



Book	Policy Manual
Section	4000 PERSONNEL
Title	Sexual Misconduct
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PERSONNEL: Rights, Responsibilities and Duties SEXUAL MISCONDUCT

I. PURPOSE

The District is committed to protecting all students from inappropriate sexual conduct perpetrated by adults, including school staff and volunteers. Our children should not be expected to take the lead in advocating against sexual abuse, that is the responsibility and duty of the school and the community. Moreover, AS 47.17.020 requires that all school teachers, administrators, coaches, staff and volunteers immediately report any concerns about inappropriate boundary crossing behavior by an adult directed towards a student. The requirement to report does not require proof, only reasonable suspicion. The purpose of this policy is to provide all adults involved with the District with information about the District's zero tolerance policy and about their duty to report all suspicious behavior immediately. Educator sexual misconduct (ESM) will not be tolerated by the District nor will retaliation against those who report.

II. WHAT IS EDUCATOR SEXUAL MISCONDUCT?

Educator Sexual Misconduct (ESM) is any behavior by an adult that is directed at a student and is intended to sexually arouse, stimulate or excite the adult or the child. Such conduct can create a sexually hostile learning or school environment. The behavior can include physical, verbal or visual acts. Examples of ESM include, but are not limited to, sexual or romantic advances; sexual violence; touching the breasts or genitals of students; showing students pictures or videos of a sexual nature; indecent exposure of a sexual nature; sexual remarks, conversations, jokes or questions directed at students that are sexual in nature; email messages to a student that are sexual in nature; requests to a student for nude or semi-nude pictures or videos, etc. Any sexual interaction with a child is a crime, regardless of intent. THERE IS NO SUCH THING AS A CONSENSUAL RELATIONSHIP BETWEEN A SCHOOL ADULT AND A STUDENT OF ANY AGE.

A. Guidelines for Identifying Educator Sexual Misconduct

To keep their conduct secret, many perpetrators coerce and groom their victims. Sexual contact escalates as groomers methodically increase the attention and rewards she or he gives the target. This grooming allows perpetrators to test their targets silence at each step. To nurture the relationship, perpetrators often make the target feel special by, for example, bringing them gifts, spending extra time with them in a nonsexual way, and/or giving them extra attention and privileges. To reduce suspicion, perpetrators often also test the adults that surround a target by engaging in grooming behaviors publicly in order to gauge how that behavior will be interpreted by other adults.

Some examples of this behavior include, but are not limited to:

- An adult who gives a student rides as a way to help a single parent or a parent of a 'difficult' or 'unruly' child;
- An adult who volunteers to tutor the child at their home because the parents are too busy or overwhelmed;
- An adult who provides gifts to a child or is 'touchy' with a child for no educational, health or apparent reason (such as to console a child who just learned of a death in the family);
- An adult who texts or uses social media to communicate with a student or select group of students for non-educational purposes;
- An adult who talks to a student about the educator's personal problems or who acts as the student's confidante;
- An adult who takes a particular student or select group of students on a special outing;
- An adult who provides snacks or food to specific children outside of classroom hours.

As the target(s) is groomed, and as the adults around them are groomed, the perpetrator gradually progresses to engaging in sexualized behaviors, sometimes using threats and intimidation tactics to keep the sexual activity secret. Often, threats or intimidation are not necessary because by the time the perpetrator makes a sexual move, the child is emotionally connected to the adult.

According to experts, behaviors are often seen in three phases :

1. Trolling and Testing. The abuser is screening for possible candidates by testing the boundaries of the student, the home environment, and the school environment. The abuser is trying to identify a vulnerable child. A child may be identified as vulnerable because he or she is unsupervised, may not have close parental relationships, may be lonely or needy, may have inappropriate boundaries, may have low self-esteem. Also, the targeted or vulnerable child may be one that the perpetrator has access to in a private setting.
2. Grooming. Some of the warning signs in this grooming phase may be nonsexual and include the offender trying to move the relationship to a personal level, telling the student their personal problems, discouraging the student from talking with other school employees, or asking the student to run personal errands.
3. Exploiting and Lulling. This phase involves manipulating the student while becoming more aggressive with abusive behaviors. This includes both sexualized behaviors and other activity that is designed to keep the sexual relationship ongoing and undiscovered. Perpetrators persuade students to keep silent, either by intimidation or threats, or by manipulating the child's affections. Secrecy protects the abuser and isolates the victim.

The phases of exploitation are directed not only at the targeted student, but at fellow staff members. Socially skilled perpetrators usually work hard at making sure that they are well-liked by staff and that the student will not be believed, even if the sexual relationship is disclosed.

III. POLICY

Educator Sexual Misconduct of any kind is strictly prohibited. The District has a ZERO TOLERANCE POLICY for Educator Sexual Misconduct.

In order to prevent Educator Sexual Misconduct, all staff, whether paid or volunteer, should demonstrate a level of professionalism and social distancing.

The following are examples of behaviors which are strictly prohibited. This is not meant to be an exhaustive list.

- Sexual abuse of a student;
- Sexual harassment of a student;
- Showing pornography to a student;
- Exposing one's genitals to a student;
- Touching a student's genitals;
- Driving a non-relative student in your personal vehicle;
- Having social media communication (Facebook, Twitter, Snapchat, etc.) with a non-relative student or group of students for non-educational reasons;
- Inviting a non-relative student for a home visit;
- Visiting a non-relative student at their home;
- Dating a student;
- Spending time together with a student outside of school or a school function;
- Sexting;
- Conducting private conversations with individual students or select students that are unrelated to school activities;
- Conversations of a sexual nature with students not related to the adult's professional responsibilities;

A. Requirements for All School Officials

All School Principals (Administrators) and/or Person in Charge shall develop policies, to be approved by the Superintendent annually, for the prevention of Educator Sexual Misconduct. Individual school policies should address, at a minimum, the following topics:

- Prohibiting classroom windows from being covered;
- Prohibiting adults from being alone with a student that is not their child;
- Requiring that all tutoring be conducted in a public location;
- Limiting one-on-one contact with students;
- Transportation to/from fieldtrips, sporting events or other school functions;
- Lodging during fieldtrips or school sponsored events;
- Guidelines for communicating with students about upcoming practice times, event times, field trips, etc.
- Guidelines and best practices for educators (such as not putting yourself in a situation where you and a student are alone; not friending students on social media; keeping all communication to email; not using a personal cell phone to communicate with students; maintaining a professional demeanor and distance; avoiding physical contact with students; never allowing a student to obsess with you, etc...).

IV. TITLE IX COORDINATOR

The District's Title IX Coordinator is responsible for monitoring and overseeing the District's compliance with Title IX and the prevention of sexual harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in School policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or third party, about District, school, and community resources and reporting options;
- Available to provide assistance to any District employee regarding how to respond appropriately to a report of a Title IX related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

Inquiries or concerns about Title IX may be referred to the School's Title IX Coordinator:

Mr./Ms.
[address]
Phone
Email

V. MANDATORY REPORTING

In conformity with Alaska Statute 47.17.020 and District Policy ALL District personnel, including volunteers are required to report any incidents of or reasonable suspicion of Educator Sexual Misconduct whether the incident occurred on or off school premises. Reports must be made to both law enforcement and the Title IX Coordinator.

A. What must be reported?

You must report Educator Sexual Misconduct which you are aware of or which you reasonably suspect. You must also report behavior by Educators which demonstrate questionable boundary invasions. These actions include, but are not limited to, those behaviors described in this policy (Some examples can be found on pages 2-3 of this policy, Sections II(A), III, and III(A). The examples are not meant to be an exhaustive list).

B. Reporting to the District

An incident of ESM or suspected ESM must be reported to the District's Title IX Coordinator. If the District's Title IX Coordinator is the alleged perpetrator of the ESM, the report should be submitted to the District Superintendent or Assistant Superintendent. Reports may also be submitted via email at [create email]. The District will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any misconduct, prevent its recurrence, and address its effects.

C. Reporting to Law Enforcement

An incident of ESM must also be reported to law enforcement or the Office of Children's Services (OCS). If a victim decides to pursue the criminal process, the District will cooperate with law enforcement agencies to the fullest extent permitted by law. If the Title IX Coordinator determines, based on the allegations, that there may be any possibility of ESM, the Title IX coordinator will immediately also contact law enforcement. The Title IX Coordinator's contact will be in addition to and not a replacement for the District staff's mandated report.

D. In case of uncertainty.

In the interest of protecting the safety and welfare of a child, any uncertainty about whether reporting is required or whether a violation has actually occurred should ALWAYS be resolved in favor of making a report. DO NOT investigate; DO NOT attempt to obtain proof; and DO NOT try to solicit information from the student or another source.

If the student you would like to report about is in immediate danger, please call 911 right away.

E. Confidentiality of Reports

Reports made directly to the State of Alaska, Office of Children's Services can be made anonymously. In order to ensure that the District gives the suspected abuse appropriate and immediate attention, employees are also required to report suspected abuse internally to the Title IX Coordinator and to local law enforcement. Reports made to the Title IX Coordinator will be handled with discretion and in cooperation with law enforcement and the Office of Children's Services.

F. Non-Retaliation.

The District prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness). The District will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator, the School Superintendent or Assistant Superintendent.

Students may be reluctant to report instances of sexual misconduct because they fear being disciplined pursuant to the District's alcohol or drug policies. The District encourages students to report all incidences of sexual misconduct and will take into consideration the importance of reporting sexual misconduct in addressing violations of the District's alcohol and/or drug policies. This means that, whenever possible, the District will respond educationally, rather than punitively to student alcohol or drug policy violations associated with reported sexual misconduct.

G. Immunity from Liability.

Under the State of Alaska Child Protection Laws, any person who makes a good faith report of suspected or known Educator Sexual Misconduct or who participates in a subsequent investigation in good faith will have immunity from civil and criminal liability that might otherwise result from such actions.

H. Failure to Report.

A failure by a District employee under this policy to report suspected or known Educator Sexual Misconduct is a violation of this policy and will result in disciplinary action, up to and including termination. Additionally, an employee who is found to have knowingly failed to report, will have any disciplinary action reported to the appropriate professional licensing board with a recommendation for additional sanctions.

I. Failure to Cooperate.

Failure of a District employee to answer questions or cooperate in the investigation of any reported or suspected incident of EMS will subject that employee to adverse employment action, including termination and reporting to appropriate licensing entities.

J. Encouraged Reporters.

Any individual(s) who, for any reason, does not fall under this policy, is nonetheless encouraged to make a report of suspected Educator Sexual Misconduct as per the directions above. Individuals who are encouraged to report are entitled to the same privileges and protections as are afforded to Employees.

K. False Allegations.

Deliberate false accusations against teachers, administrators or other school personnel are reprehensible, cause untold damage, and may constitute a crime. While the District takes all reports seriously, false accusations will not be tolerated and will result in disciplinary action by the District, up to and potentially including the filing of a criminal complaint.

VI. DISTRICT POLICY ON CONFIDENTIALITY

When the District receives a report of sexual misconduct, the victim has the right to expect the District to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to the District will be shared only with people responsible for handling the District's response to the report. Information will not be shared except as necessary for a prompt and fair investigation.

While acknowledging the seriousness of ESM, the District recognizes that a District employee is not guilty simply because an allegation has been made. To the greatest extent reasonably possible, the District will remain mindful of the alleged victim and alleged perpetrator's well-being, and will take ongoing steps to protect each from retaliation or harm. The District will work to create a safety plan while remaining impartial in its investigation and cooperative with law enforcement.

VII. INVESTIGATION PROCEDURES AND PROTOCOLS

A. Notice of Investigation

The District will inform a respondent, in writing, that a report has been filed and will describe the allegations in the report.

B. Investigation Process

The District's process for responding to, investigating and adjudicating sexual misconduct reports will continue during any law enforcement proceeding. The Title IX Investigator may need to temporarily delay an investigation while police are gathering evidence but will resume the investigation after learning that the police department has concluded its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding. The District's investigation will be conducted in consultation with the District's insurance company and legal counsel.

C. Investigation Report

The Title IX Investigator will prepare a report detailing the relevant content from interviews and all documentation gathered. The Title IX Investigator's investigation and report is intended to focus only on the facts and whether the District policies were adhered to, including policies regarding appropriate boundaries between educators and students. If, during the investigation, the Title IX Investigator discovers any information relevant to any ongoing law

enforcement investigation, the Title IX Investigator is required by law to forward such information to law enforcement immediately.

If the investigation reveals a violation or potential violation of District policy, the Title IX Coordinator will include a recommendation regarding what disciplinary action is appropriate.

Upon completion, a copy of the report will be provided to all necessary persons with the goal of maintaining as much confidentiality as possible while still protecting the rights of all involved. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purposes of Title IX or other law. The review will be coordinated with the insurance company and legal counsel.

D. Sanctions

If the Title IX Coordinator finds that District policy was violated or likely violated, he or she shall include a recommendation for sanctions in the report. As best as possible, sanctions should be:

- Fair and appropriate given the facts of the particular case;
- Consistent with the District's handling of similar cases;
- Adequate to protect the safety of the District community; and
- Reflective of the seriousness of sexual misconduct.

The Title IX Coordinator shall consider relevant factors, including, if applicable,

- (1) The specific sexual misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, showing of photos, etc.);
- (2) The circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.);
- (3) The respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent; etc.);
- (4) The impact of the offense on the complainant or victim;
- (5) The respondent's prior disciplinary history;
- (6) The safety of the District community; and
- (7) The respondent's conduct during the investigatory process.

Recommendations for sanctions may include, but are not limited to:

- Reprimand/warning
- Changing the respondent's schedule
- Disciplinary probation
- Restricting access to District facilities or activities
- Suspension (limited time or indefinite)
- Leave of Absence
- Termination

E. Time Frame for Investigation

Consistent with the goal to maximize educational opportunities and minimize disruption, the Title IX Investigator shall seek to resolve all reports in a timely manner.

The Title IX Investigator may set reasonable timeframes for required actions under this Policy. Those timeframes may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with the request by law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for school breaks or, address other legitimate reasons, including the complexity of the investigation or the severity of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the District will take immediate steps to protect both complainants and respondents pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change class schedules, withdraw from/retake a class without penalty; access academic support such as tutoring; issuing no contact orders; and changing the alleged perpetrator's class schedule or duties.

VIII. GRIEVANCE/ADJUDICATION PROCEDURES

A. Challenging Investigation Report

Within ten (10) days of receipt of the issuance of the Title IX Investigator's Report, either party (complainant and/or respondent) may contest the report and or the recommended disciplinary action by filing a written response with the Superintendent's Office. If the complainant is a minor, the complainant's parents or guardians may act on the complainant's behalf.

B. Superintendent Decision

Upon receipt of the investigator's written report and any written response thereto, the District's Superintendent (or Decisionmaker) shall issue a written opinion regarding what action is appropriate in light of the information presented. The Decisionmaker's decision will be based solely on the written submissions.

C. Appeal of Superintendent Decision

Within ten (10) calendar days of the Decisionmaker's formal written decision, either party may appeal the decision by filing a written request for appeal with the Superintendent's office. A request for appeal shall be on the form prescribed by the District and shall include, at a minimum, the following information:

1. The name, address, and telephone number of the person filing the appeal;
2. A specific and detailed statement of the basis for the appeal;
3. A statement of the relief sought.

Failure to file an appeal within the time and manner provided shall be deemed a waiver of the right to any appellate review. A request for an appeal is filed on the date it is personally delivered or, if delivered to the District by United States mail, the date of the United States Postal Service postmark stamped on the properly addressed cover in which the request is mailed.

D. Hearing Panel

Upon receipt of a proper and timely request for a hearing, the District will convene a hearing panel. The hearing panel will generally include five (5) members comprised of a combination of School Board members and District Administration employees. Panel members may participate remotely so long as the hearing room is equipped with telephone or other audio equipment that allows the panel members to hear the participants. All panelists must have received training on ESM within the previous year.

E. Written Submissions

Both the complainant (the District) and the Respondent will have the opportunity to submit written responses to the Investigation Report and other relevant information to the hearing panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel will set reasonable parameters for written submissions and hearing procedures prior to the hearing date.

F. Hearing Procedures.

The hearing will be a closed proceeding, meaning that no one other than the panel members, the complainant, the respondent, their respective advisors (which may be an attorney or lay person), witnesses (when called), and necessary District personnel may be present during the proceeding. The Assistant Superintendent will work with District staff so that any student whose presence is required may participate in the hearing. Reasonable time limits will be set in advance of the hearing.

In general, hearings will proceed as follows:

- The panel will select a chair from amongst the panel members present.
- The Chair will determine the relevance of, place restrictions on, or exclude any witness or information, subject to challenge by the remainder of the panel.
- In cases where one party opts not to participate in the hearing, the panel may still hear from the other party.
- Additional Hearing Rules:
 - o Questioning: Only the panel may ask questions of a witness.
 - o Prior Conduct Violations. The hearing panel will not consider a witness's prior conduct violations, unless the prior conduct was substantially similar to the present allegation(s), is relevant to the present allegation, and/or the information indicates a pattern of behavior.
 - The District will keep an audio recording of the hearing for the use of the panel, for sanctioning, and for purposes of appeal. Cell phones and other recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

G. Panel Determinations / Standard of Proof

The panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of District or School Policy occurred. Preponderance of the evidence means that a panel must be convinced, based on the information it considers, that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. The panel's decision must be by a majority vote, not a unanimous vote.

The panel will generally render a written decision within ten (10) calendar days after the conclusion of the hearing. The panel's decision will include an explanation of the basis for the decision. If the panel finds the respondent responsible, the matter will be set for the sanctions stage.

IX. REQUESTS FOR RECONSIDERATION OF APPEAL DECISION

Either the respondent, complainant, or victim may request reconsideration of a final determination of the hearing panel and/or sanctions. Reconsideration requests are decided by either the School Board President or Vice President.

The three (3) grounds for reconsideration are:

1. A procedural error affecting the determination or sanction; or
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; or
3. Excessiveness or insufficiency of the sanction.

Disagreement with the findings or sanctions is not, by itself, grounds for appeal.

The moving party must submit the reconsideration request, in writing, to the Superintendent's Office within ten (10) calendar days after receiving the decision of the hearing panel. If a request for reconsideration is received, the Title IX Coordinator will notify the other party that a request for reconsideration has been filed and the grounds upon which the request is based. The non-moving party may submit a written response within ten (10) calendar days of notice of the request for reconsideration.

If the Board President/Vice-President concludes that an error may have been made or that the new information may have resulted in a different determination, the matter may be remanded to the hearing panel for a new hearing. The Board President/Vice-President may request additional investigation and an updated report by the Title IX Investigator prior to the matter being heard by the panel. If multiple parties request reconsideration, each request will be considered separately.

The Title IX Coordinator will notify the parties, in writing, of the final decision. Decisions on Requests for Reconsideration will be rendered within fifteen (15) business days after receipt of the written request. All decisions are final and may be appealed to the Alaska Supreme Court.

X. OPTIONS FOR ASSISTANCE FOLLOWING AN INCIDENT OF MISCONDUCT

The District strongly encourages any victim of sexual misconduct to seek immediate assistance. Seeking prompt assistance may be important to ensure a victim's physical safety and/or to obtain medical care. The District strongly advocates that a victim of Educator Sexual Misconduct report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. However, an individual who has experienced an incident of sexual misconduct may report the incident at any time, regardless of how much time has elapsed since the incident occurred.

Victims of Educator Sexual Misconduct may file a report with the local police department, or the Office of Children's Services. Victim's may also file a report with the District's Title IX Coordinator.

Support Services Available

The District's Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their well-being. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending. Such accommodations may include the ability to alter class schedules, withdraw from/retake a class without penalty, and access academic support (e.g. tutoring). The District may be able to provide additional interim measures to victims while an investigation is pending, such as no contact orders and changing the alleged perpetrator's class schedule.

Staff and students have a responsibility not to harass alleged victims and not to prejudge a matter. ESM is a serious matter and retaliation is not tolerated by the District.

Counseling, advocacy and support services are available for victims of ESM, whether or not a victim choose to make an official report or participate in the District's disciplinary or criminal process. Personal counseling offered by the District will be limited to initial crisis assessment and referral.

Sexual misconduct crisis and counseling are available through a number of agencies located throughout the Borough, including, but not limited to:

- National Sexual Violence Resource Center – (877) 739-3895 <http://www.nsvrc.org>
- National Domestic Violence Hotline – (800) 799-SAFE (7233) <http://www.ndhv.org>
- National Center on Domestic & Sexual Violence (512) 407-9020 <http://www.ncdsv.org>
- Alaska Network on Domestic Violence & Sexual Assault (907) 586-3650
- South Peninsula Haven House (Homer) (800) 478-7712
- Kenaitze Indian Tribe (Kenai) (907) 335-7600
- Leeshore Center (Kenai) (907) 283-9479

XI. EDUCATION AND PREVENTION PROGRAMS

The District is committed to promoting awareness and preventing ESM. To that end, all District employees, School Board members and volunteers must attend training at least annually on Educator Sexual Misconduct. In addition to mandatory training, School Administrators shall incorporate educational programs into the curriculum that include an overview of the District policies and procedures; relevant definitions; prohibited conduct; a discussion

of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; a review of resources and reporting options available for students, faculty and staff; prevention of educator sexual misconduct; responsibilities of staff and students if ESM has occurred; and information about risk reduction.

Student training should be as interactive as possible and should be refreshed each year or as often as possible to include new scenarios, media accounts, and examples of inappropriate and illegal behavior. Students should be allowed to provide feedback on the training content, format, and approach. To the greatest extent possible, parents and guardians should be made aware of District policies and procedures for safeguarding children and should be invited to attend the trainings.