

Students

Administrative Procedure - Guidelines for Investigating Sexting Allegations

Glossary of Terms

Electronic device: any type of electronic communication device, defined at 705 ILCS 405/3-40(a). It includes, but is not limited to, a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures. This includes cellular telephones (see www.thesaurus.com, listing cellular and wireless telephones as synonyms). For more discussion, see f/n 3 in PRESS procedure 7:190 - AP5, *Electronic Devices - Student Handbook*.

Sexting: a portmanteau word of sex and texting with no clear definition. It is commonly explained as the act of sending sexually explicit photos, images, or messages electronically, primarily by mobile phone or the internet. For purposes of this procedure, it also includes:

1. *Indecent visual depiction*, which means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person (705 ILCS 405/3-40(a) (enacted to provide law enforcement officials an alternative to bringing child pornography charges against minors in possession of indecent visual depictions through placing them under the supervision of juvenile courts), or
2. *Non-consensual dissemination of private sexual images*, which is a crime that is committed when a person:
 - (1) intentionally disseminates an image of another person:
 - (A) who is at least 18 years of age; and
 - (B) who is identifiable from the image itself or information displayed in connection with the image; and
 - (C) who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and
 - (2) obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and
 - (3) knows or should have known that the person in the image has not consented to the dissemination (720 ILCS 5/11-23.5, added by P.A. 98-1138).

| Actor | Action |
|------------------------|---|
| Program Administrators | Educate staff members about the procedures for Investigation and Management of Sexting Allegations (see below). Follow the Investigation and Management of Sexting Allegations. |

Investigation and Management of Sexting Allegations

This section relies upon the Program Administrators to manage several practical and legal implications when conducting sexting allegation investigations.

| Actor | Action |
|------------------------|---|
| Program Administrators | Step 1: Investigate Determine when and where actions took place. Contact parents/guardians of all students involved. |

| Actor | Action |
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| | <p>Contact the Resident District Superintendent and/or designee regarding appropriate procedures.</p> <p>Step 2: Isolate Evidence / Confiscate Device</p> <p>NEVER transfer or store depictions on personal or school electronic devices to minimize accusations of possession of child pornography. (See 720 ILCS 5/11-20.1 <i>et seq.</i>, 720 ILCS 5/11-23.5, added by P.A. 98-1138 (provides an exception on transfer of an image for a lawful purpose), and 18 U.S.C.§§2251, 2252, and 2252A). Also see the U.S. Dept. of Justice’s Child Exploitation and Obscenity Section discussing child pornography issues, available at: www.justice.gov/criminal/ceos .</p> <p>Follow board policy 7:140, <i>Search and Seizure</i> and 7:150-AP, <i>Agency and Police Interviews</i>.</p> <p>Step 3: Follow the reporting requirements of Board policy 5:90, Abused and Neglected Child Reporting, when applicable</p> <p>A <i>sexted</i> image may constitute child abuse depending upon the visual depiction or image, the ages of the individuals involved, and other circumstances. See 325 ILCS 5/3 and 705 ILCS 405/2-3 (2) which includes sex offenses defined at 720 ILCS 5/1-1 <i>et seq.</i> School personnel are granted broad immunities against civil and criminal claims for filing reports in good faith, even if the report is unfounded. In contrast, school personnel who willfully fail to report may be guilty of a Class A misdemeanor (325 ILCS 5/4) and face suspension of their teaching certificates (105 ILCS 5/21B-75).</p> <p>Step 4: Determine appropriate disciplinary actions for all students involved in the incident</p> <p>Evaluate disciplinary options. Remember that a student who forwards sexts of himself or herself likely expected the depiction to remain private. As a result, consider the social stigma, bullying, harassment, and severe embarrassment issues involved in the issue.</p> <p>Provide an equivalent discipline to all students involved in the creation, dissemination and storage of the sexted image, whenever possible.</p> <p>Step 5: Prepare a plan to prevent harassment and bullying of involved students</p> <p>Remind the students and their parents/guardians of the Board policies 7:20, <i>Harassment of Students Prohibited</i>; 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>; and 7:185, <i>Teen Dating Violence Prohibited</i>.</p> <p>Instruct involved students not to harass anyone involved in the sexting incident and keep the issues confidential.</p> <p>Involve therapeutic staff in the process to assist students with emotional and behavioral needs.</p> <p>Follow 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>, for students who violate the policy.</p> |

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