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- Lessons from the Field -

Protecting Students by Preventing Aiding and Abetting Adult Sexual Misconduct

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Transcript

Cindy Carraway-Wilson: Good afternoon, everyone. And again, welcome to our webinar, Protecting Students by Preventing Aiding and Abetting Adult Sexual Misconduct. This is the 24th of our lessons from the field webinar series and we're pleased to have you with us here today. On behalf of the U.S. Department of Education, we welcome you to the webinar and we expect to have quite a big audience today. We have just over 700 people registered for the webinar and we expect more will be joining us shortly. Thanks to all of you who are already online with us. My name is Cindy Carraway-Wilson, and I'm a training specialist for the National Center on Safe and Supportive Learning Environments, or NCSSE. NCSSE is funded by the Office of Safe and Supportive Schools within the Office of Elementary and Secondary Education.

To learn more about NCSSE and to access a wider range of resources that address school climate and conditions for learning, we encourage you to visit our website. To give you a sense of what that website looks like and the content contains, here we share an image of our homepage on the right, along with some of our most popular products on the left. We also share the latest resources and events coming out from the field via social media. So please follow us.

Please also note that all materials that you see today, including the slides, the referenced resources and the recording of this webinar will be available on the events page within this website. In fact, some items such as the slides and the speaker bios have already been posted to the site. You can access previous lessons from the field webinars by visiting the webinar series webpage, which is also listed here and will be posted in the chat.

We'd like to give you an idea of who is in the room with you today. You can see from this slide that we have a wide range of individuals, different types of roles with us. That other category is the highest percentage at 30%. Today, this other category includes individuals who work with community based non-profit organizations and people who are responsible to do investigations, attorneys, health department and healthcare providers, mental health providers, legal specialists, parent liaisons, parents, activists, and others. We just wanted to name a few for you here today. You can see that the other categories are also what's represented here on this slide.

I'd like to go and briefly review the agenda that we're having today. So we're already in the first part of the agenda, reviewing the logistics and doing introductions. We will soon be hearing from Ms. Ruth Ryder who will give us a formal welcome from the Department of Education. From there, we'll move on to a piece of context setting, which helps to describe and help us to understand what aiding and abetting is. From there, we'll move into a panel discussion and we'll round out the presentation with an overview of a resource addressing adult sexual misconduct in the school settings. And then finally, we will have closing remarks, a reminder of other webinars coming up and the opportunity for you to complete that feedback form.

We have a great lineup of speakers here today, including subject matter experts and our panelists. You can see from this list that our experts are coming from a variety of organizations and also from a nice wide range across the country. The bios and the details of the bios are available on the webpage and you can see that link at the bottom of the slide here.

Now, I'd like to welcome Ms. Ruth Ryder, the deputy assistant secretary with the U.S. Department of Education, who's going to provide the opening remarks for us for this webinar. Ruth.

Ruth Ryder:

Thank you so much, Cindy. And thanks to all of you for joining us today, to talk about this really important topic. At the federal, state and local levels, we share a commitment to protecting students from health and safety threats, including protecting students from sexual abuse and sexual predators. The Elementary and Secondary Education Act of 1965, the ESEA, as reauthorized in 2015, includes a provision to help protect students from sexual abuse and adult misconduct. ESEA Section 8546 requires states to adopt laws or policies that prohibit K12 employers from assisting or aiding and abetting school employees, contractors, or agents in obtaining a new job if they are known or believed with probable cause to have engaged in sexual misconduct with a student or minor. Section 8546 applies to every state, state education agency and local school district that receives ESEA funding.

In June, the department released a report and published resources to support the field in addressing Section 8546 of the ESEA. While the overwhelming majority of educators act with extraordinary care and professionalism, many state level policies and practices can, and must be strengthened to ensure

greater protections for our young people. Given our collective commitment to student safety, the topic of this webinar, protecting students by preventing, aiding and abetting sexual misconduct is critically important. All students have the right to learn in safe environments where they can flourish. Today, we've gathered researchers and practitioners together to share information about the report I referenced. Resources that can assist you in your school communities in ensuring student safety in this area and strategies that states have taken to prevent students from this threat. We expect this webinar will provide you with information to help ensure all students have safe learning environments.

As Cindy mentioned, this webinar is a part of our Lessons from the Field webinar series. The Lessons from the Field webinars highlight the effective tools, techniques, and strategies employed by everyday practitioners to address the challenges of the pandemic, to strengthen the resilience of our students and to provide meaningful support to staff. Throughout the series, we've addressed a variety of high priority topics facing America's educators in this challenging time. You can access recorded webinars from the series at the website now being shared in the chat.

Thank you again for being here to consider approaches to preventing aiding and abetting adult sexual misconduct. If you have additional strategies to share, please contact us at bestpracticesclearinghouse@ed.gov, and we'll post that in the chat now also, and please make note of it and let us know what you are doing to create safer school environments. Our work is stronger together, and we all benefit from the sharing of effective strategies. I hope we'll hear from many of you following today's session.

So thank you again for your participation today and for all you do every day to strengthen our schools for staff and students alike. Now Cindy's going to provide some logistical information for the webinar and introduce our speakers. Back to you, Cindy.

Cindy Carraway-Wilson: Thank you so much for those comments, Ruth, and for your continued support and championing of this information in this series. It's really important for us to have this opportunity to speak about 8546 today. Now, I'd like to welcome to turn on your webcams. Our next presenters, Ms. Leslie Anderson is the senior managing director at Policy Studies Associates, and Ms. Stephanie Bard Wilkinson, who's the president of Magnolia Consulting. They are co-authors of the resource that we have highlighted that would be coming into your chat, the Study of State Policies to Prohibit Aiding and Abetting Sexual Misconduct at Schools. Leslie, Stephanie.

Leslie Anderson: Thank you, Cindy, and welcome everyone. Stephanie Wilkerson and I are thrilled to be here today and to have the opportunity to describe the study we conducted on behalf of the U.S. Department of Education regarding state efforts to prohibit aiding and abetting sexual misconduct in schools. Before we get started, we wanted to thank Victoria Hammer at the U.S. Department of Education for her guidance and support throughout the study, as well as our

technical working group who helped inform the study design and final reporting. We also wanted to thank Kate Laguarda at SRI International, who served as the study's deputy director, was a co-author of the report and a terrific partner throughout the project. Last, but certainly not least, we wanted to thank Cindy, Greta and everyone at the NCSSE team for guiding us through the preparations for this webinar. We feel very secure in your capable hands.

To provide some context for the study, and as some of you may know, school employees, sexual misconduct in schools is a phenomenon that often goes unreported because abuse cases or abuse accusations are handled internally to avoid such consequences as unwanted media attention, negative public perception, decreased teacher morale, and potential legal ramifications. As a consequence, confidentiality agreements or settlements may be used to keep incidents of misconduct or abuse private. Offenders are sometimes permitted to leave a district quietly, seek work elsewhere and potentially move on to other victims.

The study we're describing for you today had two main purposes. The first was to examine the extent to which states have laws, regulations, codes of ethics or policies to prohibit aiding and abetting continued employment of individuals engaged in, or there is probable cause to believe they have engaged in sexual misconduct with a student or minor. The second study purpose was to help the department understand how states are working to meet the requirements of Section 8546, and what, if any challenges they were confronting. The department wanted to be able to use the study results to develop technical assistance and support that would help states address the requirements of Section 8546.

In addition, the department wanted the study report to serve as a resource for states to learn about how other states were responding or attempting to respond to the requirements of Section 8546. Finally, we wanted to emphasize that this was not a compliance study. Indeed, we worried that states might misconstrue this as a compliance study, given that it asked very specific questions about how they were responding to Section 8546, which as Ruth mentioned, is a new requirement under the Elementary and Secondary Education Act. Accordingly, we spent some time crafting the consent agreement in hopes that it would put states at ease and encourage their candid responses to questions that focused on a sensitive topic.

The study sought to answer four main questions. The first question, which I just described in the study purposes, was to identify state laws or policies that prohibit aiding and abetting employment. The next question focused on how states develop laws or policies to address Section 8546. So for example, who was involved in the process and what challenges did they face? The third question focused on how SEAs are implementing laws and policies that prohibit aiding and abetting. For example, how were SEAs communicating the requirements of their state laws and policies to districts and what guidance and technical assistance such as trainings did they provide to help districts and

schools implement the requirements of their laws and policies that prohibit aiding and abetting employment.

Finally, we looked at the challenges SEAs have faced if any, in implementing state laws or policies required under Section 8546 and how they address them. Now, I'm going to turn it over to my colleagues, Stephanie Wilkerson, to walk you through the strategies that prohibit aiding and abetting employment. Stephanie.

Stephanie Wilkerson:

Thank you, Leslie. I'm going to speak to the types of provisions that states have in place to prohibit aiding and abetting employment. But first I'd like to touch on the federal provision that is at the center of our presentation today.

Here, you see an excerpt of Section 8546, which was put into place in 2015 under the Elementary and Secondary Education Act reauthorization. As Ruth mentioned, the provision prohibits assisting a school employee, contractor, or agent in obtaining a new job, if they engaged or believed with probable cause to have engaged in sexual misconduct with a minor or student. The provision does not define terms used in this passage, including the term assisting, nor does it define aiding and abetting, which is in the title of the provision. While it was not our role as researchers to interpret the law or define these terms, you will hear us refer to assisting and aiding and abetting interchangeably today.

Through the review of publicly available documents and previous research, we identified categories that formed an organizing framework for describing state's laws and policies. For of these categories directly relate to assisting individuals with obtaining a new job through hiring practices and information disclosures and were the focus of our report. I'll touch briefly on these.

The first two categories focus on hiring practices and include requirements for prospective employers and job applicants. Requirements for prospective employers include conducting criminal background checks, checking an applicant's employment eligibility in the current state and other states where the applicant has worked and requiring applicants to disclose investigations, disciplinary actions and/or suspensions related to sexual misconduct for the student or minor.

The second category includes requirements for job applicants to provide, in writing, authorization for current and former employers to disclose past employment information and a statement disclosing any allegations, investigations or terminations for sexual misconduct with a student or minor.

The next category includes requirements for current and former employers to disclose information to prospective employers about an allegation, investigation, resignation, a termination or other incident related to sexual abuse and misconduct.

And the fourth category focuses on the prohibition of practices that suppress or expunge information about incidents or allegations of sexual misconduct. For example, this would include laws and policies that prohibit termination or confidentiality agreements, letters of recommendation, or private settlements that would suppress information about an incident.

We identified three other categories that indirectly relate to aiding and abetting employment, including mandatory reporting, investigations and enforcement, and training and education. These were part of our broader organizing framework around the topic of sexual misconduct in schools, but they do not directly apply to assisting individuals with obtaining new employment as stated in Section 8546. Therefore, we focused our reporting on the provisions that include requirements for prospective employers, current and former employers and job applicants, as well as prohibitions on information suppression. Next, Leslie is going to talk about our study design and findings.

Leslie Anderson:

Thanks Stephanie. So we just wanted to spend a minute or two quickly describing the study design. The first phase of a study involved conducting a systematic review of state statutes, legislation, regulations and/or codes of ethics that prohibit aiding and abetting the employment of individuals engaged or allegedly engaged in sexual misconduct. To identify state laws and policies, we conducted an extensive search of relevant state documents available through a variety of websites, including SEA websites, state board of education websites, and state legislature, and statute websites.

In addition, we searched the national conference of state legislature's 50-State Searchable Bill Tracking Database, as well as LegiScan, a comprehensive database of all pending and enacted state legislation, and CaseText, a legal database of state, territory and federal statutes, regulations and case law. Once we had assembled an array of documents through these various data sources, we then set about the task of reviewing and coding the relevant state laws and policies pertaining to the prohibition on aiding and abetting employment.

So there was a 15 page document review protocol that we used to code for whether a document was a statute, regulation, or code of ethics. Analysts received training that included an in depth explanation of each protocol item. And after the training reviewers independently applied the protocol to the same state documents and compared their coding and the trainer facilitated the discussion to help the reviewers recalibrate any differences in coding.

As part of the state interviews, which we'll describe next, we asked state respondents to review and update the results of our document review. This review process included not just a review of the comprehensiveness of our search, but also verifying our categorization of their laws and policies as representing, for example, hiring requirements for prospective employers or information sharing requirements for current or former employers.

Next, in summer and early fall of 2020, we conducted hour long semi-structured interviews with state officials or a group of state officials in each of the 50 states and the District of Columbia who were knowledgeable about state laws and policies pertaining to aiding and abetting. Because SEA staff are responsible for overseeing implementation of ESEA provisions, the study team elected to interview SEA representatives to document how states had developed and implemented laws and policies that prohibit aiding and abetting.

The interviews examined how states developed and implemented laws and policies that prohibit aiding in abetting, as well as how states communicate the requirements of those laws and policies to districts and schools and support their implementation. As we describe in the report, the individuals participating in the interviews represented a variety of SEA offices and programs. 23 SEAs included at least one attorney in their interviews, including attorneys from 16 SEA offices of the general or legal counsel.

The results of the data collection by the numbers include 48 of 51 SEAs participating in the interviews for a response rate of 94%. There were a total of 122 individuals who participated and the size of the respondent groups ranged from one to nine individuals with an average of two to three respondents per interview. For the document review, reviewers reviewed 495 documents. And the total number of laws, regulations, codes of ethics and policies states have enacted to prohibit aiding and abetting employment was 144.

Next, we're going to describe the results of our research. First, I'll describe the state laws and policies states have enacted to prohibit aiding and abetting employment and then I'll turn it over to Stephanie to describe the role of SEAS in developing and implementing those laws.

So we found that all 51 states require prospective employers to conduct criminal background checks and 46 states require prospective employers to fingerprint all job applicants. 27 states have laws and policies requiring prospective employers to check an applicant's employment history, certification status, employment eligibility, and/or disciplinary status. It's important to note, however, that the laws and policies of these 27 states do not affect the hiring process in the same way. For example, 19 states have laws requiring employers to request information such as personnel files or employment history from an applicant's current and former employers. Whereas 14 states require employers to check in applicant's eligibility for employment or certification in and across states. Finally, 11 states require applicants to disclose information regarding investigations or disciplinary actions related to sexual abuse or misconduct. In other words, these 27 states do not all require prospective employers to follow the same hiring practices.

As Stephanie described earlier, we identified four core strategies states may have used to prohibit aiding and abetting employment. One of those strategies pertains to enacting requirements for job applicants. Our study found that 18 states had at least one provision requiring job applicants to provide

authorizations or written statements to prospective employers regarding their eligibility for employment in schools. The information employers obtain from job applicant disclosures can provide otherwise unavailable insight into an applicant's background and job history, including information that might not have otherwise emerged. The types of information states require job applicants to provide, can include written authorization for current and former employers to disclose information about the applicant and the applicant's records, written statements indicating whether they have been the subject of a sexual abuse or misconduct investigation, been disciplined, discharged, non-renewed, asked to resign, resigned, or separated from employment, or had a license, professional license or certification suspended surrendered or revoked while allegations of sexual abuse and misconduct were pending or due to a finding of sexual abuse and misconduct.

As the slide is showing SEA respondents noted that the lack of cross-state record sharing could create problems for employers. Indeed, several SEA respondents, even in states requiring applicants to disclose information about past investigations or allegations of sexual misconduct reported struggling to obtain information about job applicants from employers outside their state borders.

We also found that 20 states have enacted laws or policies requiring current or former employers to share personnel information with prospective employers. Of these 20 states, almost all require current or former employers to disclose information to prospective employers about an allegation, investigation, resignation or termination related to sexual abuse and misconduct. Statewide databases, though, can be a resource for sharing information with prospective employers. Types of statewide databases that we heard about include a job application data system, a data base of disciplinary actions maintained by a professional practices office, a teacher certification database, and an online public safety and criminal justice network.

As we described earlier, research has shown that employers sometimes enter into agreements or engage in other practices that can suppress information about incidents or allegations of sexual misconduct. When employers agree to these types of information suppression arrangements, they may be assisting those who have engaged in or allegedly engaged in sexual misconduct to maintain their access to minors and students in other schools. Our findings show that 20 states have laws or policies that prohibit at least one type of information suppression practice. For example, 11 states prohibit current or former employers from expunging from employee records information regarding allegations or other findings of sexual misconduct, and 12 states prohibit suppression of information that sexual misconduct or abuse in termination resignation agreements.

Here we provide a summary overview of all the employment provisions addressed in state laws and policies. The point of this chart is simply to show that the scope of activities required by state laws and policies to prevent aiding and abetting varies across states. On the left side, you can see that a few states

have an active provisions in almost every hiring and disclosure category identified in this report. Whereas 16 states require criminal background checks and fingerprinting and no other provisions.

Now, I'm going to turn this over to my colleague, Stephanie, to walk you through the study findings as they pertain to states' roles in developing and implementing laws and policies, responding to Section 8546. Stephanie.

Stephanie Wilkerson:

Thank you, Leslie. As Leslie shared previously, our study questions also focused on how states developed or implemented and implemented state laws and policies that address Section 8546. So based on our interviews, 19 SEAs reported developing new or revising existing laws and describe the process as intensive, involving other agencies and organizations such as the state board of education and state legislature. Writing statutory language that would address the needs and requirements of stakeholder groups while not conflicting with other laws and policies could be challenging for SEAs. According to SEA respondents 32 SCEs communicate about the requirements of Section 8546 and/or state laws and policies prohibiting aiding and abetting to their districts. 18 of these SEAs communicate requirements to private or non-public schools that receive services paid for by federal funds.

In addition to communicating about requirements, 21 SEAs provide written guidance, model policies and trainings to help districts implement state laws and policies pertaining to aiding and abetting employment of individuals with a history of sexual misconduct. Respondents noted that other state agencies such as school board associations also provide training to districts on hiring practices. 18 SEAs reported monitoring district compliance with state laws and policies that address Section 8546, usually through assurance checks or policy and accreditation audits to confirm the presence or absence of relevant policies. In addition, 33 states collect information or reports from districts on incidents of sexual misconduct.

We also asked SEAs what they need from the department to respond to Section 8546. While the department cannot mandate or prescribe how states and districts should respond to the requirements of Section 8546, respondents in 19 SEAs indicated that model policies, promising practices, and non-regulatory guidance documents would help them address the requirements of Section 8546. They also pointed to the desire to learn from peers and other states and the value of the department's perspective on policies and practices worth replicating. Respondents in 11 SEAs wanted clarity around the language and ambiguities in the law, such as definitions of probable cause and aiding and abetting to minimize misinterpreting the law. They referenced training or training materials that could provide guidance, as well as a dear colleague letter or frequently asked questions page.

Lastly, SEAs expressed needing a cross-state information system to support background checks on applicants' eligibility for employment based on their certifications status, any disciplinary actions or findings related to sexual

misconduct and their criminal background. They indicated that collecting employment history data in other states can be challenging and a loophole in the system if they cannot access information on an applicant's history of sexual misconduct with a student or minor. This concludes our presentation of findings. We now move to our panel discussion.

Cindy Carraway-Wilson: Thank you so much, Leslie and Stephanie, for that wonderful overview of the study and the amazing breadth and depth of the study. Now I'd like to welcome our panelists. We have three wonderful panelists joining us today. Nancy Pugliese, who's the chief bureau of investigations and professional practice for the Connecticut State Department of Education in Connecticut; Michael Arakawa. Sorry about that, Michael. I think I messed up your name again. The chief of compliance investigator of the Office of Educator Development, Licensure and Family Engagement for the Department of Education in Nevada; and Catherine Slagle, the director in the Office of Professional Practices at Office of Superintendent of Public Instruction in Washington State. Stephanie will be moderating this discussion with our panelists.

Stephanie Wilkerson: Well, thank you, Catherine, Mike and Nancy for joining us today. Could you please begin by briefly describing your role and how what you do relates to the requirements of Section 8546. And Katherine, would you mind going first?

Catherine Slagle: Sure. Thank you, Stephanie. My name is Catherine Slagle and I am the director of the Office of Professional Practices with the Office of Superintendent of Public Instruction in the state of Washington. And some of the things that our office does is we have investigators who investigate certificated educators, who violate what we call the code of professional conduct in the state of Washington. So if there are allegations of misconduct, those come to our office, and then we also process all of the fingerprint background checks for anybody who's going to work unsupervised with children in the state of Washington, so we process about 62,000 fingerprints a year.

So when the letter from June of 2018 from the U.S. Department of Education arrived in our agency, I think it became a little bit of a hot potato as to who would handle the requirements of Section 8546, but we already had laws on the books and in place prior to this notification and my direct supervisor at the time was the chief legal officer for the agency. And they thought, after several months of discussion, that based on the duties of our office and the Office of Professional Practices, that this would best fall in our shop. So that's how we became involved with this.

Stephanie Wilkerson: Thank you, Catherine. And Catherine referred to the dear colleague letter in 2018, which went out to all the chief state school officers from the department of education. All right, Mike, you're up next. Would you please tell us about your role in Nevada?

Michael Arakawa: Certainly. My name's Mike Arakawa and I am the chief compliance investigator for the Nevada Department of Education, which has statutory authority to

enforce state laws related to the education of all P-12 pupils. And my team specifically conducts background investigations on all applicants for Nevada educator license and responds to allegations of educator misconduct. And we also have purview to investigate allegations of misconduct at the school or district levels. So very similar to what Catherine does in her state.

During the drafting of Nevada's legislation around aiding and abetting, which I'm going to talk a little bit more about here shortly, our office within the department had the opportunity to review the proposed language and to offer feedback and suggestions and work with the sponsors of that legislation. So we became involved with this work from close to the beginning as it was kicking off, and here we are today.

Stephanie Wilkerson: Thank you for joining us today. All right, Nancy, it's your turn.

Nancy Pugliese: Yes. So I'm Nancy Pugliese and I am the chief over the Bureau of Investigations and Professional Practices in Connecticut. Our bureau was formally created in 2016. Before that we just had investigators who worked with our legal office. We had laws in place as early as 2012 for doing a background check against our child protective agency. So if a person was put on the registry or substantiated, our office found out, excuse me, found out about that information and then had the opportunity to take action.

We also are charged with any applicant who is seeking certification, who has been either terminated by a district in our state, who has received action against their certificate in another state, or who is on the registry, or has a background check issue to research what has happened with that educator and take some form of certification action against their certificate. So we really are the group that oversees the aiding and abetting federal language as well.

Stephanie Wilkerson: Thank you, Nancy. So as you can tell, we have a group of veterans here who have been addressing and protecting students against sexual misconduct in schools well before 8546. So thank you for bringing your expertise and your wisdom to our panel today. So as is documented in the report, there's a broad and varied range of employment provisions states have adopted to prohibit aiding and abetting sexual misconduct in schools.

I'm going to present each of you with a different scenario and ask that you walk us, as best as you can, through what should happen in your state based on any laws and policies your state has in place. So the first scenario is for Catherine and it focuses on requirements for prospective employers.

A prospective employer, which could be a school district administrator or a school principal received an application for employment from an individual who currently works in another school district. There's probable cause to believe that this individual has engaged in sexual misconduct with a student or minor while employed by the other school district. But the prospective employer who

receives the application does not know that. Catherine, given Washington State's laws and policies, what should happen here?

Catherine Slagle:

So in Washington State, as I noted, we do have laws on the books related to this. And so in Washington, before hiring an applicant, a school district shall request the applicant sign a statement, and that statement needs to authorize the applicant's current and past employers, including employers outside of the state of Washington, to disclose to the hiring school district, any sexual misconduct, if any, by the applicant and making available to the hiring school district copies of all of the documents in the prospective employee's personnel, investigative, or other files regarding sexual misconduct by the applicant. Also, the applicant, by signing this document is releasing the applicant's current and past employers and employees acting on behalf of the employers from any liability for providing information described in the Section above regarding sexual misconduct.

And then, within 20 days of receiving that notification from the hiring school district, the school district must provide that information back to the requested hiring school. And they must include all copies of all documents in the applicant's personnel file related to any sexual misconduct. And then finally, they also are required to verify the applicant's certification status if they're applying for a position where certification is required. And in doing so, they would go into our E certification screens and verify that. But also, if there is a current open and active investigation going on in our office, the Office of Professional Practices, there would be a red banner on their certification screen that would say open investigation, contact the Office of Professional Practices, with our contact information. If there was not an open investigation, but we had previously had an investigation on this person and took disciplinary action against their certificate, that red banner would also be there, but on the red banner, it would note what discipline was taken. So if we reprimanded their certificate, if we suspended or we revoked, or they voluntarily surrendered their certificate, and then they would also be able to contact our office. So when that comes to the certificated employees, that's an extra step that they would be able to use to view and find out, number one, any discipline, but specifically in this case, if there was any sexual misconduct.

Stephanie Wilkerson:

Thank you, Catherine. That's very thorough. It sounds like what you outlined were requirements that apply to prospective employers, as well as current and former employers, even down to the number of days that it would take for them, 20 days window to respond to any request from a prospective employer, as well as those requirements for job applicants, which entail putting statements in writing. And then the comprehensiveness and transparency in being able to conduct those background checks and certification status with the banner that you had makes it really visible. Even if an educator is under investigation, not just conviction. So very transparent. Mike or Nancy, would either of you like to share how this might play out differently in your state?

Nancy Pugliese: Oh, I would just like to add, in Connecticut, we have much the same requirements that the... Or many of the same requirements that Washington State has in terms of former employers. We do not go across state lines and have some difficulties. I know the employers have difficulties getting them from out of state employers or previous employers.

What I would like to add though, is that we... There is through the National Association of State Directors of Teacher... NASDTEC, National and State Directors of Teacher Education and Certification, there is a national clearing house and we take that clearing house and download that information into our certification database. And so any action that has been taken by one of the other 50 states... We also have some of the US territories and a couple of provinces in Canada who report information into our system. We will know if there's been action taken in another state as well. So I wanted people to be aware that as a profession, we do try to monitor educators who are crossing state lines, who have committed an act that's egregious enough to have action taken against their certificate.

Stephanie Wilkerson: Okay. And Nancy, it's my understanding that NASDTEC is available to members who pay to be part of the NASDTEC Association.

Nancy Pugliese: That's correct.

Stephanie Wilkerson: And can you confirm whether or not the actions that are accounted for in that database would disclose if the disciplinary action was related to sexual misconduct with a student or minor?

Nancy Pugliese: Yes, it does. That is one of the areas that gets checked is sexual misconduct. And it is available for a fee to districts who would like to access that information upon hire of the individuals.

Stephanie Wilkerson: And NASDTEC gets its information from folks like you, who would send that information to the NASDTEC database.

Nancy Pugliese: That's correct.

Stephanie Wilkerson: So that's how NASDTEC has that data is they collect it from states providing it to NASDTEC.

Nancy Pugliese: One of the other issues that we do in Connecticut also, that I mentioned earlier, is that we require districts to check with our child protective agency to determine if an educator has been put on the child abuse registry in our state. And so an educator who commits a sexual assault of a student would definitely have their name on the child abuse registry. And prior to hiring, our districts must check that as well as do a criminal background check, both at state and national level.

Stephanie Wilkerson: Right. Thank you. And so that's relevant in the cases where a criminal investigation led to an actual conviction. That would pick up anybody who has been convicted.

Nancy Pugliese: It would also pick up the NASDTEC... Well, yes. They don't necessarily have to have been convicted though, in order to be also on the DCF registry. There are situations in which it may not have led to a criminal conviction, but they are on the registry. So, very few, but there have been some.

Stephanie Wilkerson: Right. I call it out because there are many loopholes in this process.

Nancy Pugliese: Yes.

Stephanie Wilkerson: And people kind of exploit those loopholes.

Nancy Pugliese: Yes.

Stephanie Wilkerson: All right.

Nancy Pugliese: Let's turn it over to Mike. This next scenario is for you, and it focuses on requirements for disclosing information between prospective and former employers. So if a prospective employer contacts a job applicant's former employer for information about prior employment, the former employer provides only information about employment duration and positions held. Mike, given Nevada state laws and policies, what should happen here as it relates to Section 8546?

Michael Arakawa: Well, I will attack this by first giving a little background and context on what the law is in Nevada, what it requires and, spoiler alert, it's very similar to what Catherine discussed in Washington, as far even down to the timeframes right there. But in 2017, during the Nevada legislative session, which was by the way, a very good year for protecting pupils, there was a lot of good legislation that came out of that session. One piece of that was Assembly Bill 362, which amended Chapters 391 and 394, Nevada revised statutes. And therefore it's covering both public schools and private schools. This bill was intended to prevent local education agencies and schools here in our state from hiring educators who have engaged in sexual conduct with minors or with pupils.

Broadly, it states that an employer or a prior employer cannot constructively assist a person in obtaining employment with either a school or a local education agency, a school district if that individual is known to have engaged in sexual conduct with a minor at an LAA or a school that previously employed such a person cannot enter into any agreement to keep that conduct confidential.

Now, these provisions don't apply if an individual was accused and exonerated through investigation, or if an investigation into the alleged conduct was unable

to substantiate the misconduct. Specifically, within the application hiring process, that law mandates three areas of responsibility, for the applicant, for the prospective employer and for any prior or current employers. The applicant has to disclose relevant prior history, including substantiated findings of sexual conduct related disciplinary actions, criminal convictions, and so forth. And they have to do it here on a forum that actually is developed by the department of education in Nevada, to make sure that they're not doing some kind of a weasel statement right there to get out of disclosing something that they should be disclosing.

They also have to provide written authorization for any current or former employers to release relevant history to the prospective employers. And if an applicant provides false information, or if they fail to disclose, they are subject not only to revocation or suspension of their educator license, but they can also be liable for a civil fine of up to 10,000 and they're guilty of a misdemeanor.

Now, a school or a district that is a prospective employer is required to contact all known prior employers and request the relevant history information, again, using a form prescribed by the department so that they know what they're asking for. And each prior employer is required to provide that information within a 20 day timeframe, just like in Washington.

Now, if a prior employer or a prospective employer, for that matter, fails to carry out their responsibilities under the statute, they are not held criminally liable, but they may be subject to the same, up to \$10,000, administrative fine, which would be handled by the Attorney General's office at that point. That would not be done through the department, but the AG's office would come after them and get them to pay.

Now, as far as that applies to the scenario, obviously there are a lot of things missing in that scenario. Even if we assume that the applicant has properly disclosed everything that they're required to disclose, and that the prospective employer has done their due diligence and asked for the correct things, if that prior employer is in the state of Nevada, well, they've placed himself into that area of legal liability there where they could be subjected to fines for not responding with the appropriate information that is required by the statute.

Now, the whole question of how do we do this across state lines came up and Nevada is in the same place. We don't have any mechanism in play here to enforce this statute across state lines. So if this person came from Iowa, nothing against Iowa, but if this person came from Iowa or any other state and a Nevada school or district sent the required request for information, and the Iowa school said, "You know what? We don't have to do this," there's not really a whole lot we can do as far as that goes. And that's when we rely on a comprehensive background investigation, the resources we have through NASDTEC, like Nancy was talking about, to try to determine what has this person been up to, and is there something going on here that we need to know about?

Stephanie Wilkerson: So thank you, Mike. There's great detail here and some of the things that I'm hearing that's happening in Nevada, one is even looking at the state department, providing those forms for school districts to use in the hiring process, so that's a form of support. And then also the state laws and policies really have some teeth in them with having these fines for anyone who is not in compliance with these hiring practices. Have you found that you're able to enforce those practices and have there been instances where you've doled out those fines?

Michael Arakawa: I reached out to our Attorney General's office earlier this week to see if they had had to actually find anyone under this statute. I did not get a response back, but given the fact that I haven't heard of any such instance yet, leads me to think that they probably have not had to. Because I maintain fairly close communication with one of the deputies there and I think he would've let me know if there had been such an instance.

Stephanie Wilkerson: There's something to be said for the level of detail that Nevada's state laws and policies provide to local education agencies, including forms to help support the hiring process.

Catherine or Nancy, is there anything that you all would like to add to this? And Catherine, I will jump in here and say, when you were speaking to your state's laws, you had mentioned that there is a provision around removing any liability from current or former employers from disclosing information to prospective employers. And I could see where that would be really important so that there was no fear of consequence or retribution for that information, disclosure. Would either of you add to what Mike has already shared?

Catherine Slagle: I want to echo what both Mike and Nancy have said about the NASDTEC clearinghouse database. We also upload information into there and utilize that when it comes to certificated educators, but because the districts now can pay a fee and be members and also access that clearinghouse, we recommend that even when they are looking at hiring somebody who's applying for a position, that's a classified employee, classified employees aren't reported to NASDTEC, but we say, check that on all applicants, because oftentimes somebody who has... Well, I wouldn't say oftentimes, 'cause I don't know the numbers, but somebody who's held a certificate in another state and has maybe had their certificate revoked for inappropriate actions, but didn't have a criminal conviction, may go into a school and apply for a classified position. And then they have access to children again, just where they want to be. So we recommend that on all applicants, the national database is checked just to ensure that, hopefully, nobody slips through the cracks.

Stephanie Wilkerson: That's a great point, Catherine. Thank you. I want to make sure we have time to hear from Nancy and her scenario. So this one's for you. It focuses on prohibitions on information suppression. The school staff member under investigation for sexual misconduct with a student or minor requests that the incident not be documented in his personnel file or disclosed to anyone outside

the school. The school principal agrees to the request and provides a letter of recommendation for the school staff member to leave the school quietly.

Nancy, what should happen in Connecticut based on the applicable state laws and policies? And I'm also wondering if you would have anything to say about a distinction about how that might look different in public school versus a non-public or private school in Connecticut.

Nancy Pugliese:

So we have two things, and I think the first is the fact of that any allegation of sexual abuse, or child abuse, or neglect must be reported to our child protection agency. We had some issues with that years ago about people not reporting and we do have in our law that criminal charges can be brought against someone if they have failed to report to DCF. And so I think that it would have gotten a lot worse if it had not been reported initially. And so then it gets taken over and they would probably end up on the DCF registry and it's very hard to suppress information that way.

But also we have three questions that each potential hire must sign a waiver, as well as what Catherine was talking about in the state of Washington, and the three questions that previous employers must respond to is, has the person been the subject of an allegation of abuse, or neglect, or sexual misconduct and for which there is an investigation currently pending? So it talks about currently pending. It asks for people who separated from employment or resigned from employment while an investigation or while an allegation was made. And so that certainly would go to that piece of informing a next employer about actions that had been done.

And then, also, the third question that they must address each former employer must address, is had a professional or occupational license or certificate been revoked, surrendered. One of the things that I think is probably different in Connecticut than in many states, we expand our permits to include athletic coaches. And we find that many of those individuals oftentimes are not certified teachers. And they come in to coach athletics and find themselves into a situation in which they have sexually assaulted a student that's under their control as a coach. And so we can oversee coaches in that manner, as well.

And frankly, the numbers are fairly... It's something that I would suggest other states consider, that the numbers are fairly high for those situations. But those are the two instances. I know of four cases in our state in which a failure to report abuse has been brought to the court and the educators have pretty much had some... I shouldn't say criminal actions have actually been brought, but they've had to go through accelerated rehabilitation and so forth. And some of them have involved superintendents and school principals who did not report. And so that's one of the main ways that I think we oversee that suppression of information on the part of school districts.

When we're talking about non-public schools or private schools, which we have quite a few of in our state, we do not oversee the private institutions and it is

much more difficult to get information from the private schools, even when we have notification that the person has done something. I've had difficulties getting the records that I need in order to take actions. In some cases, I don't go beyond or below shaming the individual that I'm speaking to say, "Hey, we're trying to protect children here. And this is your responsibility as an educator to share this information." One way I've gotten kind of around their concerns about sharing information is to connect me with the witnesses and the women, women or males who reported it, and let me have direct contact with those individuals. And that has been one way that I have found to really work around their concerns about liability.

Stephanie Wilkerson: Thank you. Yeah. You pointed a couple things and we get back to Section 8546. It refers to school employees, contractors, and agents. It doesn't say only certified or licensed staff. So what I'm hearing is that Connecticut really interprets that much more broadly for anyone who's having athletic coaches who would have contact with students.

Nancy Pugliese: Yes, that's correct.

Stephanie Wilkerson: Yep. All right. Well, thank you so much. I'm mindful of our time. We have five minutes left on our panel. And so I just want to open it up to see if any of you have a quick example in your state that would lead you to believe that your state's laws and policies aimed at prohibiting aiding and abetting have actually prevented any school employee, contractor, or agent, known or believed with probable cause to have engaged in sexual misconduct with a student or minor from obtaining a new job.

Catherine Slagle: So I can say, it was a number of years ago. I was contacted by a superintendent of a small rural school district about the sexual misconduct disclosure form that I discussed and wondering... He didn't know this employee, but he had the record in this personnel file about being released from the district due to sexual misconduct allegations. And unfortunately, it happened prior to our office even coming into existence. It was 1989 and our office didn't come into existence until 1990. And this person apparently was coming out of a retirement mode and decided they wanted to teach again. And by this superintendent completing the form and filling it out for prospective employers, this person was not hired to work in the schools.

Stephanie Wilkerson: Thank you. That's a great example and also speaks to the importance of good record keeping and documenting incidents and information in a personnel file.

Catherine Slagle: Yeah, I think that that school district could have purged those documents. Unfortunately, didn't, and we had a couple other situations in same thing where the documents weren't purged and when records were requested, that's when the information became available.

Stephanie Wilkerson: Thank you, Catherine. Mike or Nancy, really quickly, any...

Nancy Pugliese:

I have kind of a... Not necessarily... Well, we do know that this person had sexually assaulted people. It truly was a situation where a person had traveled up the East Coast, had sexually assaulted a young woman and maybe more than one down in South Carolina, had then moved up to Rhode Island, had sexually assaulted a person in Rhode Island and was currently actually serving as a certified staff in the state of Massachusetts.

And I got involved because we had a prosecuting attorney who, he lived in our state, was certified in our state. And the prosecuting attorney called me to say, "Hey, there's some issues that have been raised here." She went the extra mile and actually made contact with a girl down in South Carolina. And then we brought in the state of Massachusetts and worked together and finally kind of ended this man's reign by coming together, meeting all three of us together in the state of Massachusetts office that does professional practices, my office, and then our prosecuting attorney that had connected to this information through a domestic violence issue, believe it or not, and we actually stopped this man's reign of sexual assaults as they moved up the East Coast. So that's not... Doesn't probably fit into any of this, but it really... It's the negotiations and it's the working together as teams to make sure that we are able to make contact with the appropriate people in other states to stop a lot of this.

Stephanie Wilkerson:

Absolutely. And I think it's a good point to end on and that a written state law and policy is a starting point and it's enactment, implementation, and enforcement is what really is going to prevent anyone from gaining new employment, who really shouldn't.

So Katherine, Mike, and Nancy, this has been very informative. Thank you for sharing your stories, your insight, your experiences, and for your dedication to keeping students safe in our schools. And like Nancy said, even going that extra mile, literally and figuratively, to make a difference. So thank you.

You will find links to the report, fact sheet, and blog regarding our study in the chat. If anyone is interested in seeing examples of statutory language and state laws prohibiting aiding and abetting, you can find those in Appendix E of the full report. Thank you.

Cindy Carraway-Wilson:

I want to add my thanks to Stephanie's. Michael, Nancy and Catherine. They great gave great detail and wonderful examples. Now it's my pleasure to introduce Ms. Bronwyn Roberts, who's going to take us through another resource. Bronwyn is the strategic director of Readiness and Emergency Management for Schools Technical Assistant Center or the REMS TA Center. She's also the project director of the Title IV Part A Technical Assistance Center, or the T4PA Center. Bronwyn.

Bronwyn Roberts:

Thank you, Cindy. And thank you so much to all the fantastic presenters today. It's been really incredibly helpful to hear what's happening in your jurisdictions and how you're dealing with this difficult topic and really the foundation for this conversation with that study. So thank you for sharing all that.

I'm here today to just speak quickly to a few additional resources that are available to you on behalf of the department of education on this topic. And for those of you that aren't familiar with the Readiness and Emergency Management for Schools Technical Assistance Center or REMS, so we don't have to say all that. The center was established in October 2004 by the department of education and is administered by the Office of Safe and Supportive Schools also where NCSSLE is housed. The REMS TA center provides free resources and services to help K12 and higher education agencies and their community partners to establish and implement high quality emergency operations plans and comprehensive preparedness programs.

So we provide support to activities that happen before, during and after an incident and components such as the social, emotional and behavioral, academic, physical, and structural and business functions of educational entities. So one topical area that we focus on is, of course, adult sexual misconduct in schools. And to give just a bit of background, in 2014, the Government Accountability Office released a report that had reviewed efforts taken by all 50 states and District of Columbia to address adult sexual misconduct or ASM. And it was found at that time that most states did not have a requirement for school personnel to receive awareness and prevention training on child sexual abuse or ASM, but that it was in fact wanted for the support from the federal government. And so at that time, just for context too, the GAO had estimated that nearly one in 10 students are subjected to ASM by school personnel during the course of their academic careers. So that number is likely different now, but it still helps to see sort of the gravity of this topic.

And one of the responses by the department of education and the REMS TA center was to develop a guide that you see on the screen, a training guide for administrators and educators on addressing adult sexual misconduct in the school setting, and this was released in 2017. So I'm going to give just a quick overview of the guide so you know about this resource and what is available to you to help learn more about the concepts discussed today and how you can help improve the ability to respond and prevent instances like this in schools and districts.

The goal of this guidance and the accompanying resources that we offer, which I will talk a little bit more about at the end, is to prepare school districts to create comprehensive policies and procedures within their emergency operations plans for preventing and addressing ASM in schools.

The guidance is organized into these five chapters. So chapter one helps to establish an understanding of adult sexual misconduct. So this is what counts as ASM, what doesn't count, how to navigate all those gray areas and to understand the difference between content that is inappropriate versus illegal. It also helps to talk about what sort of characteristics are common in perpetrators and the phases of exploitation that they may use on a student.

Chapter two helps to illustrate how to develop clear written policies and procedures that help to ensure that all school personnel and volunteers receive consistent messages, understand behavior that constitutes ASM, and are aware of their duty to prevent, report, and respond to ASM.

Chapter three, discusses how important the training of school personnel is in the prevention of, and response to ASM, including on such topics as recognizing appropriate and inappropriate behaviors, interactions with students and identifying the early warning signs of ASM effects in children.

Chapter four, touches on the pervasive role technology often plays in this type of abuse. Of course, we know that a lot of this is now able to be held in private, these interactions, due to the private nature of technology. This can happen in the form of sexting, sextortion, and other forms of child exploitation conducted online. So this area of the guide talks about the appropriate and inappropriate use of these online platforms and social media for communication between school personnel and students and encourages policies and procedures that can reduce the incidents of ASM.

And finally, chapter five has some additional resources on the topics discussed throughout the guide. So I had mentioned that the REMS TA center has created supporting resources to the guidance to offer this information in multiple modalities. It's not just the guidance that you can use to learn this information. And one of those is our live, in-person training by request. You can request us to have our subject matter experts and the REMS TA Center team come to your site and deliver a live training on this topic. And I want to just give you a quick preview of some of the topics that we address in that training that relate to the content that we went over today.

So you can see there, we talk about the ASM policies and procedures that's off of... We talked today with our panelists about how foundational this is to the prevention and response. So we go into that a great deal. We talk about mandated reporting. Again, this is a really important responsibility, not just morally but legally, and it's important that everyone understands what their roles and responsibilities are.

This next slide also goes into that sort of who is responsible, what's the scope of responsibility for all these roles. We talk also about policies and procedures for hiring. And we talked about that today and how important that is. We go [inaudible 01:09:14] a little bit more detail, talk about background checks and fingerprints, considering some of the red flags, unemployment applications that are important to look for and then really going into reference checks as well. So this is just a little snapshot of what we talk about in the training. Of course, it's addressed in greater depth there, as well in some of these other resources.

So we also, like I said, offer a number of other informational vehicles to learn and understand the content of this guidance. We have, for example, the guidance broken down into HTML format on our website. So you can easily

navigate through the content and skip around to the different sections as needed. It's a little bit easier to navigate than the guidance in itself, if you're not wanting to read it straight through.

We have a specialized training package on this topic, which includes a downloadable PowerPoint presentation that you can use to self-train or you can use... Sometimes it works really well in a professional development setting, if you want to train others. We also have an online course on the topic, which includes knowledge texts, and you can take that individually, of course, or even assign that to a cohort or if you want to have all your after school personnel take that, and then you can use the certificate function at the end to sort of verify completion.

We also have a webinar, which of course you can take at any time that walks you through the content of the guidance in a one-hour format. And then in our toolbox, we have a number of sample policies and procedures that have been created by practitioners that help to give examples of implementation of some of these concepts like guidelines on working with minors or how to conduct background checks.

In addition, I'm happy to share that the guide that we've been talking about today is currently going through an update. So look for that to be released later this year. You can sign up for our mailing list on the REMS TA Center website to make sure that you don't miss any updates. We also welcome direct inquiries if you have any specific questions that aren't answered in an immediate way, that you can see. We're always happy to provide customized responses to your needs. You can reach out to us at the info@remstacenter.org email or our toll free number, and we encourage you to review these resources and the guidance and more on our website rems.ed.gov. So thank you so much for allowing us to share this information on this topic today.

Cindy Carraway-Wilson: Excellent. Thank you so much Bronwyn for that information on that valuable resource. And we want to encourage everyone to click the link to download this training guide, as well as to get all the other resources that were discussed in this webinar. In addition, you'll be able to download these resources from the event webpage. On that webpage for this webinar, you may also see these slides, the speaker bios, and watch the recording of the presentation.

Again, I want to thank all the presenters for your valuable information today and I want to also thank you as participants for being here today and being actively engaged. Please do click the link for the survey monkey to give us some feedback about this webinar and also some ideas about other questions or needs you may have. Your feedback is valuable to us and important in guiding our future work for you.

Finally, I'd like to thank everybody again, one more time for your valuable information, the resources that you've provided and the questions that have come in through the Q&A box. Those questions will be sent to the department

and will guide our future webinars and responses to your needs. We want to also remind everybody that we have another Lessons from the Field webinar coming up, July 27th at the same time. And this one will be focusing in on how to provide compensatory services to students with disabilities. We hope you watch for the announcement and are hopeful that we will see you there on the 27th.

Again, thank you very much for all that you do to provide students with safe, supportive learning environments. And we hope to see you at future sessions. Have a wonderful rest of the afternoon.