 1. Adults Guide to Preventing “Sexting”
 - a. Delaware Child Predator Task Force: 302-739-2030
 - b. National Center for Missing and Exploited Children: 1-800-843-5678
 - c. Teens Guide to Preventing “Sexting”
- E. Information/Referrals & Training:
 - 1. Child Welfare Information Gateway: <http://www.childwelfare.gov/>
 - 2. Child Protection Accountability Commission: 302-255-1730.
 - a. Guidelines for Responding to Teen Dating and Sexual Violence
 - 3. Training on the identification and reporting of child abuse
 - a. National Center for Missing and Exploited Children:
www.missingkids.com
 - b. Darkness to Light - Child Sexual Abuse Prevention - www.d2l.org

- c. Mandatory Reporting and Resources - www.Iseethesigns.org
- d. Prevent Child Abuse Delaware - www.pcadelaware.org
- e. Delaware Department of Justice – Family Division: 302-577-8400

Related Policies:

- A. Student Code of Conduct Policy

Related Procedures and Documents:

- A. xxx

Approval: 07/11/2024

Revision Dates:

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