

School District #62 (Sooke)

SEXUAL MISCONDUCT	No.: C-318
	Effective: May 27/25 Revised: Reviewed: Mar. 4/25; Mar. 11/25; May 27/25

ADMINISTRATIVE REGULATIONS

Guiding Principles:

- Recognize there are reasons people choose not to report. The district is committed to supporting students and encourages those experiencing or witnessing sexual misconduct to make a complaint.
- Timelines shouldn't be a hindrance to reporting sexual misconduct. Victim/survivor experiences are influenced by many factors that may intersect and overlap. SD62 staff will take into account the various reasons why a student may not immediately choose to make a report.
- Recognize the serious potential impact on an individual being accused. SD62 is committed to procedural fairness and will respond to address and investigate complaints in a fair, unbiased, and timely manner.
- Where the district learns of an incident of sexual misconduct involving a student by a means other than a disclosure or complaint, the district will respond, address, and investigate in a fair, unbiased and timely manner and may take any action it feels reasonable and appropriate to:
 - mitigate harm or disruption to the school and/or district, students, and other members of the school community; or
 - protect the safety of students or any member of the school community.

Procedure:

1. Sexual Misconduct by a Student 12 Years of Age and Over

a. Process Options:

Anyone who experiences or witnesses sexual misconduct involving a student, or has reason to believe that sexual misconduct involving a student has occurred or may occur, may pursue any of the following options (or pursue more than one option simultaneously):

- make a disclosure (without a complaint) to the district;
- make a formal complaint to the district; or
- make a report to the police.

b. Reporting:

i. Initial Response:

1. When any person (including a student) reports to an employee sexual misconduct allegedly perpetrated by a student 12 years of age and over, the employee shall inform the principal or designate immediately.
2. Do not investigate the disclosure/complaint. Once a disclosure or complaint has been made, a disclosing student will not be questioned by any other school staff, nor shall any other students or staff be spoken to until specific directions are received from designated district staff or investigating police (if reported to).
3. The principal shall report an allegation to the Associate Superintendent responsible for Safe and Healthy Schools, who will assist the principal to determine the appropriate response, which may include:

- When and how to communicate with the appropriate police unit and determine if MCFD should be contacted.
 - The appropriate intervention strategy with the respondent.
 - Support to victims/survivors.
 - Notification to the District Principal, Safe and Healthy Schools.
4. Where it is determined by school district staff, police or MCFD that the respondent may pose additional threat to the victim/survivor or the educational environment, the principal may direct that person to not attend school during the course of the investigation.

ii. Notifying Parent/Guardians:

1. Notification of parents/guardians of victims/survivors should be completed as soon as possible where a principal believes a student has been physically or emotionally harmed by the sexual misconduct. Such notice shall not be given if, in the opinion of the principal, to do so would put the victim/survivor at risk of harm from the parent/guardian.
2. When notifying the parent/guardian the principal shall disclose the nature of the activity that resulted in harm, the nature of the harm and steps taken to protect the victim/survivor's safety.

iii. Reporting to Police

1. If, in the opinion of the principal and/or associate superintendent, the disclosure/complaint appears to be sexual assault, or the person reporting the sexual misconduct also chooses to report to police, the principal or designate must call the police.
2. Appropriate support for the victim/survivor shall be provided during the reporting process, which may include a:
 - social worker,
 - teacher-counsellor, or
 - staff member chosen by the victim/survivor and who agrees to participate.
3. The manner and timing of contacting the parents/guardians of the victim/survivor and the respondent will be done in consultation with the police.

Note: The *Youth Criminal Justice Act* prohibits disclosure of the identity of the respondent if under the age of 18.

4. Principal's Duties While Reporting to Police:

- a. Ensure that the associate superintendent and police are aware of the timelines (e.g. when the victim/survivor or respondent is expected at home) in order to prioritize the response accordingly. The police may also require time to make arrangements for an investigation.
- b. Inform the police of circumstances which may help in the investigation.
- c. The principal should ask the following questions when reporting to police:
 - Name and badge number of responding police officer(s).
 - How and when the parents of the respondent should be contacted?
 - Will the victim/survivor and/or perpetrator be interviewed by police?
 - Do investigators plan to come to the school or home? When?
 - Are there any directions to the school regarding the victim/survivor and/or perpetrator leaving school?

- If the victim/survivor is a child that is scheduled for child care can they be released to the child care provider? What information can be shared with the child care provider, if any?
 - What should the principal do if the parent of the victim/survivor and/or perpetrator arrives at school?
 - What information can be shared with the victim/survivor and/or perpetrator and their parent/guardian(s) if the interview has not yet taken place?
- d. If it is not apparent that an investigation has commenced within 24 hours or no assistance has been provided for the victim/survivor and/or perpetrator, it is the responsibility of the principal or designated to contact police and ascertain the status of the case.

iv. Informing the Ministry of Children and Family Development (MCFD):

1. In the event that the respondent is under 16 years of age or is a sibling of the victim/survivor who is under 16 years of age or has siblings under the age of 16 at home or is a babysitter or is in any other way in a position of authority over the victim/survivor or other children, MCFD must be contacted.
2. Document the incident(s) in accordance with policy C-410, Child Abuse, including:
 - the name, age, grade, address, and telephone number of the child;
 - the names of the parents/guardians;
 - the reasons for concern and any relevant statements made by the child;
 - the name of the employee making the call;
 - the name of the intake social worker receiving the information; and
 - time and date the call was made,

c. Investigation:

- i. Police investigation concluded or not started:

If the police investigation has concluded or was not initiated, the principal and/or associate superintendent will determine if a district investigation shall occur.
- ii. Assigning a school district investigator:

The school, in consultation with the associate superintendent, will assign a trained investigator or another qualified staff member, to conduct a thorough and impartial investigation.
- iii. Gathering Evidence:
 1. The school district investigator will interview the complainant, victim/survivor (if different from the complainant), the respondent, and any witnesses.
 2. All relevant documents will be collected, such as text messages, emails, or social media interactions and any available surveillance video will be reviewed.
- iv. Documentation:

A detailed record of all interviews, evidence, and investigative steps will be maintained.

d. Determination:

- i. Evaluation:
 1. The police will assess and evaluate evidence in alignment with all statutory and legislated requirements, the results of which shall be shared with the school district as permitted.
 2. The school district investigator will evaluate all evidence using a "preponderance of evidence" standard (i.e. whether it is more likely than not that the misconduct occurred).

ii. Report:

The school district investigator will compile a report detailing the findings and submit it to the principal and associate superintendent for review.

iii. Decision:

The principal and/or associate superintendent will determine whether the allegations are substantiated (either by police, the school district investigator or both), and decide on appropriate disciplinary action in alignment with progressive discipline as described in policy C-309, District and School Code of Conduct. Disciplinary action from the district may be in addition to any consequences imposed through the legal system.

1. Student Charged: Where a student has been charged with a sexual offense involving another student, the charged student shall not attend school pending a decision of the board's Student Review Committee under policy C-319, Student Suspension.
2. Student Not Charged: Where a student has been investigated by the police for a sexual offense involving another student, and the respondent has not been charged with an offense, the principal, associate superintendent, and District Principal, Safe and Healthy Schools shall determine if the student's conduct warrants consequences, referral to the board's Student Review Committee, or further investigation from the school district.

e. Notification of Outcomes:

- i. Notify both the complainant and the respondent, and their parent/guardians, of the investigation's outcome and any disciplinary action taken in alignment with principles of confidentiality.
- ii. If suspension for greater than five days is contemplated, action in alignment with policy C-319, Student Suspension must be carried out.
- iii. Provide information on the right to appeal as outlined in By-law 1-08, Parent/Student Appeals and policy C-350, Appeals.

f. Support for Student, Parents and Staff

In the case of criminal charges being laid, as outlined above, the Board may, under the coordination of the associate superintendent, provide appropriate support to the affected student(s) and/or school community. A critical incident response team may meet with the staff of the school as soon as possible to advise of the charges and describe a plan of action for supporting students and the school community.

2. Sexual Misconduct by a Student Under 12 Years of Age

Sexually acting-out behaviour by children under the age of 12 years is a serious problem for which there are limited outside resources and legal guidelines. It is expected that these behaviours will be addressed through the support of school/district staff, social workers, and parents/guardians.

It is not necessary to call police.

A student perpetrator under the age of 12 is under the age of criminal responsibility. Describing the sexual misconduct or misbehaviour of a child under 12 as "sexual assault" is inaccurate. Police may be consulted but the police do not have authority to lay criminal charges. Parents/Guardians may elect to call police and if they do so, the principal will cooperate fully with police.

a. Reporting:

i. Inform the Principal

1. When a staff member witnesses or receives a report of concern about sexual behaviours exhibited by a student under the age of 12, staff should inform the principal or vice-principal immediately.
2. The principal/vice-principal will determine whether the behaviour falls into the category of inappropriate, problematic, or sexually intrusive and will consult with other district staff based on that determination.
 - a. If the behaviour is sexually intrusive or there is reason to believe that abuse has occurred, consult with the Associate Superintendent, Safe and Healthy Schools.
 - b. The associate superintendent will notify the District Principal, Safe and Healthy Schools.

ii. Notify Parent/Guardians:

1. Notification of parents/guardians of victims/survivors is required, in all cases of sexualized behaviour.
2. Such notice shall not be given if in the opinion of the principal to do so would put the victim/survivor at risk of harm from the parent/guardian.

b. Investigation:

i. The principal will investigate the allegations and determine the nature of the incident as follows:

- ***Inappropriate sexual behaviour:***

- Provides no harm to self or others, is self-focused, may be spontaneous and may include sexual language or re-enactment.
- It does not require notification of any person or agency although resources may be used at the principal's discretion. The parent(s)/guardian(s) of the student(s) involved shall be contacted.

- ***Problematic sexual behaviour:***

- May cause harm to self or others, uses sexually explicit language or re-enactment, one or more incidents, usually includes touching, involves younger or same age children in sex games or aggressive sexuality, involve compulsive talking about sex or sexual activity.
- Requires consultation with the associate superintendent to determine which agency (resource person), if any, will do further investigation. The parent/guardians of any party should not be contacted until consultation with a resource person has occurred.

- ***Sexually intrusive behaviour:***

- Causes harm, is interpersonal, uses explicit sexual language or re-enactment, may spontaneous or planned, usually involves manipulation, coercion or force, touching behaviours, and compulsive talking about sex and sexual acts even after intervention.
- requires consultation with the Associate Superintendent, Safe and Healthy Schools. The acting-out student may be refused admittance to school while the investigation takes place.

ii. Procedures if the Ministry of Children and Family Development (MCFD) is involved:

MCFD must always be called if there are reasonable grounds to suspect that any child has been abused or in need of protection. If MCFD is to be called, do not contact parent/guardians of any of the parties until MCFD has been consulted.

iii. Document the Incident

1. A detailed record of all interviews, evidence, and investigative steps will be maintained.

2. Documentation of sexual behaviour problems where MCFD is involved and the children are under 12, should be prepared and maintained in accordance with Policy C-410, Child Abuse.

c. Determination:

i. Evaluation:

1. The principal/vice-principal will assess and evaluate evidence in alignment with district policies and procedures.
2. The principal may consult with the Associate Superintendent, Safe and Healthy schools and other district staff as appropriate.

ii. Decision:

The principal/vice-principal will determine whether the allegations are substantiated and decide on appropriate disciplinary action in alignment with progressive discipline as described in policy C-309, District and School Code of Conduct.

d. **Notification of Outcomes:**

- i. Notify both the complainant and the respondent, and their parent(s)/guardian(s), of the investigation's outcome and any disciplinary action taken. Any information sharing is to be done in alignment with principles of confidentiality.
- ii. If suspension for greater than five days is contemplated, action in alignment with policy C-319, Student Suspension must be carried out.
 - If it is determined that the student's continued presence in the school would be detrimental to other students, the student shall be referred to the board's Student Review Committee to determine appropriate educational programming.
- iii. Provide information on the right to appeal in alignment with By-law 1-08, Parent/Student Appeals and policy C-350, Appeals.

e. ***Safety Plan and Assessment/Treatment Agreement***

- i. In the case of either sexually problematic or sexually intrusive behaviour, the principal will meet with the parents of the acting-out student to discuss consequences and supports for changing the behaviour.
- ii. Where the behaviour is sexually intrusive the principal shall, with the assistance of a social worker or the Associate Superintendent, Safe and Healthy Schools or designate, establish a behaviour plan to support changing the student's behaviour.
- iii. The principal/vice-principal will provide information regarding available resources for both the victim/survivor and perpetrator.