

# Limits to Confidentiality When Reporting Sexual Harassment

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# Content Warning

**\*\*SASH Club Power Topics may include sensitive content that may be difficult to present and may possibly be triggering to some participants.\*\***

**You may want to seek the support of an ally during this presentation, especially if you're a survivor of sexual violence.**

# What's Ahead:

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**This SASH Club Power Topic will help you understand your options for controlling who knows about your incident, report or complaint of sexual harassment or assault, and when they have access to your specific information:**

- Your legal status at school
- When you need advice but must also have privacy
- When you share your information with a school counselor
- When you share your information with a teacher or staffer
- About the police
- What can I do if I am sexually assaulted?
- What can I do if I experience or witness sexual harassment?

# A few definitions

**Disclosure (noun):** the act of making new or secret information known

**Legal adult (noun):** a person who has reached the age of majority – age 18 in the USA – able to consent and enter into contracts on their own behalf

**Minor (noun):** a person under the age of full legal responsibility

**Mandated reporter (noun):** someone who comes into contact with children as a part of their employment or profession and is required by law to report suspected child abuse and possibly child-on-child sexual misconduct to a state agency or to law enforcement.

**Policy (noun):** a course or principal of action utilized by an individual or an organization

# Your legal status determines how your report is shared at school

## > If you are under age 18:

- School will follow state law & district policies about disclosures
- State mandatory reporting requirements could apply -- most school staff and teachers are mandated reporters

## > If you are 18 or older:

- Laws and policies about disclosure don't apply; you have more control over when and how information is shared

## > School Policies:

- Include Title IX obligations (for schools receiving federal funds) to investigate incidents of sexual harassment and other forms of sex discrimination
- State childhood sexual assault laws apply to all schools: public, private and parochial

# Option #1: You need advice but must also have privacy

- > Use a “hypothetical” case -- tell a trusted adult that you want to help “a friend” who is being harassed:
  - Describe the problem as if it were your friend’s
  - Do not give identifying information about the harasser
  
- > This approach allows adults to talk with you about options for help without triggering an investigation or any required disclosures because you have not provided specific personal information

## Option #2: You share your situation with a counselor

- If your school has them, choose to speak with an intervention counselor, staff from the school health center, or an academic counselor -- they can:
  - Answer your questions about the reporting process
  - Help you to prepare for each conversation that you or they consider necessary
  - Role play with you until you feel ready to confront the harasser effectively or involve your parents/guardians, or report to the school
  
- If the counselor thinks you can take care of the problem with their help, they may be allowed to keep your information confidential in many situations

## Option #2: When information is shared with a counselor

- Examples where a counselor must involve a parent/guardian, administrator or other adult:
  - Even with the counselor's help you can't get the harasser to quit
  - When the harasser is harming other students, too, or is likely to do so
  - When there's a big power or age difference involved (e.g. senior/freshman or teacher/student)
  - They believe you are so upset you might harm yourself or someone else
  - If you tell them that you are being (or have ever been) physically, sexually, or emotionally abused (typically by an adult)
  - If the harassment involves criminal battery or assault, or sending or possession of sexually explicit images of people under 18 years of age

# Option #3: You share your situation with a trusted teacher or other school staff

- > **Must always be informed:**
  - An administrator (dean of students, principal, etc.)
  - The school district's Title IX coordinator
- > **Almost always will be informed:**
  - A parent or guardian
  - The person who harassed you
- > **Sometimes will be informed:**
  - The police, when the harassment is a crime such as battery, assault or sexually explicit images of yourself or another minor
  - Your teachers and school safety officers so they can follow a safety plan to protect you from further interactions with the harasser
- > **Should never be informed:**
  - Other members of the school community

## Option #4: You share your situation with a community advocate

- 1 Call a local nonprofit sexual assault response organization using [RAINN's interactive form](#). Many certified advocates are not mandated reporters. When you call the organization do not give your last name. Ask: "Are your advocates mandatory reporters?" "Do you serve minors without parental permission?" If they are not mandated reporters, your conversations are confidential.
- 2 Advocates can help victims talk to their parents or other adults. Often advocates will first talk to parents or other adult allies to make sure they know how to respond appropriately to their child.
- 3 You can speak in hypotheticals, saying, "This happened to a friend of mine."
- 4 If you are unable to continue your education free from sexual harassment/abuse and hostility because your school is unhelpful, advocates can help create a safety plan for school or help you transfer to another school if desired.
- 5 A sexual assault or other youth organization can connect you with a counsellor. If privacy is an issue, confirm that the counsellor is NOT a mandatory reporter.

# About the police

## Part 1

- > When your report involves a crime, like criminal battery, assault, or explicit sexual images, whoever you tell is obligated to inform the police
- > The police report is confidential. Without a court order it is not revealed to anyone aside from yourself or your parent/guardian (if you are under age 18).

# About the police Part 2

- > If your school has a School Resource Officer (SRO) and you want to know more about the potential consequences of reporting your situation you can ask the SRO if you can speak hypothetically:
  - You can say: “How would you approach a case in which...?” and fill in the details without giving any identifying information
- > Remember that the SRO’s answer may change if the facts change over the course of an investigation

# About the police Part 3

- Law enforcement will take a more active role in certain situations:
  - When a victim or their parent/guardian wants the matter to be prosecuted as a crime
  - If there are multiple victims and any one of the victims or their parents/guardians want the matter prosecuted
  - If the police have prior reports of similar behavior by the same perpetrator (which they will not be able to tell you about for confidentiality reasons)
  - If there are other aggravating circumstances, such as the harasser being 18 years of age or older, or if there is a big age difference between the harasser and the victim

# Talk About It



- Why is controlling your information important?
- Does using a hypothetical (asking “for a friend”) feel like something you would do? Why or not?
- Does educating peers about confidentiality options in reporting feel like something that would be impactful here at school? Why or not?
- Do you have additional ideas to help students understand how their information is shared when they report an incident of sexual harassment or assault?

# Do More:

- Role play a situation to build skill in communicating with others about how to use a hypothetical (ask “for a friend”) to get advice from a mandatory reporter and/or community advocate
- Develop a one-page chart to show options for getting help without reporting an incident and how information is shared with others when a report is made. Can this be included in the student handbook or planner?
- Identify the school Safety Officers and talk with them about how they support students who report sexual harassment and assault
- Everyone in the room shares one thing they learned today and one thing they will commit to doing to move forward

# Learn More

- **Review your school's policies & administrative regulations (procedures) for:**
  - Reporting sexual harassment or assault
  - Conducting an investigation into a report or complaint
  - Creating a safety plan for students who experience harassment or assault
  
- **Talk with your Principal, Dean of Students, or counselor about their practices at the school to support students while an investigation is underway**

# Sources & Acknowledgements

Shout out to Margit Roos-Collins, JD, a Berkeley Unified School District parent, for her research on the legal limits of confidentiality options for students reporting sexual harassment or assault at school

# To Do Immediately if Sexually Assaulted

- > Get away from the attacker to a safe place as fast as you can.
- > Then call 911 or the police.
- > Call a friend or family member you trust.
- > You can call a crisis center or hotline to talk with a counselor.
- > One 24/7 option, for all genders, is the Rape, Abuse & Incest National Network (RAINN) National Sexual Assault Hotline at 800-656-HOPE(4673).
- > RAINN will connect you with a rape crisis center in your area.
- > Visit the [Survivor Support page](#) for more helpline options and details.

# To Do Immediately if Sexually Assaulted

- > **Preserve the evidence, even if you are unsure you will report.**
- > **Do not:**
  - Wash, comb your hair, or clean any part of your body
  - Brush your teeth
  - Change clothes, if possible, so the hospital nurse can collect evidence
  - Touch or change anything at the scene of the assault
- > **Seek medical attention ASAP at your nearest hospital ER:**
  - You need to be examined, treated for any injuries, checked for possible sexually transmitted infections (STIs) or pregnancy, and can receive preventative medicine.
  - The nurse or doctor will collect evidence the attacker may have left behind.
- > **Ask hospital staff to connect you with a local rape crisis center.**

# If You are Sexually Harassed

**It isn't your fault... and you can get help to make it stop.**

- Reach out ASAP to a friend, school counselor or trusted adult for immediate safety & support to bring the issue to your Dean of Students, Principal, or Title IX Coordinator.
- Confidential National Sexual Assault Hotline: 1-800-656-4673  
[www.rainn.org](http://www.rainn.org)
- Learn about your rights and how to take action on the [Stop Sexual Assault in Schools website](http://StopSexualAssaultinSchools.org)

# Feedback & Suggestions:

SASH Club welcomes your feedback and suggestions on the content of this presentation. Contact us via:

Web: [www.sashclub.org](http://www.sashclub.org)

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> Contact an adult advisor with your questions or concerns about local issues.



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