

TREND SETTERS SCHOOL

SEXUAL MISCONDUCT POLICY
&
PROCEDURES FOR RESPONDING TO SEXUAL MISCONDUCT

Revised October 10, 2017

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TREND SETTERS SCHOOL CAMPUS SEXUAL MISCONDUCT POLICIES

1. Introduction

Trend Setters School is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual misconduct. Every member of the School community should be aware that the school is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

As part of the School's commitment to providing a working and learning environment free from sexual misconduct, this Policy shall be disseminated widely to the school community through publications, the school website, new employee orientations, student orientations, and other appropriate channels of communication. The School provides training to key staff members to enable the school to handle any allegations of sexual misconduct promptly and effectively. The School will respond quickly to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

2. Scope of the Policy

This Policy governs sexual misconduct involving students that occurs on any School property or in connection with any school-sponsored program or event. This Policy applies to all students, employees, and third parties conducting business with the School, regardless of the person's gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The School encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the school can respond appropriately. As further described in this Policy, the School will seek to respect a victim's request for confidentiality to the extent possible, while remaining ever mindful of the victim's well-being.

3. Prohibited Conduct

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person's consent is sexual assault, which is a form of sexual misconduct under this Policy. Sexual harassment and sexual exploitation, stalking, domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct. The definitions for specific acts of sexual misconduct can be found in the Definitions of Key Terms at the end of this Policy statement.

Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. **This Policy prohibits all forms of sexual misconduct.**

4. Options for Assistance Following an Incident of Sexual Misconduct

The School strongly encourages any victim of sexual misconduct to seek immediate assistance. Seeking prompt assistance may be important to ensure a victim's physical safety or to obtain medical care. The School strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.

Reporting Incidents of Sexual Misconduct.

Victims of sexual misconduct may file a report with the Cape Girardeau Police Department at (573) 335-6621, as applicable. Victims may also file a report with the school's Title IX Coordinator. More information about reporting an incident of sexual misconduct can be found in Section 6 of this Policy, below.

The victim of the sexual assault may choose for the investigation to be pursued through the criminal justice system and the School's disciplinary procedures. The school and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the victim through the available options and support the victim in his or her decision.

Support Services Available.

Counseling, advocacy and support services are available for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the school's disciplinary or criminal process. The School does not provide counseling or health care services. Personal counseling offered by the School will be limited to initial crisis assessment and referral.

Sexual misconduct crisis and counseling options are available locally and nationally through a number of agencies, including:

National Resources:

National Sexual Assault Hotline - 800-656-4673
National Domestic Violence Hotline - 800-799-7233

Local Resources:

Department of Public Safety: (573) 651-2215
Safe House for Women: (573) 335-7745
Southeast Hospital: (513) 334-4822 or (800) 800-5123
Saint Francis Medical Center: (573) 331-3000
Beacon Health Center: (573) 332-1900
United Way Southeast Missouri: (573) 334-9634

The Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their wellbeing. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending. Such accommodations may include the ability to alter class schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). The School may be able to provide additional interim measures to victims while an investigation is pending, such as no contact orders and changing the alleged perpetrator's class schedule.

5. Title IX Coordinator

The Title IX Coordinator is responsible for monitoring and overseeing the School's compliance with Title IX and the prevention of sex harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in the School's policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about School and community resources and reporting options;

- Available to provide assistance to any School employee regarding how to respond appropriately to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

Inquiries or concerns about Title IX may be referred to the school's Title IX Coordinator:

Ms. Kristy Hamlin, Financial Aid Officer
Trend Setters School
835 South Kingshighway Cape Girardeau, MO 63703
Phone: (573) 803-2030
Email: khamlin@storeymgmt.com

6. Reporting Policies and Protocols

The School strongly encourages all members of the school community to report information about any incident of sexual misconduct as soon as possible, whether the incident occurred on or off campus. Reports can be made either to the school and/or to law enforcement.

Reporting to the School

An incident of sexual misconduct may be reported directly to the Title IX Coordinator. If the Title IX Coordinator is the alleged perpetrator of the sexual misconduct, the report should be submitted to the School's Instructor. Filing a report with a school official will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers.

An individual who has experienced an incident of sexual misconduct may report the incident at any time, regardless of how much time has elapsed since the incident occurred. The School is committed to supporting the rights of a person reporting an incident of sexual misconduct to make an informed choice among options and services available.

The School will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any misconduct, prevent its recurrence, and address its effects.

Reporting to Law Enforcement

An incident of sexual misconduct can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911. At the complainant's request, the School will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the school will cooperate with law enforcement agencies to the extent permitted by law. A complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement. Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)
- Assure the victim has a referral to confidential counseling from counselors specifically trained in the area of sexual assault

Reporting of Crimes & Annual Security Reports

Campus safety and security are important issues at the School. Our goal is to provide students with a safe environment in which to learn and to keep students, parents, and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual misconduct under this Policy.

Each year the School prepares this report to comply with the Clery Act. The full text of this report can be located on the school's web site at www.accsuccess.com. This report is prepared in cooperation with the local law enforcement agencies around our campus. Each year notification is made to all enrolled students and employees that provides the web site to access this report. Copies of the report may also be obtained in person from the Financial Aid Officer or by calling (573) 803-2030. All prospective employees may obtain a copy from the Financial Aid Officer.

Timely Warnings

In the event that a situation arises, either on or off campus, that, in the judgment of the Financial Aid Officer constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued through the most effective and efficient means available and may include instant messaging to students and School employees. Notices may also be posted in the common areas throughout the school. Anyone with information warranting a timely warning should report the circumstances to the Financial Aid Officer by phone at (573) 803-2030 or in person at the school.

Third-Party and Anonymous Reporting

In cases where sexual misconduct is reported to the Title IX Coordinator by someone other than the complainant (by an instructor, classmate or friend, for example), the Title IX Coordinator will promptly notify the complainant that a report has been received. This Policy and the Procedures will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion.

No Retaliation

The School prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness). The school will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator or the School's Administrator.

Coordination With Drug Free School Policy

Students may be reluctant to report instances of sexual misconduct because they fear being disciplined pursuant to the School's alcohol or drug policies. The School encourages students to report all instances of sexual misconduct and will take into consideration the importance of reporting sexual misconduct in addressing violations of the school's alcohol and drug policies. This means that, whenever possible, the School will respond educationally rather than punitively to student alcohol or drug policy violations associated with reported sexual misconduct.

7. School Policy on Confidentiality

The School encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the school can respond appropriately.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual misconduct. The School encourages victims to talk to someone identified in one or more of these groups.

Privileged and Confidential Communications – Professional & Pastoral Counselors

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. The School does not provide professional or pastoral counseling, but can assist a victim of sexual misconduct in obtaining support services from these groups or agencies. Contact information for these support organizations is listed in Section 4 of this Policy.

A victim who at first requests confidentiality may later decide to file a complaint with the School or report the incident to local law enforcement, and thus have the incident fully investigated.

NOTE: While these professional and pastoral counselors and advocates may maintain a victim's confidentiality vis-à-vis the School, they may have reporting or other obligations under state law.

ALSO NOTE: If the School determines that the alleged perpetrator(s) pose a serious and immediate threat to the school community, the Financial Aid Officer may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

Reporting to Title IX Coordinator

When a victim tells the Title IX Coordinator about an incident of sexual misconduct, the victim has the right to expect the School to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to the Title IX Coordinator will be shared only with people responsible for handling the school's response to the report. The Title IX Coordinator should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to the Title IX Coordinator, the Coordinator should ensure that the victim understands the Coordinator's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the Title IX Coordinator what happened but also maintain confidentiality, the Coordinator should tell the victim that the School will consider the request, but cannot guarantee that the school will be able to honor it.

The Title IX Coordinator will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the School to fully investigate an incident. By the same token, the Title IX Coordinator will not pressure a victim to make a full report if the victim is not ready to.

Requesting Confidentiality: How the School Will Weigh the Request and Respond.

If a victim discloses an incident to the Title IX Coordinator but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action

taken, the School must weigh that request against the school's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the School honors the request for confidentiality, a victim must understand that the school's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the School may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The Title IX Coordinator will evaluate requests for confidentiality. When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:
 - whether there have been other sexual misconduct complaints about the same alleged perpetrator;
 - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - whether the alleged perpetrator threatened further sexual misconduct or other violence against the victim or others;
 - whether the sexual misconduct was committed by multiple perpetrators;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the School possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the School to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the school will likely respect the victim's request for confidentiality.

If the School determines that it cannot maintain a victim's confidentiality, the school will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the school's response. The School will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or school employees, will not be tolerated. The School will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The School may not require a victim to participate in any investigation or disciplinary

proceeding.

Because the School is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the school to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the School determines that it can respect a victim’s request for confidentiality, the school will also take immediate action as necessary to protect and assist the victim.

Miscellaneous

Take Back the Night and other public awareness events. Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents of sexual violence, are not considered notice to the School of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts.

Off-campus Counselors and Advocates. Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the School unless the victim requests the disclosure and signs a consent or waiver form. Contact information for these off-campus resources can be found in Section 4 of this Policy.

8. Investigation Procedures and Protocols

The Title IX Coordinator oversees the School’s investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff. The Title IX Coordinator will designate a specially trained investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information.

Notice of Investigation

The Title IX Coordinator will inform the complainant before starting an investigation. The complainant may request that an investigation not be undertaken. The Title IX Coordinator will consider such a request in light of the School’s commitment to provide a safe and non-discriminatory environment for all students. If the Title IX Coordinator determines not to investigate, she will notify the complainant in writing, including that the determination was made at the complainant’s request. At the complainant’s request, the Title IX Coordinator will also notify the respondent in writing, including that the complainant asked the School not to investigate.

The investigator will direct the complainant, respondent, witnesses and other interested individuals to preserve any relevant evidence.

If an investigation proceeds, the School will notify the respondent in writing that a report has been filed. The notice will describe the allegations in the report. The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review the Policy and these Procedures.

Investigation Process

The School's process for responding to, investigating and adjudicating sexual misconduct reports will continue during any law enforcement proceeding. The investigator may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after learning that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The investigator will interview the complainant, respondent and any witnesses. They will also gather pertinent documentary materials (if any) and other information.

Investigation Report

The investigator will prepare a report detailing the relevant content from the interviews and the documentation gathered. The report will include the assessment of individual credibility and recommended findings of responsibility.

The respondent and complainant will each have the opportunity to review a copy of the investigative report and any other information that will be used during the disciplinary proceedings. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The Title IX Coordinator will supervise this review and ensure that reasonable time is afforded for review prior to the hearing.

Time Frame for Investigation

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation and resolution, the Title IX Coordinator seeks to resolve all reports in a timely manner. In general, an investigation may last up to 30 days, from receipt of written notice from the complainant of the intent to proceed with an investigation. Adjudication will generally take up to 30 days from the date the investigative report is provided to both the complainant and the respondent. The Title IX Coordinator may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for school breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the School will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change class schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; issue no contact orders; and change the alleged perpetrator's class schedule.

Impact of Victim's Confidentiality Request

A victim's request for confidentiality will likely limit the School's ability to investigate a particular matter. The school may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring,

supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the School's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

Voluntary Resolution

Voluntary resolution, when selected by the complainant and deemed appropriate by the Title IX Coordinator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the School community. Voluntary resolution is not appropriate for all forms of conduct under the Policy.

The School retains the discretion to determine, when selected by the complainant, which cases are appropriate for voluntary resolution. If a complainant requests voluntary resolution, and the Title IX Coordinator concludes that voluntary resolution is appropriate, then the Title IX Coordinator will take appropriate action by imposing remedies designed to maximize the complainant's access to all employment, educational, and extracurricular opportunities and benefits at the school and to eliminate a potential hostile environment. A complainant may request and decide to pursue voluntary resolution at any time. In those cases in which the voluntary resolution involves either the notification to or participation by the respondent, it is the respondent's decision whether to accept voluntary resolution.

Voluntary resolution may include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve sexual assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of voluntary resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of voluntary resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.

Voluntary resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the School community. Restorative models will be used only with the consent of both parties, and following a determination by the Title IX Coordinator that the matter is appropriate for a restorative approach.

The School will not compel a complainant to engage in mediation, to confront directly the respondent, or to participate in any particular form of informal resolution. Mediation, even if voluntary, is never appropriate in sexual assault cases and will not be used in such cases. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an investigation and pursue voluntary resolution at any time.

The time frame for completion of voluntary resolution may vary, but the School will seek to complete the process within 15 days of the complainant's request.

9. Grievance/Adjudication Procedures

Hearing Panel

If voluntary resolution is not available, the School will convene a hearing panel following the end of the investigation. The hearing panel determines whether the respondent is responsible or not responsible for a violation of the Policy. If the respondent is determined to be responsible, the matter proceeds to the sanctions stage.

The hearing panel will generally include the Title IX Coordinator and two additional members who will be individuals associated with the School. These additional hearing panel members may include administrators, officers, lawyers or other individuals with relevant experience and special training. Panel members may participate remotely so long as the hearing room is equipped with telephone equipment that allows the panel member to hear all the participants and to be heard by all the participants throughout the hearing proceedings. All panelists will receive training from experts in the field at least once a year. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct. The complainant and respondent will be informed of the panel's membership before the hearing process begins.

Advisors

Both the complainant and the respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of sexual misconduct by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the postponement or delay of such meeting as scheduled.

Written Submissions

Both the complainant and respondent will have the opportunity to submit written responses to the investigation report and other relevant information to the hearing panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the investigation report and written submissions.

Hearing Procedures

The Title IX Coordinator will, whenever possible, give the complainant and respondent at least five days' advance notice of the hearing. The Title IX Coordinator will arrange to hold the hearing at an off-campus location. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary School personnel may be present during the proceeding. The Financial Aid Director will work with school staff so that any student whose presence is required may participate in the hearing.

In general, hearings will proceed as follows:

- The Title IX Coordinator may set reasonable time limits for any part of the hearing. Each of the complainant and respondent will have the opportunity to present witnesses and other information consistent with the Policy and these Procedures. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and respondent are not able to be present for the hearing panel, arrangements will be made for participation via alternate means.
- In cases where either the complainant or respondent opts not to participate in the hearing, the panel may still hear from the other.

- Additional hearing rules include:
 - Questioning. Only the panel may ask questions of the complainant and respondent and any witnesses. Both the complainant and respondent will have the opportunity to suggest questions of the other and of witnesses by submitting suggested questions to the panel in writing. The panel may revise or not ask any or all submitted questions.
 - Information Regarding Romantic or Sexual History. The panel will not consider the romantic or sexual history of either the complainant or respondent in cases involving allegations of sexual misconduct, except for testimony offered by one or the other about the complainant's and respondent's shared sexual history that the panel deems relevant. If such information is offered by the complainant or respondent, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual misconduct.
 - Prior Conduct Violations. The hearing panel will not consider the respondent's prior conduct violations, unless the investigator provided that information to the hearing panel because the respondent was previously found to be responsible, and the previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

The School will keep an audio recording of the hearing for the use of the panel, for sanctioning, and for purposes of appeal. The panelists may request a transcript of the recording. Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

Panel Determinations/Standard of Proof

The panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of the evidence means that a panel must be convinced based on the information it considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a decision within 10 days after the conclusion of a hearing. The panel's decision will include an explanation of the basis for the decision. If the panel finds the respondent responsible, the matter will proceed to the sanctions stage.

10. Sanctions and Other Remedies

The Title IX Coordinator, with the advice and counsel of the other hearing panel members, shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the School's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual misconduct.

The Title IX Coordinator will consider relevant factors, including if applicable: (1) the specific sexual misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the

School community; and (7) the respondent's conduct during the disciplinary process.

The Title IX Coordinator will render a sanctioning decision within three days following the receipt of the panel's determination. The sanctioning decision will be communicated in writing to the complainant and the respondent.

The School may impose any one or more of the following sanctions on a student determined to have violated the Policy:

- Reprimand/warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Restricting access to School facilities or activities
- Community service
- Issuing a "no contact" order to the respondent or requiring that such an order remain in place
- Dismissal or restriction from School employment
- Suspension (limited time or indefinite)
- Expulsion

In addition to any other sanction (except where the sanction is expulsion), the School will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual misconduct violation at issue. The School may also recommend counseling or other support services for the student.

Whatever the outcome of the hearing process, a complainant may request ongoing or additional accommodations and the Title IX Coordinator will determine whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Changing the complainant's academic schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

The School may also determine that additional measures are appropriate to respond to the effects of the incident on the school community. Additional responses for the benefit of the School community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students and employees
- Revision of the School's policies relating to sexual misconduct
- Climate surveys regarding sexual misconduct

11. Appeals

Either the respondent or the complainant or both may appeal the determination of the hearing panel and/or the sanctions. Appeals are decided by the Administrator of the School. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the Administrator of the School within five days after receiving the sanctioning notice. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five days after notice of an appeal.

If the Administrator concludes that a change in the hearing panel's determination is warranted, the Administrator may enter a revised determination, reconvene the panel to reconsider the determination, or return the matter for additional investigation. After consultation with the Title IX Coordinator, the Administrator may also change the sanction. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The Administrator will notify the complainant and respondent of the final decision in writing. Appeals decisions will be rendered within 10 days after the receipt of the written appeal. All appeal decisions are final.

12. Records Disclosure

Disciplinary proceedings conducted by the School are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the School without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

Additional information about FERPA can be found on the School's website at <http://www.trendsettersschool.com>.

13. Education and Prevention Programs

As set forth in Section 3 of this Policy statement, Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking are all forms of Prohibited Conduct.

The School is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the School's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. The Title IX Coordinator maintains an education and prevention calendar and tailors programming to campus needs and climate.

As part of the School's commitment to provide an educational and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the school community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

The Title IX Coordinator, hearing panel members, and anyone else who is involved in responding to, investigating, or adjudicating sexual misconduct will receive annual training from experts in the field. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct.

Definitions of Sexual Misconduct under the Missouri Revised Statutes, Chapter 566, Sexual Offenses

Sexual Assault is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent.

The Missouri Revised Statutes provides the following definitions with respect to incidents of sexual assault:

Chapter 566 and chapter 568 definitions.

[566.010](#). As used in this chapter and chapter 568, the following terms mean:

- (1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:
 - (a) Inflicts serious physical injury on the victim; or
 - (b) Displays a deadly weapon or dangerous instrument in a threatening manner; or
 - (c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person; or
 - (d) Had previously been found guilty of an offense under this chapter or under section [573.200](#), child used in sexual performance; section [573.205](#), promoting sexual performance by a child; section [573.023](#), sexual exploitation of a minor; section [573.025](#), promoting child pornography in the first degree; section [573.035](#), promoting child pornography in the second degree; section [573.037](#), possession of child pornography; or section [573.040](#), furnishing pornographic materials to minors; or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said sections;
 - (e) Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or
 - (f) Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:
 - a. Ancestor or descendant by blood or adoption;
 - b. Stepchild while the marriage creating that relationship exists;
 - c. Brother or sister of the whole or half blood; or
 - d. Uncle, aunt, nephew, or niece of the whole blood;

(2) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;

(3) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(4) "Forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

(5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

(6) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(7) "Sexual intercourse", any penetration, however slight, of the female genitalia by the penis.

(L. 1977 S.B. 60, A.L. 1987 H.B. 341, A.L. 1991 H.B. 566, A.L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602, A.L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Mistake as to age--consent not a defense, when.

[566.020](#). 1. Whenever in this chapter the criminality of conduct depends upon a child being less than fourteen years of age, it is no defense that the defendant believed the child to be older.

2. Whenever in this chapter the criminality of conduct depends upon a child being less than seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the child was seventeen years of age or older.

3. Consent is not a defense to any offense under this chapter if the alleged victim is less than fourteen years of age.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al., A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

Marriage to victim, at time of offense, affirmative defense, for certain offenses.

[566.023](#). It shall be an affirmative defense to prosecutions under sections [566.032](#), [566.034](#), [566.062](#), [566.064](#), and [566.071](#), that the defendant was married to the victim at the time of the offense.

(L. 1994 S.B. 693, A.L. 1998 H.B. 1918, A.L. 2014 S.B. 491)

Effective 1-01-17

Evidence that defendant has committed other charged and uncharged crimes of a sexual nature involving victims under fourteen admissible to prove propensity to commit crime, when.

[566.025](#). In prosecutions pursuant to this chapter or chapter 568 of a sexual nature involving a victim under fourteen years of age, whether or not age is an element of the crime for which the defendant is on trial, evidence that the defendant has committed other charged or uncharged crimes of a sexual nature involving victims under fourteen years of age shall be admissible for the purpose

of showing the propensity of the defendant to commit the crime or crimes with which he or she is charged unless the trial court finds that the probative value of such evidence is outweighed by the prejudicial effect.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602)

(2007) Section as amended in 2000 still violates state constitutional provisions; evidence of prior criminal acts is never admissible for purpose of demonstrating defendant's propensity to commit the crime presently charged. State v. Ellison, 239 S.W.3d 603 (Mo.banc).

Rape in the first degree, penalties--suspended sentences not granted, when.

[566.030](#). 1. A person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. The offense of rape in the first degree or an attempt to commit rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The person is a persistent or predatory sexual offender as defined in section [566.125](#) and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such rape in the first degree is described under subdivision (4) of this subsection; or

(4) The victim is a child less than twelve years of age and such rape in the first degree or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section [558.019](#) shall not apply to the sentence of a person who has been found guilty of rape in the first degree or attempt to commit rape in the first degree when the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of rape in the first degree or an attempt to commit rape in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

(L. 1977 S.B. 60, A.L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 1370, et al., A.L. 1993 S.B. 180, A.L. 1994 S.B. 693, A.L. 1998 H.B. 1779, A.L. 2006 H.B. 1698, et al., A.L. 2009 S.B. 36 & 112, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

CROSS REFERENCES:

Child abuse, definitions, actions for civil damages may be brought, when, 537.046

No bail, certain defendants, certain offenses, 544.671

Prosecuting witness in rape case not to be interrogated as to prior sexual conduct, 491.015

Rape in the second degree, penalties.

[566.031](#). 1. A person commits the offense of rape in the second degree if he or she has sexual intercourse with another person knowing that he or she does so without that person's consent.

2. The offense of rape in the second degree is a class D felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

Transferred 2013, formerly 566.040

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, 537.046

Statutory rape and attempt to commit, first degree, penalties.

[566.032](#). 1. A person commits the offense of statutory rape in the first degree if he or she has sexual intercourse with another person who is less than fourteen years of age.

2. The offense of statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) The offense is an aggravated sexual offense, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The person is a persistent or predatory sexual offender as defined in section [566.125](#) and subjected to an extended term of imprisonment under said section.

(L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Statutory rape, second degree, penalty.

[566.034](#). 1. A person commits the offense of statutory rape in the second degree if being twenty-one years of age or older, he or she has sexual intercourse with another person who is less than seventeen years of age.

2. The offense of statutory rape in the second degree is a class D felony.

(L. 1994 S.B. 693, A.L. 2014 S.B. 491)

Effective 1-01-17

Sodomy in the first degree, penalties--suspended sentence not granted, when.

[566.060](#). 1. A person commits the offense of sodomy in the first degree if he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. The offense of sodomy in the first degree or an attempt to commit sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years;

(2) The person is a persistent or predatory sexual offender as defined in section [566.125](#) and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such sodomy in the first degree is described under subdivision (4) of this subsection; or

(4) The victim is a child less than twelve years of age and such sodomy in the first degree or attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section [558.019](#) shall not apply to the sentence of a person who has been found guilty of sodomy in the first degree or an attempt to commit sodomy in the first degree when the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of sodomy in the first degree or an attempt to commit sodomy in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

(L. 1977 S.B. 60, A.L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 1370, et al., A.L. 1994 S.B. 693, A.L. 1998 H.B. 1779, A.L. 2006 H.B. 1698, et al., A.L. 2009 S.B. 36 & 112, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

CROSS REFERENCE:

Child abuse definitions, actions for civil damages may be brought, when, 537.046

Sodomy in the second degree, penalty.

[566.061](#). 1. A person commits the offense of sodomy in the second degree if he or she has deviate sexual intercourse with another person knowing that he or she does so without that person's consent.

2. The offense of sodomy in the second degree is a class D felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

Transferred 2013; formerly 566.070

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, 537.046

Statutory sodomy and attempt to commit, first degree, penalties.

[566.062](#). 1. A person commits the offense of statutory sodomy in the first degree if he or she has deviate sexual intercourse with another person who is less than fourteen years of age.

2. The offense of statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) The offense is an aggravated sexual offense or the victim is less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The person is a persistent or predatory sexual offender as defined in section [566.125](#) and subjected to an extended term of imprisonment under said section.

(L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Statutory sodomy, second degree, penalty.

[566.064](#). 1. A person commits the offense of statutory sodomy in the second degree if being twenty-one years of age or older, he or she has deviate sexual intercourse with another person who is less than seventeen years of age.

2. The offense of statutory sodomy in the second degree is a class D felony.

(L. 1994 S.B. 693, A.L. 2014 S.B. 491)

Effective 1-01-17

Child molestation, first degree, penalties.

[566.067](#). 1. A person commits the offense of child molestation in the first degree if he or she subjects another person who is less than fourteen years of age to sexual contact and the offense is an aggravated sexual offense.

2. The offense of child molestation in the first degree is a class A felony and, if the victim is a child less than twelve years of age, the person shall serve his or her term of imprisonment without eligibility for probation, parole, or conditional release.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602, A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

CROSS REFERENCE:

Child, genital mutilation of a female child, crime, penalty, defenses, 568.065

Child molestation, second degree, penalties.

[566.068](#). 1. A person commits the offense of child molestation in the second degree if he or she:

(1) Subjects a child who is less than twelve years of age to sexual contact; or

(2) Being more than four years older than a child who is less than seventeen years of age, subjects the child to sexual contact and the offense is an aggravated sexual offense.

2. The offense of child molestation in the second degree is a class B felony.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602, A.L. 2014 S.B. 491)

Effective 1-01-17

CROSS REFERENCE:

Child, genital mutilation of a female child, crime, penalty, defenses, 568.065

Child molestation, third degree, penalty.

[566.069](#). 1. A person commits the offense of child molestation in the third degree if he or she subjects a child who is less than fourteen years of age to sexual contact.

2. The offense of child molestation in the third degree is a class C felony, unless committed by the use of forcible compulsion, in which case it is a class B felony.

(L. 2014 S.B. 491)

Effective 1-01-17

Child molestation, fourth degree, penalty.

566.071. 1. A person commits the offense of child molestation in the fourth degree if, being more than four years older than a child who is less than seventeen years of age, subjects the child to sexual contact.

2. The offense of child molestation in the fourth degree is a class E felony.

(L. 2014 S.B. 491)

Effective 1-01-17

Sexual misconduct involving a child, penalty--applicability of section--affirmative defense not allowed, when.

566.083. 1. A person commits the offense of sexual misconduct involving a child if such person:

(1) Knowingly exposes his or her genitals to a child less than fifteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than fifteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child;

(3) Knowingly coerces or induces a child less than fifteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(4) Knowingly coerces or induces a child who is known by such person to be less than fifteen years of age to expose the breasts of a female child through the internet or other electronic means for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. The provisions of this section shall apply regardless of whether the person violates this section in person or via the internet or other electronic means.

3. It is not a defense to prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

4. The offense of sexual misconduct involving a child is a class E felony unless the person has previously been found guilty of an offense under this chapter or the person has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter, in which case it is a class D felony.

(L. 1997 S.B. 56, A.L. 2004 H.B. 1055, A.L. 2005 H.B. 353 merged with H.B. 972, A.L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al., A.L. 2012 S.B. 628, A.L. 2014 S.B. 491)

Effective 1-01-17

(2013) Section is not unconstitutionally overbroad under the First Amendment. State v. Jeffrey, 400 S.W.3d 303 (Mo.banc).

Sexual contact with a student.

566.086. 1. A person commits the offense of sexual contact with a student if he or she has sexual contact with a student of the school and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

(2) A student teacher; or

(3) An employee of the school; or

(4) A volunteer of the school or of an organization working with the school on a project or program who is not a student at the school; or

(5) An elected or appointed official of the school district; or

(6) A person employed by an entity that contracts with the school or school district to provide services.

2. For the purposes of this section, "school" shall mean any public or private school in this state serving kindergarten through grade twelve or any school bus used by the school district.

3. The offense of sexual contact with a student is a class E felony.

4. It is not a defense to prosecution for a violation of this section that the student consented to the sexual contact.

(L. 2005 H.B. 353, A.L. 2006 H.B. 1698, et al., A.L. 2011 H.B. 111, A.L. 2014 S.B. 491)

Effective 1-01-17

Sexual misconduct, first degree, penalties.

[566.093](#). 1. A person commits the offense of sexual misconduct in the first degree if such person:

(1) Exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;

(2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or

(3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

2. The offense of sexual misconduct in the first degree is a class B misdemeanor unless the person has previously been found guilty of an offense under this chapter, or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter, in which case it is a class A misdemeanor.

(L. 1994 S.B. 693, A.L. 2004 H.B. 1055, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

Sexual misconduct, second degree, penalty.

[566.095](#). 1. A person commits the offense of sexual misconduct in the second degree if he or she solicits or requests another person to engage in sexual conduct under circumstances in which he or she knows that such request or solicitation is likely to cause affront or alarm.

2. The offense of sexual misconduct in the second degree is a class C misdemeanor.

(L. 1994 S.B. 693, A.L. 2013 H.B. 215)

(2002) Section does not violate the constitutional guarantee of freedom of speech. State v. Moore, 90 S.W.3d 64 (Mo.banc).

Sexual abuse in the first degree, penalties.

[566.100](#). 1. A person commits the offense of sexual abuse in the first degree if he or she subjects another person to sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion.

2. The offense of sexual abuse in the first degree is a class C felony unless the victim is less than fourteen years of age, or it is an aggravated sexual offense, in which case it is a class B felony.

(L. 1977 S.B. 60, A.L. 1990 H.B. 1370, et al., A.L. 1991 H.B. 566, A.L. 1994 S.B. 693, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, 537.046

Sexual abuse, second degree, penalties.

[566.101](#). 1. A person commits the offense of sexual abuse in the second degree if he or she purposely subjects another person to sexual contact without that person's consent.

2. The offense of sexual abuse in the second degree is a class A misdemeanor, unless it is an aggravated sexual offense, in which case it is a class E felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al., A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Effective 1-01-17

Transferred 2013; formerly 566.090

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, 537.046

Crime of promoting online sexual solicitation, violation, penalty.

[566.103](#). 1. A person or entity commits the offense of promoting online sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section [566.151](#), * 566.210**, or 566.211**.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a felony, punishable by a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

(L. 2009 H.B. 62 § 3)

*Words "or sections" appear in original rolls.

**Section 566.212 was transferred to section [566.211](#) and section 566.213 was transferred to section [566.210](#) by S.B. 491, 2014, effective 1-01-17.

Sex with an animal, penalties.

[566.111](#). 1. A person commits the offense of sex with an animal if he or she engages in sexual conduct with an animal.

2. The offense of sex with an animal is a class A misdemeanor unless the person has previously been found guilty of an offense under this section or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this section, in which case the offense is a class E felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

(1) Prohibit the offender from harboring animals or residing in any household where animals are present during the period of probation; or

(2) Order all animals in the offender's possession subject to a civil forfeiture action under chapter 513; or

(3) Order psychological evaluation and counseling of the offender at the offender's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

(L. 2002 S.B. 969, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Sexual conduct with a nursing facility resident or a vulnerable person, first degree, penalty.

[566.115](#). 1. A person commits the offense of sexual conduct with a nursing facility resident or vulnerable person in the first degree if he or she:

(1) Being an owner or employee of a skilled nursing facility, as defined in section [198.006](#), or an Alzheimer's special care unit or program, as defined in section [198.505](#), has sexual intercourse or deviate sexual intercourse with a resident; or

(2) Being a vender, provider, agent, or employee of a certified program operated, funded, licensed, or certified by the department of mental health, has sexual intercourse or deviate sexual intercourse with a vulnerable person.

2. The offense of sexual conduct with a nursing facility resident or vulnerable person in the first degree is a class A misdemeanor. Any second or subsequent violation of this section is a class E felony.

3. The provisions of this section shall not apply to any person who is married to the resident or vulnerable person.

4. Consent of the victim is not a defense to a prosecution under this section.

(L. 2014 S.B. 491)

Effective 1-01-17

Sexual conduct with a nursing facility resident or a vulnerable person, second degree, penalty.

[566.116](#). 1. A person commits the offense of sexual conduct with a nursing facility resident or vulnerable person in the second degree if he or she:

(1) Being an owner or employee of a skilled nursing facility as defined in section [198.006](#), or an Alzheimer's special care unit program as defined in section [198.505](#), has sexual contact with a resident; or

(2) Being a vender, provider, agent, or employee of a certified program operated, funded, licensed, or certified by the department of mental health, has sexual contact with a vulnerable person.

2. The offense of sexual conduct with a nursing facility resident or vulnerable person in the second degree is a class B misdemeanor. Any second or subsequent violation of this section is a class A misdemeanor.

3. The provisions of this section shall not apply to any person who is married to the resident or vulnerable person.

4. Consent of the victim is not a defense to a prosecution pursuant to this section.

(L. 2002 S.B. 969, et al., A.L. 2014 S.B. 491)

Transferred 2014; formerly 565.200; Effective 1-01-17

Persistent sexual offender, predatory sexual offender, defined, extension of term, when, minimum term.

[566.125](#). 1. The court shall sentence a person to an extended term of imprisonment if it finds the defendant is a persistent sexual offender and has been found guilty of attempting to commit or committing the following offenses:

(1) Statutory rape in the first degree or statutory sodomy in the first degree;

(2) Rape in the first degree or sodomy in the first degree;

(3) Forcible rape;

(4) Forcible sodomy;

(5) Rape;

(6) Sodomy.

2. A "persistent sexual offender" is one who has previously been found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section or one who has previously been found guilty of an offense in any other jurisdiction which would constitute any of the offenses listed in subsection 1 of this section.

3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. Subsection 4 of section [558.019](#) shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.

4. The court shall sentence a person to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender and has been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section or committing child molestation in the first or second degree or sexual abuse when classified as a class B felony.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree, or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of section [558.019](#) shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section and is found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section shall be any number of years but not less than thirty years;

(2) Has previously been found guilty of child molestation in the first or second degree, or sexual abuse when classified as a class B felony and is found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section shall be any number of years but not less than fifteen years;

(3) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree, or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(4) Has previously been found guilty of child molestation in the first degree or second degree, or sexual abuse when classified as a class B felony, and is found guilty of child molestation in the first or second degree, or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual offender or a predatory sexual offender.

(L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 974, A.L. 1994 S.B. 693, A.L. 1996 H.B. 974, A.L. 2006 H.B. 1698, et al., A.L. 2013 H.B. 215, A.L. 2014 S.B. 491)

Transferred 2014; formerly 558.018; Effective 1-01-17

(2010) Violation of Eighth Amendment to U.S. Constitution for juvenile offender to be sentenced to life without parole for nonhomicide offense. *Graham v. Florida*, 560 U.S. 48.

Sexual conduct with prisoner or offender--definitions--penalty--consent not a defense.

[566.145](#). 1. A person commits the offense of sexual conduct with a prisoner or offender if he or she:

(1) Is an employee of, or assigned to work in, any jail, prison or correctional facility and engages in sexual conduct with a prisoner or an offender who is confined in a jail, prison, or correctional facility; or

(2) Is a probation and parole officer and engages in sexual conduct with an offender who is under the direct supervision of the officer.

2. For the purposes of this section the following terms shall mean:

(1) "Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

(2) "Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. The offense of sexual conduct with a prisoner or offender is a class E felony.

4. Consent of a prisoner or offender is not a defense.

(L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al., A.L. 2009 H.B. 747, A.L. 2014 S.B. 491)

Effective 1-01-17

Certain offenders not to reside within one thousand feet of a school or child care facility.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080 as it existed prior to January 1, 2017, or section 573.200, use of a child in a sexual performance; section 568.090 as it existed prior to January 1, 2017, or section 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not reside within one thousand feet of any public school as defined in section 160.011, any private school giving instruction in a grade or grades not higher than the twelfth grade, or any child care facility that is licensed under chapter 210, or any child care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child care facility, where the school or facility is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child care facility, notify the county sheriff where such public school, private school, or child care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class E felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of

this section is a class A misdemeanor except that the second or subsequent violation is a class E felony.

(L. 2004 H.B. 1055, A.L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al., A.L. 2009 H.B. 62, A.L. 2011 H.B. 111 merged with S.B. 250, A.L. 2014 S.B. 491, A.L. 2014 H.B. 1371)

Effective 1-01-17

(2008) Section imposing residency restrictions on sex offenders whose conduct predated effective date of section is unconstitutional as retrospective law. *R. L. v. State of Missouri Department of Corrections*, 245 S.W.3d 236 (Mo.banc).

(2010) Section prohibiting convicted sex offenders from residing within 1,000 feet of any school or child-care facility, as applied to person whose sex offense conviction predated the law's enactment, violates Article I, Section 13 provision prohibiting retrospective laws. *F.R. v. St. Charles County Sheriff's Department*, 301 S.W.3d 56 (Mo.banc).

Certain offenders not to physically be present or loiter within five hundred feet of a child care facility--violation, penalty.

[566.148](#). 1. Any person who has been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of section [568.020](#), incest; section [568.045](#), endangering the welfare of a child in the first degree; subsection 2 of section 568.080 as it existed prior to January 1, 2017, or section [573.200](#), use of a child in a sexual performance; section 568.090 as it existed prior to January 1, 2017, or section [573.205](#), promoting a sexual performance by a child; section [573.023](#), sexual exploitation of a minor; section [573.025](#), promoting child pornography in the first degree; section [573.035](#), promoting child pornography in the second degree; section [573.037](#), possession of child pornography, or section [573.040](#), furnishing pornographic material to minors; or

(2) Any offense in any other jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

2. For purposes of this section, "child care facility" shall include any child care facility licensed under chapter 210, or any child care facility that is exempt from state licensure but subject to state regulation under section [210.252](#) and holds itself out to be a child care facility.

3. Violation of the provisions of this section is a class A misdemeanor.

(L. 2009 H.B. 62, A.L. 2014 S.B. 491, A.L. 2014 H.B. 1371)

Effective 1-01-17

Certain offenders not to be present within five hundred feet of school property, exception--permission required for parents or guardians who are offenders, procedure--penalty.

[566.149](#). 1. Any person who has been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of section [568.020](#), incest; section [568.045](#), endangering the welfare of a child in the first degree; subsection 2 of section 568.080 as it existed prior to January 1, 2017, or section [573.200](#), use of a child in a sexual performance; section 568.090 as it existed prior to January 1, 2017, or section [573.205](#), promoting a sexual performance by a child; section [573.023](#), sexual exploitation of a minor; section [573.025](#), promoting child pornography; or section [573.040](#), furnishing pornographic material to minors; or

(2) Any offense in any other jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this section is a class A misdemeanor.

(L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al., A.L. 2009 H.B. 62, A.L. 2014 S.B. 491, A.L. 2014 H.B. 1371)

Effective 1-01-17

Certain offenders not to be present or loiter within five hundred feet of a public park or swimming pool--violation, penalty.

566.150. 1. Any person who has been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; section 573.200, use of a child in a sexual performance; section 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be present in or loiter within five hundred feet of any real property comprising any public park with playground equipment or a public swimming pool.

2. The first violation of the provisions of this section is a class E felony.

3. A second or subsequent violation of this section is a class D felony.

(L. 2009 H.B. 62, A.L. 2014 S.B. 491)

Effective 1-01-17

Enticement of a child, penalties.

566.151. 1. A person twenty-one years of age or older commits the offense of enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct.

2. It is not a defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.

(L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Age misrepresentation with intent to solicit a minor, penalty.

566.153. 1. A person commits the offense of age misrepresentation with intent to solicit a minor when he or she knowingly misrepresents his or her age with the intent to use the internet or any electronic communication to engage in criminal sexual conduct involving a minor.

2. The offense of age misrepresentation with intent to solicit a minor is a class E felony.

(L. 2008 S.B. 714, et al., A.L. 2014 S.B. 491)

Effective 1-01-17

Certain offenders not to serve as athletic coaches, managers, or trainers--violation, penalty.

566.155. 1. Any person who has been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; section 573.200, use of a child in a sexual performance; section 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not serve as an athletic coach, manager, or athletic trainer for any sports team in which a child less than seventeen years of age is a member.

2. The first violation of the provisions of this section is a class E felony.

3. A second or subsequent violation of this section is a class D felony.

(L. 2009 H.B. 62, A.L. 2014 S.B. 491)

Effective 1-01-17

Definitions.

566.200. As used in sections 566.200 to 566.218 and section 578.475*, the following terms shall mean:

(1) "Basic rights information", information applicable to a noncitizen, including but not limited to information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;

(2) "Blackmail", any threat to reveal damaging or embarrassing information about a person to that person's spouse, family, associates, or the public at large, including a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;

(3) "Client", a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;

(4) "Coercion":

- (a) Threats of serious harm to or physical restraint against any person;
- (b) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (c) The abuse or threatened abuse of the legal process;
- (5) "Commercial sex act", any sex act on account of which anything of value is given to, promised, or received by any person;
- (6) "Criminal history record information", criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;
- (7) "Financial harm", detriment, injury, or loss of a financial nature, including credit extortion, criminal violation of the usury laws under chapter 408, or employment contracts that violate the statute of frauds provisions under chapter 432;
- (8) "International marriage broker":
 - (a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and nonresident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:
 - a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or
 - b. Providing an opportunity for an in-person meeting;
 - (b) Such term shall not include:
 - a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;
 - b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or
 - c. An organization that does not charge a fee to any party for the services provided;
- (9) "Involuntary servitude or forced labor", a condition of servitude induced by means of:
 - (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer serious physical injury or physical restraint; or
 - (b) The abuse or threatened abuse of the legal process;
- (10) "Marital history information", a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;
- (11) "Nudity", the showing of the human male or female genitals, pubic area, vulva, anus, or any part of the nipple or areola of the female breast;
- (12) "Peonage", illegal and involuntary servitude in satisfaction of debt;

(13) "Recruit", a noncitizen, nonresident recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services;

(14) "Sexual conduct", sexual intercourse as defined in section 566.010; deviate sexual intercourse as defined in section 566.010; actual or simulated acts of human masturbation; physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(15) "Sexual performance", any play, motion picture, still picture, film, videotape, video recording, dance, or exhibition which includes sexual conduct or nudity, performed before an audience of one or more, whether in person or online or through other forms of telecommunication;

(16) "Victim of trafficking", a person who is a victim of offenses under section [566.203](#), [566.206](#), [566.209](#), 566.210**, or 566.211**.

(L. 2004 H.B. 1487, A.L. 2005 H.B. 353, A.L. 2011 H.B. 214)

*Section 566.221 was transferred to section [578.475](#) by S.B. 491, 2014, effective 1-01-17.

**Section 566.212 was transferred to section [566.211](#) and section 566.213 was transferred to section [566.210](#) by S.B. 491, 2014, effective 1-01-17.

Abusing an individual through forced labor--penalty.

[566.203](#). 1. A person commits the offense of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

- (1) By causing or threatening to cause serious physical injury to any person;
- (2) By physically restraining or threatening to physically restrain another person;
- (3) By blackmail;

(4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer serious physical injury, physical restraint, or financial harm; or

- (5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section [589.400](#), unless such person is otherwise required to register pursuant to the provisions of such section.

3. The offense of abuse through forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

(L. 2004 H.B. 1487, A.L. 2011 H.B. 214, A.L. 2014 S.B. 491)

Effective 1-01-17

Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor--penalty.

[566.206](#). 1. A person commits the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another

person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, or benefits, financially or by receiving anything of value, from participation in such activities.

2. A person who is found guilty of the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section [589.400](#), unless he or she is otherwise required to register pursuant to the provisions of such section.

3. Except as provided in subsection 4 of this section, the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars.

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

(L. 2004 H.B. 1487, A.L. 2011 H.B. 214, A.L. 2014 S.B. 491)

Effective 1-01-17

Trafficking for the purpose of sexual exploitation--penalty.

[566.209](#). 1. A person commits the offense of trafficking for the purposes of sexual exploitation if he or she knowingly recruits, entices, harbors, transports, provides, advertises the availability of or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in a commercial sex act, sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#), without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

2. The offense of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the offense of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars.

(L. 2004 H.B. 1487, A.L. 2011 H.B. 214, A.L. 2014 S.B. 491, A.L. 2016 H.B. 1562)

Effective 1-01-17

Sexual trafficking of a child, first degree, penalty.

[566.210](#). 1. A person commits the offense of sexual trafficking of a child in the first degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of twelve to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#), or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#); or

(3) Advertises the availability of a person under the age of twelve to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#).

2. It shall not be a defense that the defendant believed that the person was twelve years of age or older.

3. The offense of sexual trafficking of a child in the first degree is a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than twenty-five years of such sentence. Subsection 4 of section [558.019](#) shall not apply to the sentence of a person who has been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

(L. 2006 H.B. 1698, et al., A.L. 2011 H.B. 214, A.L. 2014 S.B. 491, A.L. 2016 H.B. 1562)

Transferred 2014; formerly 566.213; Effective 1-01-17

Sexual trafficking of a child, second-degree, penalty.

[566.211](#). 1. A person commits the offense of sexual trafficking of a child in the second degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#), or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#); or

(3) Advertises the availability of a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section [573.010](#).

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. The offense sexual trafficking of a child in the second degree is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

(L. 2004 H.B. 1487, A.L. 2011 H.B. 214, A.L. 2014 S.B. 491, A.L. 2016 H.B. 1562)

Transferred 2014; formerly 566.212; Effective 1-01-17

Contributing to human trafficking through the misuse of documentation, penalty.

[566.215](#). 1. A person commits the offense of contributing to human trafficking through the misuse of documentation when he or she knowingly:

(1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid passport, government identification document, or other immigration document of another person while committing offenses or with the intent to commit offenses, pursuant to sections [566.203](#) to [566.218](#); or

(2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a person's ability to move or travel by restricting the proper use of identification, in order to maintain the labor or services of a person who is the victim of an offense committed pursuant to sections [566.203](#) to [566.218](#).

2. A person who is found guilty of the offense of contributing to human trafficking through the misuse of documentation shall not be required to register as a sexual offender pursuant to the provisions of section [589.400](#), unless he or she is otherwise required to register pursuant to the provisions of such section.

3. The offense of contributing to human trafficking through the misuse of documentation is a class E felony.

(L. 2004 H.B. 1487, A.L. 2014 S.B. 491)

Effective 1-01-17

Restitution required for certain offenders.

[566.218](#). Notwithstanding sections [557.011](#), [558.019](#), and [559.021](#), a person found guilty of violating any provisions of section [566.203](#), [566.206](#), [566.209](#), [566.210](#), [566.211](#), 566.212, 566.213, or [566.215](#) shall be ordered by the sentencing court to pay restitution to the victim of the offense regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim.

(L. 2004 H.B. 1487, A.L. 2011 H.B. 214, A.L. 2014 S.B. 491)

Effective 1-01-17

Federal Trafficking Victims Protection Act of 2000 to apply, when--affirmative defense--procedures to identify victims, training on protocols.

[566.223](#). 1. Any individual who is alleging that a violation of sections [566.200](#) to [566.218](#) and section 578.475* has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

2. It is an affirmative defense for the offense of prostitution under section [567.020](#) that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself or herself or a third person, which force or threatened force a person of reasonable firmness in his or her situation would have been unable to resist.

3. The department of public safety is authorized to establish procedures for identifying victims of trafficking under sections [566.200](#) to [566.223](#). The department may establish training programs as well as standard protocols for appropriate agencies to educate officials and employees on state statutes and federal laws regulating human trafficking and with the identification and assistance of victims of human trafficking. Such agencies may include but not be limited to state employees and contractors, including the children's division of the department of social services, juvenile courts, state law enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

4. As soon as possible after a first encounter with a person who reasonably appears to a law enforcement agency to be a victim of trafficking as defined in section [566.200](#), that agency or office shall notify the department of social services and, where applicable, juvenile justice authorities that the person may be a victim of trafficking, in order that such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance.

5. The department of social services may coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking. State agencies may implement programs and enter into contracts with nonprofit agencies, domestic and sexual violence shelters, and other nongovernment organizations to provide services to confirmed victims of trafficking, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, alcohol

and drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training, and placement assistance.

6. A victim of trafficking may bring a civil action against a person or persons who plead guilty to or are found guilty of a violation of section [566.203](#), [566.206](#), [566.209](#), 566.210**, or 566.211** to recover the actual damages sustained by the victim, court costs, including reasonable attorney's fees, and punitive damages, when determined to be appropriate by the court. Any action commenced under this section shall be filed within ten years after the later of:

- (1) The final order in the related criminal case;
- (2) The victim's emancipation from the defendant; or
- (3) The victim's eighteenth birthday.

7. The attorney general may bring a civil action, in the circuit court in which the victim of trafficking was found, to recover from any person or entity that benefits, financially or by receiving anything of value, from violations of section [566.203](#), [566.206](#), [566.209](#), 566.210**, or 566.211**, a civil penalty of not more than fifty thousand dollars for each violation of section [566.203](#), [566.206](#), [566.209](#), 566.210**, or 566.211**, and injunctive and other equitable relief as the court may, in its discretion, order. The first priority of any money or property collected under such an action shall be to pay restitution to the victims of trafficking on whose behalf the civil action was brought.

Bystander Intervention

The School's primary prevention and awareness program includes a description of safe and positive options for bystander intervention. Active bystanders take the initiative to help someone who may be targeted for a sexual assault. They do this in ways that are intended to avoid verbal or physical conflict. Active bystanders also take the initiative to help friends, who are not thinking clearly, from becoming offenders of crime. Intervention does not mean that you directly intervene to stop a crime in progress; rather, these steps are "early intervention" – before a crime begins to occur. There are three important components to consider before taking action that we refer to as the ABCs:

- **Assess for safety.** Ensure that all parties are safe, and whether the situation requires calling authorities. When deciding to intervene, your personal safety should be the #1 priority. When in doubt, call for help.
- **Be with others.** If it is safe to intervene, you are likely to have a greater influence on the parties involved when you work together with someone or several people. Your safety is increased when you stay with a group of friends that you know well.
- **Care for the person.** Ask if the target of the unwanted sexual advance/attention/behavior is okay – does he or she need medical care? Ask if someone they trust can help them get safely home.

Information on Bystander Intervention was provided by the Department of Defense Sexual Assault Prevention and Response Office from: www.sapr.mil

Risk Reduction

The School's primary prevention and awareness program includes information on risk reduction. This includes:

Avoiding Dangerous Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cash money.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.

Safety Planning. Things to think about:

- How to get away if there is an emergency? Be conscious of exits or other escape routes. Think about options for transportation (car, bus, subway, etc.).
- Who can help? Friends and/or family, or support centers in your area. Please see Section 4 of this Policy for a list of support organizations.
- Where to go? Options may include a friend's house or relative's house, or you may consider going to a domestic violence or homeless shelter. You may also go to the police. **Important Safety Note:** If the dangerous situation involves a partner, go to the police or a shelter first.
- What to bring? This may include important papers and documents such birth certificate, social security card, license, passport, medical records, lease, bills, etc. This will also include house keys, car keys, cash, credit cards, medicine, important numbers, and your cell phone. If you are bringing children with you, remember to bring their important papers and legal documents. You can keep all of these things in an emergency bag. You should hide the bag—it is best if it is not in your house or car. If the bag is discovered, you can call it a "tornado" or "fire" bag.

Protecting Your Friends. You have a crucial role to play in keeping your friends safe. No matter what the setting, if you see something that doesn't feel quite right or see someone who might be in trouble, there are some simple things you can do to help out a friend.

- Distract. If you see a friend in a situation that doesn't feel quite right, create a distraction to get your friend to safety. This can be as simple as joining or redirecting the conversation: suggest to your friend that you leave the party, or ask them to walk you home. Try asking questions like: "Do you want to head to the bathroom with me?" or "Do you want to head to another party – or grab pizza?"
- Step in. If you see someone who looks uncomfortable or is at risk, step in. If you feel safe, find a way to de-escalate the situation and separate all parties involved. Don't be shy about directly asking the person if they need help or if they feel uncomfortable.
- Enlist others. You don't have to go it alone. Call in friends or other people in the area as reinforcements to help defuse a dangerous situation and get the at-risk person home safely. There is safety in numbers.
- Keep an eye out. Use your eyes and ears to observe your surroundings. If you see someone who has had too much to drink or could be vulnerable, try to get them to a safe place. Enlist friends to help you. Even if you weren't around when the assault occurred, you can still support a friend in the aftermath.

Social Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

Information on Risk Reduction was provided by RAINN: Rape, Abuse & Incest National Network: www.rainn.org.

14. Amendments

The School may amend the Policy or the Procedures from time to time. Nothing in the Policy or Procedures shall affect the inherent authority of the School to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the school community.

Definitions of Key Terms

- Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment, (ii) submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions affecting such individuals, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's school or work performance or creating an intimidating, hostile, or offensive educational or working environment.
 - Hostile Environment Caused By Sexual Harassment - refers to a situation where students and/or employees are subject to a pattern of exposure to unwanted sexual behavior that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a school program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to a hostile environment caused by sexual harassment.
 - Quid Pro Quo Harassment – refers to a situation where students and/or employees are subject to unwanted sexual behavior where submission or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a school program or activity.

- Sexual Assault - is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent.
- Domestic Violence - A felony or misdemeanor crime of violence committed (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- Dating Violence - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- Prohibited Conduct – The School prohibits the crimes of Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking as defined in these Definitions of Key Terms.
- Sexual Exploitation - sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (web-cam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.
- Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable

person means a reasonable person under similar circumstances and with similar identities to the victim.

- Retaliation - means any adverse action, or attempted adverse action, against an individual or group of individuals because of their participation in any manner in an investigation, proceeding, or hearing under this Policy.
- Intimidation - To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- Consent is a voluntary agreement to engage in sexual activity.
 - Past consent does not imply future consent.
 - Silence or an absence of resistance does not imply consent.
 - Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
 - Consent can be withdrawn at any time.
 - Coercion, force, or threat of either invalidates consent.

Someone who is incapacitated cannot consent. Incapacitation refers to a situation in which a person is not capable of providing consent because the person lacks the ability to understand her or his decision. This situation may occur due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the student from having the capacity to give consent.

- Complainant – means the person making the allegation(s) of sexual misconduct.
- Respondent – means the person alleged to have committed sexual misconduct.