

**MILFORD SCHOOL DISTRICT
Milford, DE 19963**

Policy

5312

**RESPONDING TO SCHOOL TEEN DATING VIOLENCE AND SEXUAL
ASSAULT**

This Policy applies to all employees of the Milford School District. Training of the Policy applies to Administrators, School Nurses, and School Counselors.

The Milford School District (hereinafter referred to as “The District”) recognizes that safe learning environments are necessary for students to learn and achieve high academic standards. The District strives to provide safe learning environments for all students.

The Superintendent shall ensure that all requirements of 14 *Del. C. § 4112E* in regards to School Teen Dating Violence and Sexual Assault are included in the Student Code of Conduct and are reviewed annually and updated as needed.

Adopted: 1/26/15

Responding to Teen Dating Violence and Sexual Assault Policy

Definition: The following words, terms, and phrases, when used in this Policy, shall have the meaning ascribed to them except when the context clearly indicates another meaning:

- a) “Sexual Assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim, or a perpetrator who is known by the victim, or related to the victim by blood, marriage, or civil union. Behaviors that fall under this definition include, but are not limited to:

Sexual harassment as defined by Title 11, § 763;

Sexual contact as defined by Title 11, § 761;

Sexual intercourse as defined in Title 11, § 761;

Sexual penetration as defined in Title 11, § 761 and child abuse as defined in Title 10 § 901.

- b) Teen dating violence means assaultive, threatening, or controlling behavior, including but not limited to, stalking as defined in Title 11, § 1312, that one person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships and in serious casual relationships.

Although this Policy is established to comply with Title 14, § 1312E, School Teen Dating Violence and Sexual Assault Act, it also overlaps with Title 14 § 1312, Reporting School Crimes. The following mandatory and non-mandatory reporting protocol is as follows:

A) *School Crimes:*

Title 14 § 4112 requires an immediate report and shall be made by the school principal or designee to the appropriate police jurisdiction when a school employee has reasonable suspicion that one of the following offenses occurred:

A student suffers a violent felony offense, unlawful sexual contact, or an assault that is not sexual in nature. Also a mandatory reporting is required if the school employee commits any violent felony, assault in the third degree or any sexual offense against a student regardless of where the incident takes place. This offense also requires an immediate report to Division of Family Services. Any school employee who witnessed or who has knowledge of the incident shall also report it.

B) *Sexual Violence:*

Any abusive sexual behavior that is committed against a minor or an adult, regardless of where the incident took place, must immediately be reported to Division of Family Services. However, if a student, 18 years of age or older, is a victim of sexual violence that occurs outside the school environment, then the incident does not require a mandatory report (unless the perpetrator is a school employee). Law enforcement should also be contacted in cases of sexual violence. This reporting requirement must be made by any school employee who

witnessed or was given information about the incident.

C) *Teen Dating Violence:*

In general, teen dating violence is not a mandatory report except under certain circumstances. These circumstances include:

- a) Violent Felony in the school environment:
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- b) Assault III in the school environment:
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- c) Unlawful Sexual Contact III in the school environment:
 - An immediate report shall be made by the school principal or designee to the appropriate police jurisdiction.
- d) Abusive Sexual Behavior Against a Minor regardless of where the incident occurs and Abusive Sexual Behavior against a student 18 years of age or older in the school environment:
 - An immediate report shall be made to the Division of Family Services. Law Enforcement should also be contacted.
- e) Threats of Harm to Self or Others:
 - An immediate report shall be made to the appropriate police jurisdiction.

D) *Responding to Teen Dating & Sexual Violence:*

This protocol is intended for teen dating violence situations that occur (in the school environment or outside the school environment) and do not require a mandatory report to Division of Family Services or law enforcement.

- a) Any school employee who learns that a student may be a victim of teen dating violence not requiring a mandatory report shall take the following steps:
 - 1) Separate the victim from the alleged perpetrator. Do not, under any circumstances, meet with the victim and alleged perpetrator together.
 - 2) Refer to the Student Code of Conduct based on the behavior but consider additional responses, such as providing outside resources to the student.
 - 3) Refer the victim to the counselor in the school for services and safety planning.

E) *Any counselor in the school who learns from another school employee that a student may be a victim of teen dating violence not requiring mandatory reporting shall take the following steps:*

- Inform the victim of school and community resources as needed, including their right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Monitor the victim's safety as needed. Assist the victim with safety planning for the school day and for after school activities.

F) *Protocol for Responding to Teen Dating Violence When Mandatory Reporting is Required:*

Any school employee who learns that a student may be a victim of teen dating violence requiring mandatory reporting shall take the following steps:

- Separate the victim from the alleged perpetrator. Do not, under any circumstances, meet with the victim and alleged perpetrator together.
- Report mandatory reporting incidents to the appropriate police jurisdiction. Division of Family Services must also be notified if sexual violence occurs in the teen dating relationship. The School Resource Officer may also be notified, if applicable.
- Refer to the Student Code of Conduct based on the behavior, but consider additional responses, such as providing outside resources to the student.

Protocol for Responding to Sexual Violence – Where Mandatory Reporting is not Required.

Mandatory reports are required in all instances of sexual violence except for when a student, 18 years of age or older, is a victim of sexual violence that occurs outside of the school environment (unless the perpetrator is a school employee). This protocol is intended for those instances that ***do not*** require a mandatory report.

Any school employee who learns that a student, 18 years of age or older, may be a victim of sexual violence not requiring mandatory reporting shall take the following steps:

- Separate the victim from the alleged perpetrator. Do not, under any circumstances, meet with the victim and alleged perpetrator together.
- Refer to the Student Code of Conduct based on the behavior, but consider additional responses, such as providing outside resources to the student.
- Refer the victim to the Counselor in the school for services and safety planning.

Any Counselor in the school who learns from another school employee, that a student may be a victim of sexual violence not requiring mandatory reporting, shall take the following steps:

- Inform the victim of school and community resources as needed, including the right to access advocacy and counseling services, file charges, or seek legal protection, such as a Protection from Abuse Order.
- Encourage the victim to seek medical attention. The victim will not be responsible for out of pocket costs by obtaining a Sexual Assault Exam.
- Monitor the victim's safety as needed. Assist the victim with safety planning for the school day and for after school activities.

Protocol for Responding to Sexual Violence - Mandatory Report Required.

- Regardless of where the incident takes place, any abusive sexual behavior against a minor by another minor or adult requires an immediate report to the Division of Family Services. This should also be reported to the appropriate police jurisdiction.
- Any school employee who learns that a student may be a victim of sexual violence requiring a mandatory report shall take the following steps:
 - Separate the Victim from the alleged perpetrator. Do not under any circumstances meet with the victim and alleged perpetrator together.
 - Report incidents that fall under the mandatory reporting obligation to the appropriate police jurisdiction and Division of Family Services when appropriate and notify the School Resource Officer if applicable.

The School Administrator or Designee Shall Take the Following Steps:

- Speak with the victim and alleged perpetrator separately if approved by the investigating agency. The alleged perpetrator should be told that any statements made may be part of any future discipline or delinquency or criminal proceeding.
- Speak with bystanders/witnesses who may have been present or involved.
- Administer disciplinary consequences to the alleged perpetrator per the Student Code of Conduct regarding this type of behavior when appropriate, including but not limited to making a disciplinary referral and a counseling referral.
- Inform the victim of his/her right to file a Protection from Abuse Order or school-based complaint of sexual harassment, dating violence or sexual violence with any counselor or administrator. Support the victim in documenting the incident.

- Contact the parents/guardian of the victim and the alleged perpetrator to inform them that an incident of dating violence or sexual violence is being investigated.
- Document actions taken.

Working with Victims:

- Safety is and always will be the primary focus of concern;
- Identify action to be taken to insure safety and ability of this victim to participate in school without fear of intimidation. Include the victim in determining safety precautions.
- Inform parents/guardians of school resources as needed. These include but are not limited to: right to access advocacy and counseling services, file charges or seek legal protection, such as a Protection from Abuse Order.
- Encourage victim to seek medical attention if needed.
- Encourage victim to report further incidents.
- Inform the victim of his/her right to request an in-school Stay-Away Agreement or another school based alternative to a Protection Order.
- If sexual harassment is involved, inform the victim of his/her right to file a complaint of sexual harassment directly with the Title IX Coordinator.
- Monitor the victim's safety.

Administrators May Advise the Victim of His/Her Right to Have a Support Person Present During All Stages of the Investigation.

Protocol for Working with the Alleged Perpetrator:

- Conference with the alleged perpetrator and parent/guardian.
- Tell alleged perpetrator that any statements made may be part of future disciplinary, delinquency or criminal proceedings.
- Emphasize expectations for positive behavior.

- Identify and implement disciplinary and other actions and consequences that will be taken to prevent further incidents.
- Discuss implications of Stay-Away Agreement, school-based alternative to a Protection from Abuse Order.
- Inform perpetrator's parent/guardian regarding the support available at school or in the community as needed.
- Address the seriousness of retaliation against the victim for reporting the incident or cooperation with the investigation. Inform the alleged perpetrator that retaliation or threats of retaliation in any form intended to intimidate the victim or those who are witnesses, or those investigating an incident shall not be tolerated.
- Consider increased supervision of the alleged perpetrator.
- Document the meeting and any action plans in place.

Documentation of Incidents:

The School Administration or Designee Shall:

- Maintain teen dating and sexual violence complaints in a file separate from academic records.
- The documentation of teen dating and sexual violence shall include the following:
 - Obtain through investigation of the facts regarding: who assaulted who; date, and time; where the incident occurred; names of those present, witnesses and other victims.
 - The victim and alleged perpetrator information including class schedules, group and club memberships, and school activities.
 - Disciplinary and accommodations recommendations.
 - Response actions taken, including safety planning, referrals for services and counseling and disciplinary actions and:
 - Incident updates, including responses to disciplinary action, alleged perpetrator compliance, utilized of referrals for services, review of safety plans, and takes reports from the victim, including further referrals for services.

Confidentiality

School Counselors, Mental Health Providers, Medical Professionals

- Maintain confidentiality of all information acquired in a professional capacity except in the following situations: a student communicates an explicit and imminent threat to kill or seriously injure a clearly identified victim or victims including themselves or any suspicion of child abuse.

Other School Employees Including Teachers and Administrators

- Once any school employee knows or reasonably should know of possible sexual violence of a minor, the school employee must take immediate and appropriate action to explore the incident and keep the student safe.