

Governing Conduct & Keeping School Communities Safe

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thanks for having me

- **NAIS & my role: legal education & support**
 - 1:1
 - Publications: on the NAIS website, in the Bulletin (Legal News You Can Use/The Legal Tip of the Week)
 - Webinars: including the Trend Report; online recordings
- **Today's session**
 - To keep us all thinking about who's conduct we govern, when, and how
 - Questions are encouraged, and I likely don't have the answers



saturday night

One Saturday night, a student who attends your school (School A or SA) has a party while their parents are out of town. At the party, other SA kids are there drinking. Two of the kids in attendance, Alex and Pat (both SA kids), start making out in front of everyone, and then they go into a bedroom. What happens after that is unclear.

The following week, you get a call from Pat's parent, saying that Alex sexually assaulted Pat in the bedroom during the party. What's next? (consider your role at the school and then answer as a head of school)

Pat's parent now calls the head of school and demands that that SA report this to the police. What should the head do/how to respond?



considerations

- Do you have any mandatory reporting obligations?
- What do your policies say?
 - Do you have jurisdiction?
- Do you do an investigation?
 - Internal or external investigation?
 - Do you have an investigations policy?
 - Does it require compliance?
 - Does Alex (the accused) have a lawyer?

considerations

- Do you have police permission to investigate?
 - Do not obstruct justice
 - Consider a police liaison
- Are interim measures needed?
- Ensure that any investigation report includes findings of fact
 - Think in advance about what you will do with different outcomes

the following week

Pat and Pat's best friends start a social media campaign against Alex. They claim Alex is a rapist. Alex's parents call the school and say their child is being bullied online.

Separately, Pat's parents call and say Pat does not feel safe at school when Alex is there. Assume no criminal investigation has concluded. Pat's parents are irate that Alex was permitted to attend school after Pat's allegation, and they go on Facebook and announce that your school is committed to protecting sexual predators.



considerations

- What do your policies say?
 - Social media
 - Parent comportment
 - Interim measures during investigations
- Do you do an investigation?
- Consider how policies could be in conflict
 - Do a jurisdictional audit
 - Does your board understand your jurisdictional philosophy?

meanwhile, down the hall . . .

Kit, a sophomore, is in crisis. She is dealing with her parent's divorce and she is really confused about her sexuality. She views her English teacher, Ed, as a friend and parent-like trusted confidant and decide to share these struggles. Ed has a deep well of empathy and really wants to help. Ed shares the story of his own parent's divorce, including details of his therapy and the custody dispute and tries to guide student as they explore these identity struggles.

Thoughts on Ed's actions?



considerations

- Boundaries
 - Training/education, ongoing communication
 - 1:1 support
 - There are so many issues that are not sexual. Some may be pre-sexual (grooming) but many are not predatory at all. But still a problem
- Policies
 - Texting
 - Social media
 - 1:1 time/boundaries

and then ...

You also work at the school and you are good friends with Ed's wife, Mary. Mary invites you over for wine one night and confides in you that Ed and Kit text nightly and Ed has also invited Kit over to dinner at the house. Mary explains that she loves how caring her husband is, but she finds it to be a little odd. She tells you that she is telling you as a friend, and she's not really concerned about anything, and she begs you not to tell anyone.

What do you do?



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considerations

- Boundaries policies/communications for bystanders
- Notice
- Standard of care
 - Best practices



new hire

You have a great new candidate, Ellie, for your open math teacher position. When asked for references, Ellie gives you a friend, her aunt, and a family she used to babysit for. She asks you not to contact her current school employer because it will jeopardize her position there if she doesn't get this job.

What do you do?



a new school year

Ellie starts work and a parent comes forward with a very serious claim that Ellie touched a student inappropriately and also shares that the parent heard Ellie was fired from her last school for the same reason. The parent is considering bringing a claim against the school.

You go back through the hiring documents. What do you hope to see?



other things to think about

- When the head or head's family is involved
- Vendors
- New students
- Employee harassment



Don't miss these NAIS resources!

- Register for upcoming NAIS events | <https://www.nais.org/events/>
- Save the Date: People of Color Conference 11/29-12/3 | <https://pocc.nais.org//>
- Get the brand-new NAIS *Trendbook* | nais.org/bookstore