

National Association *of* Independent Schools

NAIS / TABS Task Force Report: Educator Sexual Misconduct

Contact me anytime...

- Debra Wilson, General Counsel
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- What do I do?
 - Legal, GR, & Governance
- A word on being an attorney...

Why a Task Force?

- Our school leaders care deeply about student safety; as a community, we want to ensure that we offer safe and nurturing learning environments
- Unprecedented number of incidents of sexual misconduct reported
- A national group of experts can bring expertise to the table that would be difficult to replicate school by school
- As national organizations, we seek to support schools in both their prevention of and response to sexual misconduct

Background/Effects of Abuse

- Guilt, shame, blame
- Low self esteem
- Intimacy/relationship issues
- Depression
- PTSD
- Chemical dependency
- Suicide
- Dissociation



Background/Assaults – United Educator Data

- More than 30% of assault claims resulted in a loss
 - 58% peer-to-peer sexual assault
 - 42% involved an adult educator – 90% of dollars paid
- 90% of claims perpetrator was a male teacher, coach, or religious leader
- 75% of claims the victims were female

Task Force Members

- Jetta Bernier, Executive Director, Massachusetts Citizens for Children
- Mike Brown, Head of School, Canton Country Day School (Ohio) (2017-2018)
- Gregg Dwyer, Director, Community and Public Safety Psychiatry Division, Medical University of South Carolina
- David Finkelhor, Director, Crimes Against Children Research Center
- Lisa Friel, Senior Vice President of Investigations, National Football League; former sex crimes prosecutor, New York City District Attorney's Office

Task Force Members Cont'

- Mike Hanas, Head of School, San Francisco Friends School (California)
- Siri Akal Khalsa, Executive Director, Northwest Association of Independent Schools; NAIS board member
- Miguel Marshall, Interim Executive Director, Independent School Health Association
- Susan Nelson, Head Emerita, The Webb Schools (California); chair of the TABS board
- Susan Perry, Assistant Head of School for Student Affairs, Ravenscroft School (North Carolina)
- Charol Shakeshaft, Professor of Educational Leadership, Virginia Commonwealth University
- Whit Sheppard, Consultant and Writer on issues of sex abuse in schools

Staffing

The Task Force was assisted by these members of the professional staff at NAIS and TABS:

- Caroline Blackwell, Vice President of Equity and Justice Initiatives, NAIS
- Myra McGovern, Vice President of Media, NAIS
- Sarah Myers, Program Manager, TABS
- Donna Orem, President, NAIS
- Peter Upham, Executive Director, TABS
- Debra P. Wilson, General Counsel, NAIS

Background/Report Process

Draft Recommendations

- Published August 2016
- Public comment period through September. Extended to mid-October
- Received close to 100 comments / suggestions from variety of constituencies
- Consulted with attorneys, insurance executives, other state and regional association leaders
- Now in final revisions.

NAIS/TABS Task Force Report

- Will raise some standards
- Will be picked up by the press
- Final report soon
- Advocates a risk management approach.



Feedback / Selected Areas of Revision

- Committee structures
- Recommendations on space review, principle of “observable and interruptible,” further contextualized to account for age of student, type of institution, and various practical realities
- The role of the Board
- Technology recommendations
- Organization

Prevention

- **Managing the Risk: Who at Your School Owns Child Safety and Protection?**
- **Policies**
- **Supervision and Training**
- **Hiring**
- **Reporting**
- **Advance Work for Responding to an Allegation of Abuse or Reason to Suspect Abuse**

Prevention/Ownership & Policies

Managing the Risk: Who at Your School Owns Child Safety and Protection?

- Can be a team, pre-existing or newly appointed
- Can be an individual

Policies

- Establish and update written student safety protocols
- Establish and maintain clear and appropriate professional boundaries between students and adults
- Employ and enforce a code of conduct for all staff and volunteers
- Periodically review the school's physical spaces
- Develop appropriate policies related to the use of technology

Prevention/Overall Review

- Identify team to manage risk
- Team identifies all child activities school engages in, supports, etc., including what kinds of adults might interact with them
- Review all policies and procedures for student interaction, oversight, particularly high risk
- Meet with stakeholders to identify particular risks, including physical plant
- Improve policies and programs, train, repeat

Prevention/Special Scenarios

- Coaches, physical therapists, etc.
- All volunteers, campus consultants, trip leaders, other third parties
 - Assistant coaches, extracurricular leaders, camps
- Contracts and insurance
- Background checks
- Supervision
- Insurance

Prevention/Online

- Conduct regarding tech communications with students (texting, emails, chat rooms)
- Social media
- Personal computers
- No porn, sexually suggestive communications, etc., while on duty and/or while using school computers, systems, etc.

Prevention/Supervision, Training & Reporting

Supervision and Training

- Create and maintain an internal reporting system for breaches of code of conduct
- Provide regular required training about preventing sexual abuse

Reporting

- Establish procedures to respond to, report, record, and track suspected cases of sexual abuse

Prevention/Ongoing Supervision

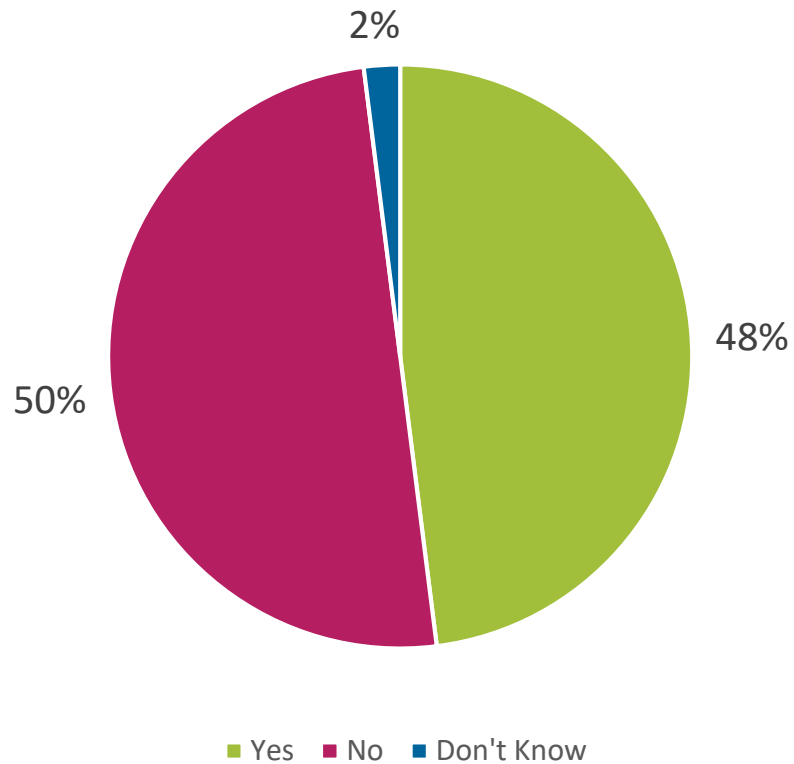
- Check-in process for tracking students
- Check-in process for feedback to adults
- Special focus on probation / early working period
- Document anything unusual, create tracking and follow up system.

Prevention/Hiring

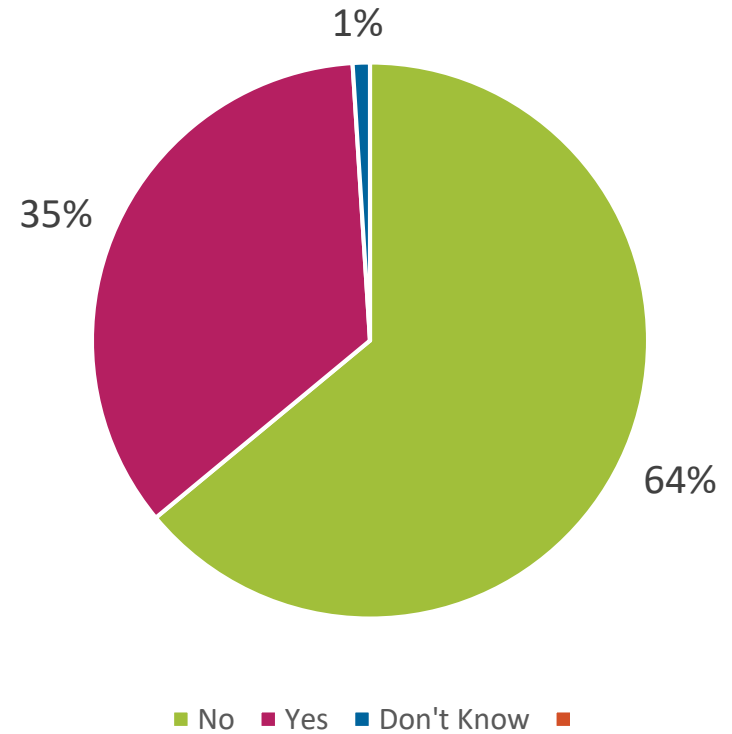
- Create overall policy
- Improve the screening of prospective employees
 - Interviewing
 - Reference checking
 - Background checks
- Develop policies for providing references and information on former employees

Prevention / Hiring Risks

Do you have a written process for hiring?

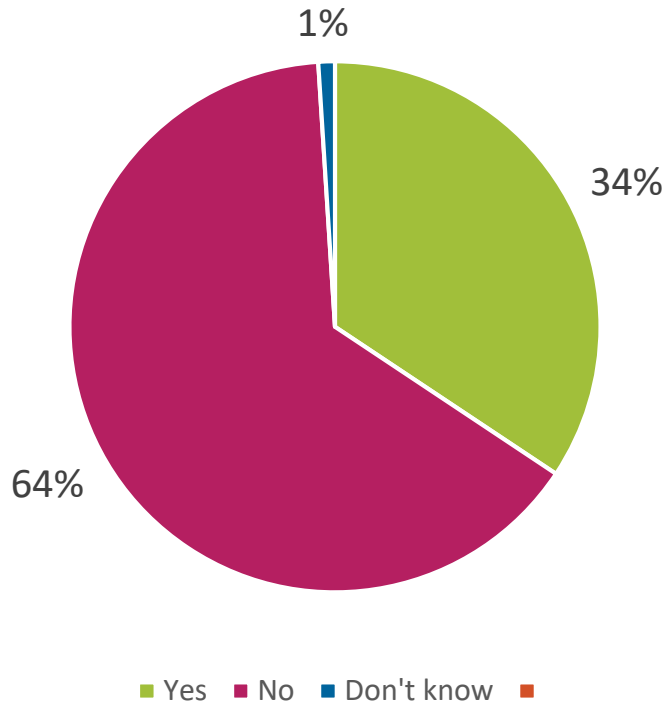


Provide effective interview training for staff?

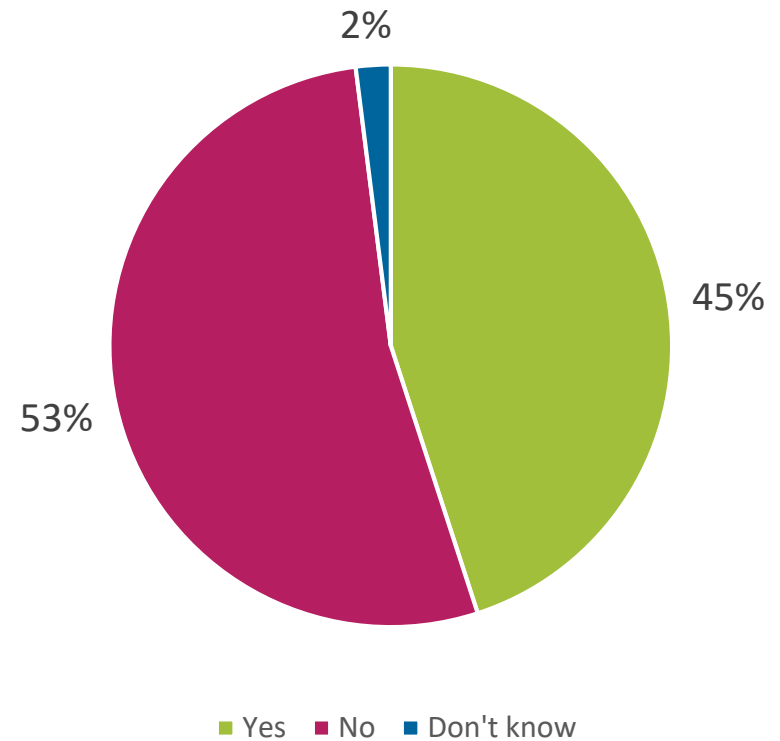


Prevention / Hiring Risks

Does your school provide reference questions that must be asked of each reference?



Policy about who in the school may provide references?



Prevention/Applicant Screening

- Prior convictions
- Pending criminal charges
- Disciplinary action by licensing org
- Removal from any position due to allegations of misconduct
- False or misleading info = discipline or termination
- **Written authorization and waiver for references**

Prevention/Interview Questions

- Why do you want to work with children?
- How would you respond if... (boundary question, colleague question, etc.)
- What about this position appeals to you?
- You have been provided with a copy of our code of conduct, do you think this will affect your teaching style?

Prevention/Reference Questions

- Do you have any concerns about this individual working unsupervised with children?
- Who else should we contact regarding this individual's history working with children?
- Have you seen this person work with children?
- Do you feel this person is mature enough to handle this position?
- This is our Code of Conduct, do you feel this will be difficult for this person to follow?

Prevention/Hiring: Things to look for...

- Gaps you cannot fill
- Frequent changes of location, particularly international
- Holes in supervisor contact information
- “Loner” mentality
- History of overly close relationships with individual students

Prevention/Advance Work on Responding

- Identify in advance a “Response Team” to respond to allegations of misconduct and abuse
- In advance, evaluate the school’s insurance policies regarding educator sexual misconduct.

Response

- **Fundamentals**
- **Initial Notification**
- **Investigation**
- **Communications**
- **Afterwards**

Response/Fundamentals

- Know and follow the law without exception
- Never dismiss an allegation as the false complaint of a troubled child
- Protect the confidentiality and privacy interests of the reporter and other potential victims

Response/Initial Notification

- Respond quickly and compassionately
- Listen and respond with empathy to the person reporting the abuse
- Activate your response team as soon as you receive an allegation
- Establish a procedure that you will follow to deal promptly and equitably with a person accused of abuse or misconduct.

Response/Investigation & Communications

Investigation

- As appropriate, retain an outside third party investigator with subject matter expertise to investigate allegations of abuse
- Conduct a prompt, equitable, and thorough investigation

Communications

- Plan how you will report on the investigation
- Communicate with transparency

Afterwards

- Help survivors heal
- Help the community heal

Working with Authorities

- If they do decide to investigate
 - Will become primary
 - Student safety driven
 - Coordinate communications so community not blindsided
 - May still do your own follow up investigation to determine what happened within your own processes
- If they don't decide to investigate
 - Then it is directly on the school to investigate
 - May trigger further reporting

Response/Communications

- Transparency is really what you need to be ready for, while protecting privacy of victims
- Single voice communications
- Letters to community
- One spot for reporting past issues
- Identification of steps school will take in terms of reporting
- Constantly circling back

Response/Older Reported Abuses

- Take report in
- Report / document
- Statutes of limitations?
- Internal documents and knowledge
- Investigation – outside expert
- Be aware of past cultural acceptance of sexual behavior
- Take steps to prep for all of above

Response/Reparations

- Counseling
- Financial
- Public support in statements
- Working with victims on school approaches and policies
- Community statements
- Follow up support, communications.

Let's Hear from You

Questions

Conflicting Advice

An alum has just contacted your school to tell you that when she was at your school she had a “relationship” with a teacher for two years. He was about 25 at the time and was only at the school during those two years. Your school attorney has worked with your school for a long time. He has told you to encourage the former student to reach out to the school where the teacher is now teaching so that the school is aware of the teacher’s past. He also told you to report the incident to your state agency, but they have said the statute of limitations has passed. Do you need to do a broader investigation? Do you send out a letter to your community about the situation?

Technology

The athletic department is rather agitated with you. You are telling them that they cannot be friends with kids on facebook and other social media platforms, and that you cannot text them individually. Is this really a problem? Is this going too far?