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Administrative Procedure - Guidelines for Investigating Sexting and Sextortion Allegations

Establishing procedures with local law enforcement agencies and State’s attorneys to investigate allegations of sexting protects the District, its staff and its students from the broad legal implications that sexting and sextortion allegations present. This administrative procedure contains three sections:

1. Glossary of Terms
2. Preparation of Guidelines for Investigating Sexting and Sextortion Allegations
3. Investigation and Management of Sexting and Sextortion 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 7:190 - AP5, Student Handbook – Electronic Devices.

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. It also includes:

1. Indecent visual depictions, which under the Juvenile Court Act 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 for 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 under the Criminal Code of 2021 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 engage 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).

3. Any minor under age 17 who knowingly electronically transmits materials depicting nudity or other sexual conduct is subject to a Class B misdemeanor, punishable by up to 6 months in jail and a $1,500 fine. If you are under 17 and you knowingly request another minor to sext for you, you can be charged with a Class A misdemeanor, punishable by up to one year in jail and a $2,500 fine. If you post the image on the internet or a website for at least 24 hours with the intent of injuring another’s reputation or causing emotional distress. The charge stiffens to a Class 4 felony, punishable by imprisonment for 1 to 3 years.

4. In Illinois, a person commits the offense of child pornography by videotaping or photographing anyone he or she should know is under the age of 18 and who is engage in any sexual act or in any pose involving lewd exhibition of unclosed or transparently clothed genitals, pubic area, buttocks, or female breast.

5. There is no exception for taking pictures of oneself. Thus, a 17-year-old who snaps his or her own picture has technically created child pornography, a Class 1 felony with a mandatory fine of between $2,000 and $100,000 and at least four years in prison.

Sextortion: a portmanteau word of sex and extortion with no clear definition. Sextortion is extortion with a twist. Instead of extorting money or materials goods from a victim, a sextortionist extracts sexual favors from the victim or entices them to send lewd photos of themselves by using intimidation, fear, and blackmail. 720 ILCS 5/11-20.1(4).
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**Preparation of Guidelines for Investigating Sexting and Sextortion Allegations**

This section identifies best practices to create guidelines for investigating sexting and sextortion allegations at the District-wide level. The Superintendent should discuss this procedure with local law enforcement agencies and State’s attorneys to minimize the potential legal implications for students and administrators that managing sexting and sextortion in school present. Customize the procedure to each District’s specific needs.

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| Superintendent or designee | Convene a meeting with the Board attorney, local law enforcement agencies, and State’s attorney to determine best practices and procedures for investigating sexting and sextortion in the District. Use the Investigation and Management of Sexting and Sextortion Allegations section (see below) as a template for discussion at the meeting and customize it to meet local considerations as necessary. Ask the Board attorney to provide direction about searching student owned electronic devices in Step 2: Isolate Evidence / Confiscate Device in the Investigation and Management of Sexting and Sextortion Allegations section (see below).


Identify and list all State’s attorneys and local law enforcement agencies with jurisdiction over the District’s boundaries. Provide this list to all Building Principals in the District.

Provide the local State’s attorney offices and law enforcement agencies with an annual list of school buildings and the names of each building’s administrators that are located within their jurisdictions.

Invite local State’s attorney offices and law enforcement agencies to meet with District school officials to provide input on how the District should manage sexting and sextortion.

Add an agenda item about sexting and sextortion to a Parent Teacher Advisory Committee meeting (see policy 2:150, Committees). Include information from discussions with State’s attorneys and local law enforcement about the issue. Discuss local considerations for:

1. Disciplinary actions and consequences in response to sexting and sextortion; and
2. Sexting and sextortion education and prevention efforts.

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<td>Building Principals</td>
<td>Educate building staff members about the procedures for Investigation and Management of Sexting and Sextortion Allegations (see below). Follow the Investigation and Management of Sexting and Sextortion Allegations.</td>
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Investigation and Management of Sexting and Sextortion Allegations

This section relies upon the Building Principal or designee to manage several practical and legal implications when conducting sexting and sextortion allegation investigations.

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| Building Principal or designee | Step 1: Investigate
Determine where actions took place.
Contact parents/guardians of all students involved.
Contact the Superintendent and request permission to contact the Board Attorney.
Step 2: Isolate Evidence / Confiscate Device
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 et seq. 720 ILCS 5/11-23.5 (provides an exception on transfer of an image for a lawful purpose), and 18 U.S.C.§§2251, 2252, and 2252A). Also see the DOJ’s Child Exploitation and Obscenity Section discussing child pornography issues, at: |
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<td><a href="http://www.justice.gov/criminal-ceos">www.justice.gov/criminal-ceos</a>.</td>
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<td>Contact the Board Attorney for guidance to determine whether to involve local law enforcement or manage the situation within the District’s disciplinary policy. See Joshua D. Herman, Criminal Law. Sexting: It’s No Joke, It’s a Crime. Illinois Bar Journal, Volume 98, No. 4, P. 192 at fn 42 (published April 2010), at: [<a href="http://www.isba.org/ibj/2010/04/criminallaw">www.isba.org/ibj/2010/04/criminallaw</a>](<a href="http://www.isba.org/ibj/2010/04/criminallaw">http://www.isba.org/ibj/2010/04/criminallaw</a>], (quoting an attorney in the Illinois Attorney General’s High Tech Crimes Bureau who advises school administrators to immediately confiscate devices with such material on them and report the incident to law enforcement immediately, stating that possession of a sext message that is child pornography is no different than possessing a “kilo of cocaine.”)</td>
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<td>Follow board policy 7:140, Search and Seizure and 7:150-AP, Agency and Police Interviews.</td>
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<td>Follow the Board Attorney’s direction regarding searches of student owned technological devices. See Preparation of Guidelines for Investigating Sexting and Sextortion Allegations (above).</td>
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<td>Step 3: Follow the reporting requirements of Board policy 5:90, Abused and Neglected Child Reporting, when applicable</td>
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<td>A sexted 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 et seq. 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 or revocation of their licenses, endorsements, or approvals (105 ILCS 5/21B-75, amended by P.A.s 101-531 and 102-552).</td>
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<td>Step 4: Determine appropriate disciplinary actions for all students involved in the incident</td>
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<td>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.</td>
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<td>Provide an equivalent discipline to all students involved in the creation, dissemination and storage of the sexted image, whenever possible.</td>
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<td>For situations that may require unequal punishment, contact the Superintendent so that he or she may consult the Board Attorney.</td>
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| Building Principal or designee | **Step 5:** Prepare a plan to prevent harassment and bullying of involved students. Remind the students and their parents/guardians of the Board policies 7:20, Harassment of Students Prohibited; 7:180, Preventing Bullying, Cyberbullying, Intimidation and Harassment; and 7:185, Teen Dating Violence Prohibited.  
Instruct involved students not to harass anyone involved in the sexting incident and keep the issues confidential.  
Consider involving the social worker or school counselor, if available, in the process to assist students.  
Follow 7:180, Preventing Bullying, Cyberbullying, Intimidation and Harassment, for students who violate the policy. |

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