

RESPONDING TO TEEN DATING VIOLENCE AND SEXUAL ASSAULT

The Indian River School District (the “District”) recognizes that safe learning environments are necessary for students to learn and achieve high academic standards. The District strives to provide safe learning environments for all students.

DEFINITIONS

“Child” Means an individual who has not reached his or her 18th birthday.

“Child Abuse and Neglect” The Child Abuse Prevention and Treatment Act (CAPTA) defines child abuse and neglect as any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

“District employee” includes all persons employed by the District; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property. This includes school-based wellness center staff and volunteers.

“Minor” Means an individual who has not attained the age of 18 years.

“Principal” means the building principal, or the equivalent of the building principal, of any District school.

“School function” includes any field trip or any District sponsored event.

“School property” means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by the District, or any motor vehicle owned, operated, leased, rented or subcontracted by the District.

“Sexual Assault” as used in this policy, means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim, or 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*: which includes when (1) A person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or (2) A 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 Contact*: which is defined as (1) Any intentional touching by the perpetrator of the anus, breast, buttocks or genitalia of another person; or

- (2) Any intentional touching of another person with the perpetrator's anus, breast, buttocks or genitalia; or (3) Intentionally causing or allowing another person to touch the perpetrator's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing.
- *Sexual Intercourse*: which is defined as (1) Any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or (2) Any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required.
 - *Sexual Penetration*: which is defined as (1) the unlawful placement of an object (item, device, instrument, substance or any part of the body), inside the anus or vagina of another person; or (2) The unlawful placement of the genitalia or any sexual device inside the mouth of another person.
 - *Child Sexual Abuse*: The deliberate exposure of a minor to sexual activity that the minor cannot comprehend or consent to. This means a minor is forced or coerced into sex or sexual activities by another person. This behavior includes acts such as inappropriate touching of a minor's breasts or genitalia, someone exposing their genitalia to a minor, fondling, oral-genital contact, genital and anal intercourse, as well as exhibitionism, voyeurism, and exposure to pornography

“Student” Any student enrolled in school grades preschool to 12.

“Teen Dating Violence” means assaultive, threatening, or controlling behavior, including stalking, as defined in § 1312 of Title 11 (knowingly engaging 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) 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.

“Teen Pregnancy” in and of itself, pregnancy that occurs in girls, ages 12 to 17, is not child abuse. However, teen pregnancy is a risk factor of abuse and in some instances may be the result of sexual abuse.

“Youth-Produced Sexual Images” nude, sexually suggestive, or explicit images possessed and/or transmitted by way of cell phone, electronic device or online.

PROHIBITION OF TEEN DATING VIOLENCE AND SEXUAL ASSAULT

To further these goals and as required by 14 *Del. C.* § 4166, the District prohibits Sexual Assault and Teen Dating Violence by any person at any school function or on any school property.

CONFIDENTIALITY

School Counselors, Mental Health & Medical Professionals

These professions are bound by their professional licensure and code of ethics and as such they are required to maintain confidentiality. The Family Educational Rights and Privacy Act (“FERPA”), rather than HIPAA (the Health Insurance Portability and Accountability Act of 1996) applies to the confidentiality of education records, including health information, and the consent required to disclose education records. However, certain information can be released in particular circumstances such as; law enforcement investigations, mandatory reporting (such as child abuse) and in the course of certain judicial or administrative proceedings. Mental health and medical professionals are required to maintain confidentiality of all information acquired from clients in a professional capacity (including information regarding teen dating violence) except in the following situations: a student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim or victims (including themselves), or any suspicion of child abuse, or in a case when the 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.

Other School Employees, Including Teachers & Administrators

These professionals are bound by confidentiality of FERPA. However, once a school employee knows or reasonably should know of possible sexual teen dating violence of a minor and/or any sexual assault, the school employee must take immediate and appropriate action to explore the incident and keep the student victim safe.

WHAT MUST BE REPORTED AND TO WHOM

Certain school crimes, threats of harm to self or others, child abuse, and sexual violence of a minor and/or any sexual violence that could have occurred in the school environment require mandatory reports to either law enforcement and/or DFS. In and of themselves, teen dating violence, sexual behaviors, and teen pregnancy do not require mandatory reports. The following circumstances require a mandatory report:

- 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)

An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.

- Assault in the Third Degree in the School Environment

An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.

- Unlawful Sexual Contact Third Degree in the School Environment

An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.

- A Violent Felony, Assault III or any Sexual Offense against a student regardless of where the incident occurs

An immediate report shall be made to DFS, Law enforcement should also be contacted.

- Pursuant to Title 16, Chapter 9, all abuse, neglect, dependency and molestation must be reported to DFS, regardless of who is the offender and where it occurred.
- Threats of Harm to Others (Mental Health providers only)
An immediate report shall be made to the appropriate police jurisdiction.

*Refer to the State of Delaware Child Protection Accountability Commission Guidelines for Responding to Teen Dating and Sexual Violence in Delaware School, Updated 2014 attached as Exhibit A for clarification and additional information regarding reporting requirements.

HOW TO RESPOND TO TEEN DATING & SEXUAL VIOLENCE

There are different protocols to follow depending on the nature of the incident and whether a mandatory report is required. Refer to the State of Delaware Child Protection Accountability Commission Guidelines for Responding to Teen Dating and Sexual Violence in Delaware School, Updated 2014 attached as Exhibit A for specific protocols.

HOW TO RESPOND TO CHILD ABUSE AND NEGLECT

Refer to the State of Delaware Child Protection Accountability Commission Guidelines for Responding to Teen Dating and Sexual Violence in Delaware School, Updated 2014 attached as Exhibit A for specific protocols. In short, report to DFS and document that a report was made.

HOW TO RESPOND TO TEEN PREGNANCY

Refer to the State of Delaware Child Protection Accountability Commission Guidelines for Responding to Teen Dating and Sexual Violence in Delaware School, Updated 2014 attached as Exhibit A for specific protocols.

HOW TO RESPOND TO YOUTH PRODUCED SEXUAL IMAGES (OFTEN REFERRED TO AS SEXTING)

Refer to the State of Delaware Child Protection Accountability Commission Guidelines for Responding to Teen Dating and Sexual Violence in Delaware School, Updated 2014 attached as Exhibit A for specific protocols.

CONSEQUENCES FOR OFFENSES

A student who commits the offenses of Teen Dating Violence or Sexual Assault is subject to disciplinary action up to expulsion in accordance with the Code of Conduct.

TRAINING

All administrators, school nurses, and school counselors in the District serving students in grades 7 through 12 shall receive this policy and shall attend protocol training during the first year of assignment as an administrator, school nurse or school counselor, and at least once in every 3-year period thereafter pursuant to 14 *Del. C.* § 4166. The training materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council. Any in-service training required shall be provided within the contracted school year as provided in 14 *Del. C.* § 1305(e).

The District shall ensure existing health standard programming related to comprehensive healthy relationships, based on the Health Standards adopted by the Delaware

Department of Education as approved by the State Board of Education, is provided in health education programs or related classes.

IMMUNITY

A District employee, District volunteer or student is individually immune from a cause of action for damages arising from reporting Teen Dating Violence and/or Sexual Assault in good faith and to the appropriate person or persons using the procedures specified in this policy, but there shall be no such immunity if the act of reporting constituted gross negligence and/or reckless, willful or intentional conduct.

RELATIONSHIP TO SCHOOL CRIME REPORTING

An incident may meet the definition of Teen Dating Violence and/or Sexual Assault and also the definition of a particular crime under State or federal law. Nothing in this policy shall prevent school officials from fulfilling all of the reporting requirements of the law 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. Nothing in this policy shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 of the Delaware Code, or any other reporting requirement under State or federal law.

POLICY NOTIFICATION

The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy shall be distributed annually to all students, parents, faculty and staff.

RULES AND REGULATIONS

Implementation of this policy shall comply with all rules and regulations the Delaware Department of Education may promulgate to implement 14 *Del. C.* § 4166.