Responding to Historical Allegations of Sexual Assault, Sexual Harassment, and Child Abuse

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My Head is Full of Children                     Many People on My Mind
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Framing the Conversation

We Don’t Know What We Don’t Know

Flip the Lens

Embrace the Tension

Together We are Better than the Sum of our Parts
The National Paradigm

• Increased awareness and attention to child abuse and sexual violence across all institutions
  – High profile media coverage
  – First person advocacy

• Evolving legal and regulatory framework
  – Child protective services laws
  – Civil and criminal statutes of limitations

• Shifting and heightened expectations for institutional responses

• Impact of trends and practices in higher education
The Context

- Regulatory Framework
- Dynamics of Trauma & Sexual and Gender-Based Harassment and Violence
Regulatory Framework

- Child protective services laws
  - Background clearances
  - Training and education
  - Mandated reporting of child abuse and student abuse
  - Sharing of personnel information
- State education statutes
- Federal and state criminal statutes re: child pornography and sex offenses
- Civil liability (negligence and other considerations)
Implementation Rubric

• Evaluate the facts and context in light of:
  – Law
  – Regulations
  – Industry experience
  – Institutional Values

• Make iterative decisions with fidelity to core principles
Types of Child Abuse

- Sexual Abuse
- Physical Abuse
- Emotional Abuse
- Imminent Risk of Physical Injury or Sexual Abuse
- Serious Physical Neglect
- Abuse by person in authority (teacher, administrator, coach)
- Abuse by another student
- Abuse by parent or caregiver
- Abuse by stranger
- Abuse by a family member or friend
Nature of Child Abuse

• Occurs across all ages, races, genders and socioeconomic classes
• No institution – or individual – is immune
• Most often committed by a parent or caregiver, or by someone trusted and known by the parent and child
• Often achieved by exploiting vulnerabilities
  – Age, disability, isolation, power differential
• Effect of grooming on child, parents, and community
Nature of Child Abuse

• Decisions often based on credibility assessment
• In sexual abuse cases, often little to no physical or forensic evidence
• Often accompanied by a delay in reporting
• Likelihood of repeat offenders and undetected predators
• Concerns over false reports
• Many misconceptions and barriers to understanding the dynamics
Disclosure

- A process where an individual reveals abuse or assault
- On-going, not a one time event
- Often significant delays in reporting
- Stages of disclosure: denial, tentative, active, recantation, reaffirmation
- Circumstances of disclosure: accidental, purposeful, contextual
Conducting a Review of Historical Allegations of Abuse
Values Based Approach

• Lead with your values
• What is the right thing to do?
• Identify core values and review each determination through the lens of those values
• Prioritize institutional integrity, openness and transparency, and care for your constituents
Impetus for the Review

- Proactive review of known incidents
- Complaint by former student/alum
- Law enforcement action
- Notification by another institution
- Media attention
Goals for the Review

- Fulfill commitment to institutional values
- Allow informed and sensitive fact-gathering to serve as the foundation for administrative actions
- Evaluate current risk to minors
- Acknowledge past harms
- Consider current remedies
  - Compensation for counseling
  - Removal of honors
- Address cultural artifacts & effect change
- Inform current policies and practices
- Raise consciousness & awareness
- Communicate with confidence
- Maintain trust
Structure of the Review

- Seek impartiality in structure
  - Are current administrators or board members historical actors?
  - Do current administrators or board members have historical knowledge?

- Rely upon subject matter experts to guide the review
  - Child protection professionals
  - Communications

- Consider the role of the Board
  - Executive Committee
  - Special Committee

- Attorney-client privileged?
- Internal or public report?
Scope of Review

• **Scope considerations:**
  – Assessment of credibility and reliability of the underlying allegation
  – Assessment of the institutional response

• **Implications and considerations:**
  – Individual autonomy & privacy of participants
  – Coordination with law enforcement
  – Naming of perpetrators publicly
  – Notifying other institutions (current and historical)
Caring for Your Constituents

• Care and attention in interviewing complainants
  – Trauma-informed
  – Managing expectations

• Incorporating the opportunity for respondents to participate

• Care for former faculty and administrators
  – Understanding the temporal context
  – Avoiding the tyranny of temporal compression
  – Counsel and indemnification considerations
Support and Response Options

• Support
  – Financial
  – Counseling
  – Leadership
  – Peace and reconciliation

• Community meetings
  – Faculty and staff
  – Parents
  – Alumni
  – Students
Communications

- Complainants
- Respondents
- Faculty and staff
- Current students
- Current parents
- Alumni
- External authorities
- External agencies
- Other impacted school/organization
- Media

- Content
  - Tone
  - Level of candor
  - Acknowledgment of harm
  - Encourage additional complainants to come forward
  - Partnership with law enforcement
  - Action steps
  - Current practices
• Constituencies
  – Identify core audience
  – Need information vs. need for confidentiality
  – Tend to humanity

• Communications
  – Internal core team
  – Internal all
  – External – proactive
  – External – reactive

• Media relations
  – Point person – coordinate and respond
  – Drafter of communications
  – Coordinate with counsel
Concluding the Review

• Determine how best to share the information with your constituents
• Reinforce institutional values in concrete actions and visible outcomes
• Reinforce pathways for communication that foster a culture of reporting and accountability
• Ensure sustained attention to prevention and response
Potential Outcomes

- Inform incident response
- Strengthen internal controls
- Identify the need for additional training
- Enhance compliance program
- Benchmark against industry experience
- Build multi-disciplinary process & pathways for routine and consistent responses
- Incorporate lessons learned into policy
- Initiate annual review of issues/cases and policy
- Improve documentation and record keeping
Implementing Lessons Learned
Effective Preparation

- Pragmatism
- Proactive Preparation
- Physical Plant
- Personnel
- Policies and Procedures
- Practices and Protocols
- Prevention
- Partnerships
- Permission
Pragmatism

- A reasonable and logical way of doing things or of thinking about problems that is based on responding to specific circumstances instead of on ideas and theories
- Embrace the reality that it happens here
- Respond in the same, reasonable common sense manner you respond to other significant issues
- Prioritize values - student welfare and campus safety
Proactive Preparation

- Leadership
- Tone at the top
- Culture of reporting
- Consistency of leading with values
- Commitment to informed communication
Proactive Preparation

• Appoint individual responsible for
  – Policy
  – Training
  – Implementation of procedures
  – Systems/record-keeping
  – Oversight
  – Identification of all applicable laws and regulations and oversight of process for implementation
Physical Plant

- Security
- Access
- Lighting
- Physical plant:
  - Areas of isolation
  - Cyber-safety

- Areas of vulnerability
  - Transitions
  - Transportation to and from school
  - Travel with sports teams or other parents
  - One on one contact
  - Locker rooms
  - Summer camps
Personnel

- Precautionary measures
  - Hiring protocols
  - Background checks
- Job descriptions
- Evaluations and assessments
- Training requirements
- Documentation of concerns
- Corrective action
Employee Policies

• Sexual Harassment and Misconduct Policies
  – Clear definitions and behavioral expectations
  – Clear reporting structure
  – Grievance procedures
Protection of Minors Policies

• Protection of Minors Policies
  – Limits on nature and scope of contact
  – Setting appropriate boundaries
  – Bystander intervention/engagement
  – Culture of care requires reporting
Mandatory Reporter Policies

• Mandatory reporting of suspected child abuse
  – Institutional reporting
  – How to identify
  – What to do/what not to do
  – Option to call hotline directly?
  – Circle back to reporter
  – Timeliness
  – Record keeping
  – Forms
Technology Policies

• IT and responsible use policies
  – Email
  – Social media
  – Photographs
  – Educational sites
Protocols

- Internal protocols re: coordination of information
- Multi-disciplinary response team
- Centralized reporting
- Need to know circle
- Documentation
Prevention and Education

- Training and education for staff
  - Mandatory reporting
  - Inappropriate behaviors
  - Professional boundaries
  - Centralized reporting
  - Policies and procedures

- Training and education for students
  - Resources and policies
  - Consent
  - Alcohol and other drugs
  - Interpersonal violence
  - Social media
  - Bystander Intervention

- Constituencies
  - Students
  - Parents
  - Staff
  - Volunteers

- Considerations
  - State law requirements
  - Frequency
  - Modality
  - Effectiveness
Partnerships

• Established relationships with community partners
  – Law enforcement
  – District Attorney
  – Child welfare agencies
  – Domestic violence or sexual assault advocacy centers

• Partnerships with parents
Permission

• Giving permission to students and staff to speak up
• Overcoming insular loyalty
• Building relationships of trust
• Identifying resources
• Ensuring parental permission
Dynamics of Child Abuse
How Children Experience Abuse

- Normal adult reaction is to fight against an unwanted sexual advance
- Child may often offer no resistance
- Power structure – abuser is caregiver in position of authority
- Child will do as taught – Obey
- Child may feel helpless – feign sleep, pretend it isn’t happening
Positive Emotions

• May not be an invasive or intrusive act
• May be pleasurable (physically & emotionally)
• Not designed to be physically painful
• Child may receive material rewards
• Non-tangible rewards – the favored child, special attention, extra privileges
• Offender is often a loved care-giver
Negative Emotions

• Helplessness – feign sleep, pretend it isn’t happening
• Fear of offender because of threats or violence
• Endure abuse to protect siblings from abuse
• Endure abuse to maintain status quo of family
• Shame or Embarrassment
• Guilt or complicity
General Behavioral Indicators of Abuse

- Extreme and unexplainable changes in behavior
- Withdrawn, anti-social behavior, detached
- Unusual, excessive fear and/or apprehension of a particular person
- “Frozen awareness” or “frozen watchfulness”
- Changes in sleep pattern, frequent nightmares or difficulty falling asleep, and as a result may appear tired or fatigued
- Changes in school performance and attendance, difficulty concentrating in school or excessive absences
General Behavioral Indicators of Abuse

- Running away
- Fear of going home
- Truancy
- Substance abuse
- Disciplinary issues
- Self mutilation
- Suicide attempts
- Eating disorders
- Carrying a weapon
Indicators of Serious Physical Injury

- Unexplained bruises or welts on body
- Unexplained burns on the body (i.e. cigarette burns, immersion burns)
- Repeated injuries over a period of time
- Multiple injuries in various stages of healing
- Neglected/untreated injuries
- Wearing extra layers of clothing
- Wearing clothing that is inappropriate for the weather
- Resistance to remove clothing at appropriate times
Indicators of Sexual Abuse/Exploitation

- Physical injury to the genitals
- Suspicious stains, blood, or semen on underwear, clothing or body
- Resistance to remove clothing at appropriate times
- Bladder or urinary tract infections
- Pain when going to the bathroom
- Difficulty swallowing
Indicators of Sexual Abuse/Exploitation

- Age inappropriate sexual knowledge and unusual/abnormal sexual behavior:
  - Sexually acting out
  - Initiating sophisticated sexual behaviors/dress
  - Enticing other children into age inappropriate sexualized play
  - Regression in young children (e.g. sucking thumb, baby talk)
  - Early, unexplained pregnancy
  - Excessive masturbation
  - Creating and playing out sexual scenarios with toys or dolls
Indicators of Serious Physical Neglect

• Inadequate weight gain or physical growth over an extended period of time
• Delays in physical development
• Persistent hunger
• Lack of hygiene/personal care/severe body odor
• Consistently soiled clothing
• Untreated physical problems or medical conditions
• Deprivation of food, water, heat, shelter
Grooming Behaviors

• Any innocent behavior designed to facilitate access & build trust
• Designed to break down emotional and psychological boundaries to allow abuse to occur & minimize risk of disclosure
• Can mimic otherwise healthy and appropriate behaviors
• May involve inappropriate or criminal behaviors
• Often involves an escalating pattern of conduct
• Grooming of child, siblings, parent, institution and community
Grooming Behaviors

- Spending time in pleasant activities
- Engaging in nonsexual touch
- Showing sexual materials to pique curiosity or desensitize child
- Play on the child’s feelings for the offender
- Develop a caretaking role
- “Special Status”

- Rewards (starts slowly….)
- Gifts
- Transportation
- Boundary issues/gradual erosion
- Granting of privileges
- Use of alcohol/drugs (by both perpetrator and/or victim)
Grooming Behaviors

- Escalation of intimacy
- Reciprocity
- Exposure to pornographic materials
- Discussion of adult topics
- Use of social media or technology for communication
- Photographing an individual child in isolation
- Touching anywhere that is even potentially “private”
- Distorting understanding of event/intent – “accidental”
- Encouraging an alliance or secrets/confidences
- Under the guise of education
- Shift the blame to the child
Improper Behaviors of Adults

• Discussion of adult topics with children
• Texting, calling, Facebooking, etc. with children
• Exposing children to adult material on computers or elsewhere
• Photographing an individual child in isolation (doesn’t mean that you can’t take a picture of a child who wins an award, etc.)
• Touching anywhere that is even potentially “private”
• Other……
Why Don’t Children Tell?

- Threats
- Loss of trust
- Confusion
- Low self esteem
- Feelings of shame or guilt
- Unaware that acts are inappropriate
- Fear of being removed from the home
- Fear that no one will believe them
- Children are taught to trust and obey adults
- May not have someone to tell
Why Don’t Adults Tell?

- Confusion or uncertainty about reporting responsibilities
- Ignorance of the warning signs
- Fear of inadequate response
- Do not want to become involved
- Fearful of repercussions
- Concern that reporting may violate professional obligations
- Fear of not being taken seriously
- Relationships that blur understanding
Use of Slides

• This PowerPoint presentation is not intended to be used as a stand-alone teaching tool.

• These materials are meant to provide a framework for informed discussion, not to provide legal advice regarding specific institutions or contexts.

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