

MINORS ON CAMPUS: IT'S MORE THAN CHILD'S PLAY

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1

ABSTRACT: Colleges and universities are realizing that they may not be fully aware of the varied circumstances under which minors are present on campus.

This session will identify risks associated with minors on campus, and policies and procedures to mitigate those risks.

Learn to identify and manage unique risks associated with research programs, residential programs and sports camps. Define roles and responsibilities among sponsors, residence halls, public safety, compliance offices and risk management

2



Compliance Starts with Care





My Head is Full of Children - Many People on My Mind

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3



3

Protection of Minors in Higher Education

- Shifting and heightened expectations for institutional responses
- Impact of trends and practices in higher education
- Challenge in implementing complex and pan-institutional responsibilities in a traditionally siloed environment



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Protection of Minors in Higher Education

- Identify scope and manner of intersections with minors on campus to understand the regulatory framework and applicable legal responsibilities.
- Understand the dynamics, types and precursors of abuse in the campus setting
 - Sexual abuse, Physical abuse, Emotional abuse, Neglect
 - Grooming behaviors
 - Imminent risks
- Develop customized Minors on Campus Compliance Program
 - Consider unique campus programs, activities, personnel, resources, pre-existing systems, jurisdiction, culture, history, needs, values



5



5

IDENTIFYING INSTITUTIONAL INTERSECTIONS WITH MINORS

6



Where are the Kids?

- Student Organizations
- Academic Programs
- Sports and Recreation Programs
- Camps
- 4-H
- Music (private lessons and programs)
- Tutoring and Instruction
- Field Trips
- Student Teaching



7



7

Where are the Kids?

- Shows
- Labs (with or without parents)
- Parties at Fraternities and Sororities
- Overnight in dorms with friends and siblings
- Recruiting Programs
- Sporting and campus events
- Unaccompanied ("just hanging out")
- Volunteer and paid high school internships



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Where are the Kids?

- Rented campus facilities to indirectly-affiliated minors serving organization
- Clubs, membership programs, and leagues for minors using college owned equipment
- Temp services
- Tours
- Education and medical school clinics
- Psychology, health care clinics



9



9

IDENTIFYING APPLICABLE LAWS AND REGULATIONS



10

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, licensing statutes
- Federal and state criminal statutes re: child pornography, sex offenses, physical abuse, neglect, and endangering, Megan's law
- Title IX, Clery, VAWA
- Common Law (duty/breach/causation damage)



11



11

Regulatory Framework - Matrix

- Develop customized regulatory matrix*
 - Inform policy, procedure, practice
 - Accommodate jurisdictional and institutional considerations
- Child Welfare Information Gateway
- https://www.childwelfare.gov/topics/systemwide/laws-policies/state/





*sample matrices provided upon request



Regulatory Framework - Matrix

- Federal law
- Federal regulations
- Federal guidance
- State law
- Local regulations
- Precedential court decisions
- Regulatory enforcement actions
- · Accrediting bodies









13

13

Regulatory Framework - Federal

Offense	Federal Statutes
Child Pornography	18 U.S.C. §§ 2251, 2251A, 2252, 2252A, 2260
Interstate Offenses	18 U.S.C. §§ 1591, 2421- 2423
Obscenity	18 U.S.C. § 1460-1470



Regulatory Framework – Megan's Law

Statute	Overview
Megan's Law	 If registered sex offenders are enrolled at, or employed at a postsecondary institution, the offenders must also provide this information to the state.
	The state must inform the University.
	The University must provide a statement advising where Megan's Law information may be obtained. (i.e., campus police, local police district, online)
Check state laws and maintain dialogue with local Megan's Law enforcement and ICAC units	University not required to disseminate sex offender information.
	 FERPA does not prohibit disclosure of information about registered sex offenders.



15



15

Regulatory Framework – Title IX, Clery

Statute	Overview
Title IX 20 USCA § 1681	Provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."
Clery Act 20 USC § 1092	 Duty to Report, Warn, Log, "Clery Crimes" Requires Policies, Procedures, Programs Amended by VAWA – includes dating violence, domestic violence, sexual assault, stalking



Regulatory Framework – The Reporting Gap

- Crime reporting to police vs. mandatory reporting of child abuse to child protective services
 - Many state child protective services definitions define abuse of a child based on both the nature of conduct and the status of the perpetrator - a "caretaker"
 - "Suspected" child abuse may not rise to the level of a an obvious crime
- Public educational institutions may have additional reporting requirements, where private institutions do not



17



17

Regulatory Framework – The Reporting Gap

- Making a report may require the exercise of judgment as there may not be an affirmative statutory requirement, but a duty to care, supervise, warn, investigate, discipline, protect.
- · Navigating fear of defamation claims
- Law enforcement investigative records and mandatory reporting records are legally protected as confidential
- Long term value proposition...
 WHEN IN DOUBT REPORT IT OUT



Implementation Rubric

- Evaluate the facts and context in light of:
 - Law
 - Regulations
 - Industry experience
 - Institutional Values
- Make iterative decisions with fidelity to core principles



19



19

IDENTIFYING COMMON ISSUES AND HIGH RISK SCENARIOS IN HIGHER EDUCATION



20

Common Issues

- Registration (of program and participants)
- Screening of staff, participants, volunteers
- Appropriate staffing ratios
- Supervision of staff and participants
- · Adequate programing
- Adequate budget
- Suitable accommodations and/or site
- Adequate training to identify and report child abuse



21



21

Common Issues

- Appropriate age groupings
- Appropriate staffing for special situations
 - Field trips
 - Locker rooms
 - Restrooms
 - During Transportation
- · Appropriate communication among staff
- Medical and mental health issues
- · Smart phones and social media



Common Issues

- Visitors
- Transgendered staff and participants
- Alcohol and illicit drugs
- · Prescription and over-the-counter medications
- Weapons
- Violence
- Sexual violence, exploitation and experimentation
- Bullying



23



23

Common Issues

- Self-harm
- Missing minors
- Reports of abuse and/or neglect occurring outside of the program

24

- Access to the internet (limited or open)
- Possession of child pornography (university network, devices)



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Additional Issues - Research Programs

- Confidentiality
- · Conflicts of interest
- "Free" time
- Lack of expertise with minors
- Need for Oversight (other than the PI)
- Protection of human subjects (special emphasis on vulnerable populations)
- Appropriate and adequate study protocol
- Appropriate personnel



25



25

Additional Issues - Residential Programs

- Residence halls and dormitories not designed for children
- Restroom facilities
- Roommates
- Supervision (especially at night)



Additional Issues - Sports Programs

- Injuries
- Expertise of trainers/coaches/staff with minors
- Compliance with NCAA rules regarding recruitment
- Use and rental of university/college facilities and resources



27



27

Additional Issues - Physical Plant

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

- Areas of vulnerability
 - Transitions
 - Transportation
 - Travel
 - One on one contact
 - Illness
 - Emergencies



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Additional Issues - Technology Policies

- IT and responsible use policies
 - Email
 - Social media
 - Photographs
 - Educational sites
 - University network
 - University hardware
 - Explicit prohibitions acceptable use vs. academic freedom



29



29

High Risk Scenarios

- Historical allegations of abuse
- High profile employee offender
- Sexually violent predator
- Institutional response of non-offender employees who knew or should have known of conduct

30

- Megan's Law Offenders on campus students, faculty, staff
- · Identifying grooming behaviors



Grooming Behaviors

- Innocent behaviors designed to facilitate access & trust
- Designed to break down emotional, physical, 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-community



31



31

Nature of Child Abuse and Grooming

- 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



Seven Elements of Effective Compliance* customized for Protection of Minors on Campus:

- 1. Standards, Policies, and Procedures
- 2. Compliance Program Administration
- 3. Screening and Evaluation of Employees, Vendors, & Agents
- 4. Communication, Education, and Training on Compliance Issues
- 5. Monitoring, Auditing, and Internal Reporting Systems
- 6. Discipline for Non-Compliance
- 7. Investigations and Remedial Measures

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 EFFECTIVENESS OF CORPORATE COMPLIANCE



33



33

Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Dedicated Protection of Minors (Youth Protection) Policy

- Develop policies and procedures informed by law, dynamics and institutional values to prevent and detect child abuse or prohibited conduct with minors
- Registry of all programs, activities, intersections with minors

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Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Dedicated Protection of Minors (Youth Protection) Policy

- Insurance requirements
- Participant agreements, waivers
- Limits on nature and scope of contact with minors
- Setting appropriate boundaries
- Codes of Conduct for staff and participants
- Clear definitions and behavioral expectations

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35



35

Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Dedicated Protection of Minors (Youth Protection) Policy

- Identify policy and applicable grievance procedures that applies for boundary violations or child abuse.
 - Sexual Abuse Title IX /Clery / VAWA
 - Physical Abuse, Emotional abuse and Neglect applicable code of conduct
- Bystander intervention/engagement
- Describe background check requirements

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Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Dedicated Protection of Minors (Youth Protection) Policy

- Institutional Mandatory Reporting requirements
- Definitions of suspected abuse to be reported
- Where to report/how to report
- Outline where information goes; what to expect legal protections for reporter; anonymous reporting option if available

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37



37

Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Dedicated Protection of Minors (Youth Protection) Policy

- Option/requirement to call hotline directly?
- Commitment to follow-up with reporter after report
- Timeframe for reporting
- Forms for reporting
- Consequences (legal, policy) for failure to report
- Describe training requirement, annual refresher?

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1. Standards, Policies, and Procedures*

Protection of Minors SAMPLE policy elements

- Purpose/value statement
 Program, activity
- Scope of Policy
- Definitions
- Policy Coordinator
- Background Checks
- Training requirements
- Program, activity registration
- Code of Conduct/ Guidelines for Working with Minors
- Mandated Reporting of Suspected Child Abuse

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39



39

Tools to Mitigate Risk / Effects of Harm

1. Standards, Policies, and Procedures*

Protection of Minors SAMPLE policy elements

- Minors as Employees, Volunteers, Interns, or Research Assistants
- Identify Minors Coordinator
- Pan-institutional youth protection team
- Covered Programs
- Implementation, Enforcement, Accountability, Compliance section
- Megan's Law considerations Training

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Tools to Mitigate Risk / Effects of Harm 1. Standards, Policies, and Procedures*

Internal Operating Procedures/Protocol considerations

- Internal protocols re: timing, sharing and coordination of information
- Multi-disciplinary response team
- Authority/Responsibility/Decision Rubric
- Centralized reporting online, hotline, paper
- "Need to know" circle members
- Documentation/record keeping requirements

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41



41

Tools to Mitigate Risk / Effects of Harm

2. Compliance Program Administration*

Tone at the top

Ensure high-level leadership support of, commitment to and knowledge about:

- -the content and operation of the program;
- the exercise of reasonable oversight with respect to implementation and effectiveness; and
- -allocation of sufficient resources for personnel, systems/record-keeping, training and sustainability.

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2. Compliance Program Administration*

Tone at the top - Identify and appoint Key Stakeholders:

- Program Sponsor
- Compliance
- Public Safety
- Risk Management
- Student Affairs Residence Halls
- Provost

- Athletics
- Dining Services
- Legal Counsel
- Internal Audit
- Title IX
- Clery
- Human Resources

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43



43

Tools to Mitigate Risk / Effects of Harm 2. Compliance Program Administration*

Appoint Minors/Youth Protection Coordinator

- Lead, administer, and coordinate compliance for protection of minors program
- Consider appointment in institutional structure that will allow for pan-institutional attention, respect and effective implementation
 - Compliance
 - Clery
 - Public Safety
- Stand alone
- Senior Staff
- TIX/Equity Office

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Tools to Mitigate Risk / Effects of Harm 2. Compliance Program Administration*

Appoint Minors/Youth Protection Coordinator

- Ensure position sufficiently high in the reporting structure to steep it with institutional commitment and appropriate authority
- Consider reporting line to a Senior VP, VP for Compliance, perhaps a dotted line to the Audit Committee in light of the high risk nature of the subject matter

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45



45

Tools to Mitigate Risk / Effects of Harm 2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Establishing protection of minors compliance program
 - Identify internal and local external resources
 - SCCE presentation, 7 elements of an effective compliance program
 - Partner with other institutions
 - Subject matter experts/counsel development of programs, judgment calls, legal questions

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2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Identify all intersections with minors, maintain inventory
 - Inventory must be thorough
 - Interviews
 - Surveys
 - Audit

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47



47

Tools to Mitigate Risk / Effects of Harm Compliance Program Administrations

2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Identify applicable, customized by state and local jurisdiction, legal matrix
- Develop, based on inventory intersections with minors and applicable law and policy, the requirements for all campus intersections with minors
- Develop system for program registration and tracking compliance

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2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Identify training needs and coordinate all training
 - Audiences
 - Time, frequency
 - Subject matter
 - Modality
 - Documentation

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49



49

Tools to Mitigate Risk / Effects of Harm

2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Identify and implement systems/processes for documenting, tracking, synthesizing all campus data
- Ensure reporting requirements are met
- Establish background check requirements, policy decisions, system for reviewing and tracking checks

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2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Develop centralized accessible and user friendly process for
 - Reporting that provides your institution with real time information to inform effective decision making and compliance with all legal requirements
 - Registering, insuring and monitoring programs to ensure effective practice consistent with institutional values

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51



51

Tools to Mitigate Risk / Effects of Harm 2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Establish process to monitor the legal (update matrix) and practice landscape to ensure compliance and awareness of effective industry practices
- Coordinate and collaborate regularly with key stakeholders on all policy, procedure and practice decisions
- Develop and maintain external partnerships

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2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Identify, develop and maintain internal and external partnerships
- External community partners
 - Law enforcement (police and prosecutors)
 - Child welfare agencies
 - Child protection, family violence, sexual assault advocacy centers

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53



53

Tools to Mitigate Risk / Effects of Harm 2. Compliance Program Administration*

Minors Coordinator Responsibilities

- Give permission to students, faculty, and staff to participate in the institutional commitment to the protection of minors
- Build relationships of trust with all constituents
- Message commitment to a culture of care, culture of reporting

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- 3. Screening and Evaluation of Employees, Vendors, Agents*
 - Institutional review and maintenance of current and updated background checks
 - Employees
 - Student employees
 - Vendors
 - Agents
 - Volunteers

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55



55

Tools to Mitigate Risk / Effects of Harm

- 3. Screening and Evaluation of Employees, Vendors, Agents*
 - Due diligence in hiring and contracting
 - Protocols
 - · Criminal history considerations
 - Job descriptions
 - Evaluations and assessments
 - Track and document requirements
 - · Documentation of concerns
 - Corrective action taken and documented

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4. Communication, Education, Training - Compliance Issues*

Identify and communicate to training population

- Depending on state, may be all persons for mandatory reporting of suspected child abuse
- Audiences
 - Students
 - Faculty
 - Staff
 - Volunteers
 - Third-party Vendors
 - Minors and their parents

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57



57

Tools to Mitigate Risk / Effects of Harm

4. Communication, Education, Training - Compliance Issues*

Communicate roles, clear directives, and processes for all reporting responsibilities to the following:

- Law Enforcement
- Child Protective Services
- University Officials
- Title IX Coordinator
- Clery Coordinator
- IRB
- Parent/Guardian
- Licensing Boards

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4. Communication, Education, Training - Compliance Issues*

Training and education content considerations – staff

- Mandatory reporting
- Prevention of abuse and neglect
- Dynamics and identification of physical and sexual abuse (including grooming behaviors)
- · Centralized reporting system
- All relevant policies, procedures and protocols how to report, document, and what to expect
- Professional boundaries, conduct policies/procedures

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59



59

Tools to Mitigate Risk / Effects of Harm

4. Communication, Education, Training - Compliance Issues*

Training and education content considerations - students

- Resources and policies
- Reporting options
- Consent
- Alcohol and other drugs
- Interpersonal violence
- Social media
- Bystander Intervention

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4. Communication, Education, Training - Compliance Issues*

Communication, Education, and Training Considerations

- Reasonable steps to communicate the program's standards and procedures throughout the organization
- Training that is tailored to each constituency of the organization
 - Frequency of training
 - Modality of training
 - Measuring Effectiveness of training

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61



61

Tools to Mitigate Risk / Effects of Harm

4. Communication, Education, Training - Compliance Issues*

Communication, Education, and Training Considerations

- Marketing campaign to bring broad based institutional awareness and commitment to the issue
- Handouts
- Flow-charts
- Ensure informed and accessible communication

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Tools to Mitigate Risk / Effects of Harm 5. Monitoring, Auditing, Internal Reporting & Documenting*

- Annual Inventory Survey, to maintain accurate inventory of minors' programs and mandatory reporters
- Template documents and online systems to monitor all critical stages of implementation including:
 - Background checks
 - Training completion
 - Reporting requirements
 - Registration of programs
 - Waivers/insurance

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63



63

Tools to Mitigate Risk / Effects of Harm 5. Monitoring, Auditing, Internal Reporting & Documenting*

- Bi-Annual audits and annual random sampling to test effectiveness of training, systems, and compliance
- Annual review of policy to update and incorporate any legal/policy changes or lessons learned through practice
- Publicize a system that allows reporting or the receipt of guidance about potential and actual non-compliance without fear of retaliation
- Annual Youth Protection Program Report

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Tools to Mitigate Risk / Effects of Harm 6. Discipline for Non-Compliance*

- Ensure that protection of minors program clearly promotes and enforces policy up and down reporting chains and across institutional departments
- Provide incentives to comply and sanctions for failure to comply or take reasonable steps to prevent or detect misconduct

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65



65

Tools to Mitigate Risk / Effects of Harm 6. Discipline for Non-Compliance*

- Document all failures to comply and attendant response, discipline, education
- Annual report of disciplinary actions for failure to comply provided to senior leadership
- Require follow-up education and training for constituents involved in the failure to comply

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7. Investigations and Remedial Measures*

- Clear articulation of investigative protocols
 - Individual misconduct against a minor
 - Failure to comply with reporting requirements
 - Systemic institutional response failures
- Engage subject matter experts to assist as needed
- Articulate rationale and document tailored discipline and remedial measures to investigative findings
- · Annual reporting of all investigations to senior leaders

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67



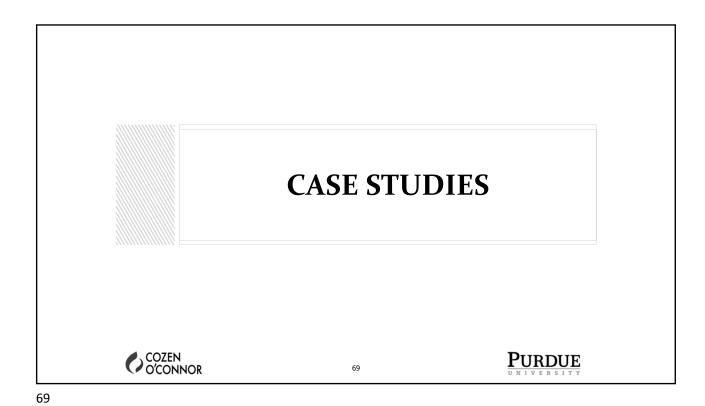
67

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Penn State: Jerry Sandusky

70

- 1998: PSU police conducted an investigation after an 11-year old boy told his mom Sandusky showered with him and hugged him while in the shower. Sandusky admitted to hugging the boy in the shower. A second boy with identical allegations was interviewed. Criminal charges were not filed.
- 1999: Sandusky retired from the Penn State football program with an "emeritus" title that allowed him to access campus facilities. Many PSU football followers reportedly found Sandusky's retirement abrupt and oddly timed.





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Penn State: Jerry Sandusky

- 2000: A university janitor (Calhoun) saw Sandusky engaging in sexual activity with a boy in the shower. The janitor told his boss (Witherite). His boss said, if Calhoun wanted to, he could report it up the chain.
- 2002: A graduate assistant
 (McQueary) saw Sandusky sexually
 assaulting a boy in the shower and
 reported it to the Head Coach
 (Paterno) the following day. Ten days
 later, McQueary met with the
 Athletic Director (Curley) and the
 Treasurer and Senior Vice President
 (Schultz) to report what he had saw.
 PSU did not contact police or any
 child protection agency.



71



71

Penn State: Jerry Sandusky

72

- Two weeks later: Curly told McQueary that Sandusky's keys to the locker room were taken away and the conduct was reported to the Second Mile. The University's President (Spanier) approved a decision banning Sandusky from bringing children onto PSU campus.
- 2009: A mother reported to the Clinton County High School that her son was abused by Sandusky. Sandusky was banned from the school district's campuses and police were notified.

- 2010 McQueary testified before a grand jury.
- 2011: A grand jury investigated Sandusky's misconduct. After news of the investigation Curly and Schultz resigned. They were subsequently charged with making false statements to the grand jury and failing to report possible child abuse. Paterno and Spanier were fired by the Board.



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Penn State: Jerry Sandusky

- 2011: Sandusky was criminally charged and several civil suits were filed against him and PSU.
- 2012: Sandusky was found guilty of 45 counts related to the sexual abuse of 10 boys over a 15 year period.
- 2012: The NCAA issued what are considered the second strongest sanctions against a university's sports program.
 - \$60 million fine to a national endowment for sexual-abuse survivors
 - Banned from the post season for four years (later reduced to two years)
 - Vacated wins from 1998-2011
 - Reduced football scholarships from 25 to 15 for four years
- 2015: An audit revealed PSU spent over \$93 million in settlements with Sandusky's victims.



73

Michigan State: Larry Nassar

- 1992: First reported assault occurred on an underage girl, under the guise of medical research, while Nassar was a medical student at MSU.
- 1997:
 - a gymnast reportedly complained to MSU gymnastics coach (Klages) about Nassar's treatments.
 She was discouraged from filing a formal complaint.
- A parent complained to gym (Twistars) owner about Nassar's medical treatment. No investigation was conducted.
- 1999: MSU track and cross-country runner disclosed to a staff member of the athletic program and athletic trainers that Nassar penetrated her vagina during treatment for an injured hamstring. She reported being told that Nassar is "an Olympic doctor" and "knew what he was doing."



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Michigan State: Larry Nassar

- 2000: An MSU softball player told four university officials that Nassar was sexually inappropriate during medical treatments. She reported being told to feel "grateful for her opportunity to be treated" by Nassar.
- 2002: A gymnast disclosed abuse to an area coach and was told to "keep quiet."
- 2004: A counselor was notified by a family friend of a complaint of abuse by Nassar. The counselor organized a meeting with the 12 year old girl and her parents. Nassar denied the allegations and the parents forced the girl to recant. Law enforcement was not notified despite a state law requiring mental health counselors to report child sexual abuse.



75



75

Michigan State: Larry Nassar

2004: A criminal complaint was filed in Meridian Township by a Nassar patient alleging sexual abuse. Criminal charges were not filed and the case was closed.

 2014: A second police report was filed by a different woman with the MSU police. The local prosecutor's office declined to press charges after concluding it was a legitimate medical procedure.





Michigan State: Larry Nassar

- 2014: MSU President was made aware of a Title IX complaint and a police report against an unnamed physician.
- For the next 16 months: Nassar continued to treat patients while the university police department conducted an investigation.
- Aug. 2016: A victim filed a criminal complaint against Nassar with the MSU police, alleging she was assaulted in 2000, when she was 15-years old.
- The next day: MSU reassigned Nassar from all clinical duties at the university.



77



77

Michigan State: Larry Nassar

78

- Sep. 2016: Reports of abuse by Nassar are made public by the media. MSU fired Nassar.
- Jan. 2018: Nassar pleaded guilty to seven courts of criminal sexual conduct in one county, and three in another county. 156 women read victim impact statements during the sentencing hearing. Nassar was sentenced to 40-175 years in state prison.
- Jan. 2018: Various top level MSU officials, including its President and Athletic Director left their jobs during the height of public backlash towards the university.
- May 2018: MSU agreed to a \$500M settlement with the survivors.



78



MINORS ON CAMPUS: IT'S MORE THAN CHILD'S PLAY

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