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Article

Why a passive approach to safeguarding isn’t enough

Lindsey Fyfe • May 07, 2023

A school’s duty of care and what it encompasses

Educational institutions have a duty of care to their students to protect them from harm whilst they are in their care. Mandated reporting obligations in relation to sexual abuse – that is the requirement to report the facts and circumstances that led them to suspect that a child had been abused or neglected – must be taken very seriously by educational institutions.

A school’s obligations to their students’ wellbeing extends to outside of campus, too; what if one of their students is harmed outside of school or college? When does it become the responsibility of the educational institution to step in? The answer is: immediately.

If a student reports or presents as being on the receiving end of abuse at home, for example, the way in which the school responds – or fails to respond – will have a huge impact on the survivor, and could have serious implications for the school as well.

The breadth of a school’s remit in terms of safeguarding students extends to include reporting abuse that doesn’t happen on their watch, as well as that which does. Inaction or a mishandled response is simply not good enough.

Different risk profiles

When looking at safeguarding issues in educational settings, it is important to consider the different risk profiles of K-12 students versus those in higher education.

For example, a higher educational institution’s facilities exist to advance the needs of its students, and they are primarily reserved for use by students, faculty and staff. However, occasionally an external third-party user organization will be permitted to use these spaces.

While you would hope that any external organization using a college's facilities would have their own safety measures in place, it is simply not enough to rely on that. Most colleges ask organizations to provide reassurance before they enter the campus, that the institution's policies – pertaining to criminal activity, conviction history, drug use and photography among others – are adhered to.

While children in K-12 settings are more at risk of falling victim to both online and offline grooming (building a relationship, trust and emotional connection with an abuser who can then manipulate, exploit or abuse them), those in higher education settings are at higher risk of abuse in terms of inappropriate faculty/student interactions, as well as abuse that happens student-on-student.

Regardless of the educational setting or the age of the students within it, their safety must be a priority for every school and college. This means responding swiftly and appropriately to any reports or suspicions of abuse that are happening outside of school hours or off campus – as well as those which happen during school hours.

Failure to report

When a school or college fails to report sexual abuse of any form – including that which happened offsite – they are morally, and legally [i], failing to uphold the safety and security of their students. When students safety is put at risk as a result of such negligence, the school may well be faced with a lawsuit for failing to report the abuse when they became aware of it, which could cause irreparable reputational damage.

The #MeToo movement has far reaching implications in the US and around the world. It began in showbiz and soon made its way into schools and colleges across the country, emboldening survivors, with some taking to Twitter, TikTok and Instagram to talk about their experiences of abuse, discrimination and assault at their schools or colleges.

The case of Madison Sparks is an example of how grave the consequences can be if a school is alleged to have failed to protect its students from harm. Her lawsuit against South-Western City School District's Norton Middle School cites six counts against the the school, including negligent retention and supervision of her abuser, negligent security and infliction of emotional distress. She is seeking compensatory and punitive damages.[ii]

It is the failure to act which is the root of the claim in this case, and it won't be the last of its kind.

How we can help

Insurance with advanced risk management, to help an organization identify red flags and respond appropriately when they are raised, is the right choice for those seeking to put their students at the center. If the unthinkable does happen, having access to an experienced crisis responder following any report of abuse – other onsite or offsite – is crucial in dealing with the matter swiftly, correctly and in a victim-focused way.

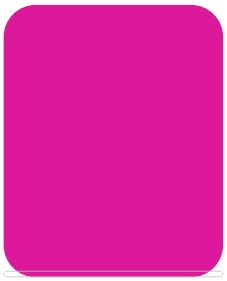
Beazley's Sexual Molestation Liability product also offers the following

resources to all policyholders, to help them navigate their way through the crisis.

- **Model policies** to assist organizations in the creation of abuse prevention policy documentation
- **Discounted background screening** services available with an additional contract*
- **Screening and selection toolkit** to assist in effective screening of employees and caregivers
- **Crisis response toolkit** that includes written resources and guidance to navigate crisis response before, during and after an allegation
- **Foundational webinars** covering abuse prevention guidance
- **Online abuse prevention training**
- **Praesidium helpline** for non-emergency discussion of high-level concerns (in addition to the incident reporting hotline)

1. Policies and Procedures for Mandated Reporting | ASM Training Guide At a Glance | Readiness and Emergency Management for Schools Technical Assistance Center
2. South-Western schools accused of allowing sexual abuse in lawsuit (dispatch.com)

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