



Episode 21: Aiding and Abetting of Adult Sexual Misconduct in K-12 Schools

#REMSontheAir Podcast Intro (Recorded): [00:00:00] Welcome to the #REMSontheAir Podcast, hosted by your partners at the U.S. Department of Education's Office of Safe and Supportive Schools and its Readiness and Emergency Management for Schools Technical Assistance Center. If you're an old friend, you know us as the REMS TA Center, your national school safety center.

Join us as we chat about key topics in school and campus safety, security, and emergency management with experts and partners from the field.

Janelle Hughes: Hello and welcome back. We're looking forward to hosting another episode of the #REMSontheAir Podcast. My name is Janelle Hughes. For those of you who may have missed earlier episodes, I serve as the Project Director for the REMS TA Center. And today I'm joined by my lovely colleague, [00:01:00] Katrina Gagliano, Senior Research Associate here at the REMS TA Center.

Katrina Gagliano: Thanks, Janelle. In today's episode of #REMSontheAir, we will be discussing the issue of aiding and abetting adult sexual misconduct, or ASM, in K-12 schools and school districts. We'll provide an overview of research on this topic and discuss current efforts and best practices to prevent the aiding and abetting of ASM.

We'll also be featuring the work of our partners from the Colorado Department of Education in this episode.

Janelle Hughes: This is such an important issue in school safety, Katrina, and I'm looking forward to discussing the concrete actions that schools and school districts can take to protect students from the threat of ASM.

Katrina Gagliano: Absolutely. Before we dig into this topic, I'd like to start by defining adult sexual misconduct. While definitions of ASM can vary from state to state, the REMS TA Center defines ASM as a variety of behaviors that take place in school settings, ranging from those that are [00:02:00] inappropriate to those that are illegal, that are carried out with the purpose of developing a romantic or sexual relationship with a child.

ASM can be perpetrated by educators but also by other school personnel, including coaches, administrative staff, bus drivers, or volunteers. The REMS TA Center classifies ASM as an adversarial or human-caused threat.

Janelle Hughes: Thank you for that overview, Katrina. Our episode today is about the aiding and abetting of ASM. And aiding and abetting in this context is the practice of K-12 employers enabling an individual with a known or suspected history of sexual misconduct to transfer schools or obtain a new employment without facing consequences. This practice is sometimes known as "passing the trash."

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Katrina Gagliano: Preventing and addressing the aiding and abetting of ASM in schools is so important for protecting students from the threat of ASM. There is also Federal [00:03:00] legislation that addresses this issue. As of 2015, under the Elementary and Secondary Education Act, or ESEA, Section 8546, all states receiving ESEA funding are required to adapt laws or policies that explicitly prohibit the practice of aiding and abetting ASM.

Janelle Hughes: That's right, Katrina. And now that we've established what the issue is, let's talk a little bit about current research on this topic.

Katrina Gagliano: Definitely. The U.S. Department of Education recently directed a study, culminating in a report and fact sheet, which sought to understand how states have responded to Section 8546, including what sorts of laws and policies have been developed by states to prohibit the aiding and abetting of ASM in schools.

The study found that, among the 50 states and the District of Columbia, 19 states developed new or revised existing laws and policy in response to Section 8546.

Janelle Hughes: Thank you for sharing that research, Katrina. It's really refreshing to know that [00:04:00] legislation has been passed to help prevent aiding and abetting and that the U.S. Department of Education is studying the issue to help the field understand how we can safeguard students from this threat.

Katrina Gagliano: I agree, Janelle. The study also found that nearly half of state education agencies reported providing guidance and support to help school districts implement state laws and policies related to aiding and abetting.

So, there is legislation, research, and technical support underway to prevent the aiding and abetting of ASM in schools.

Janelle Hughes: Absolutely. Before we get into how schools and school districts can prevent and address the aiding and abetting of ASM, I do want to take some time to underscore the importance of addressing this threat.

A 2014 report by the U.S. Government Accountability Office estimates that nearly one in 10 students is subjected to ASM by school personnel during their academic careers. The report also found that typically [00:05:00] a teacher accused of ASM will be transferred to three or four different schools before they are reported to the police.

Katrina Gagliano: That's so concerning, Janelle, because research shows that child sexual abuse, including ASM in schools, is detrimental to children's physical, psychological, and academic well-being and development. Whether through a single event or chronic exposure, this type of abuse can have both short- and long-term impacts on the victim, including

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maladaptive behaviors, mental health disorders, developmental delays, social difficulties, and even a shorter life expectancy.

Janelle Hughes: Thanks for putting this into perspective, Katrina. Knowing this information helps us understand just how dangerous aiding and abetting of ASM is and how important it is that schools and school districts take steps to prohibit aiding and abetting.

Katrina Gagliano: Exactly. So, while ASM and the aiding and abetting of ASM are real and [00:06:00] concerning threats to students in K-12 schools, there are actions that schools and school districts can take to prevent and address the aiding and abetting of ASM.

Janelle Hughes: That's right, Katrina. The first practice I want to highlight is that schools and school districts should integrate their state and district ASM laws, policies, and practices into their emergency operations plans, also known as EOPs. All school and district staff should clearly understand codes of conduct and policies for interactions with students, what ASM is, and what constitutes ASM, including behaviors that fall into what we call gray areas, or those that may be subject to interpretation.

This also includes policies on mandated reporting and false allegations and policies that detail the recovery process, both for the victim and the school. Having these policies and procedures documented and outlined in the school or district EOP can help facilitate [00:07:00] the school's or district's streamlined efforts to prevent, protect against, mitigate, respond to, and recover from the threat of ASM.

Katrina Gagliano: Thanks for that overview of how ASM policies fit into EOP development, Janelle. I also want to mention a few different practices that the study we discussed earlier found to be in place within state laws and policies that have been developed in response to Section 8546. First, a set of these practices involves thoroughly screening all applicants, including conducting criminal background checks with fingerprinting, requesting information and employment records from current and former employers, checking references, and checking applicants' certification status or their eligibility for employment both in the state where they're applying and in all other states where the applicant has worked.

Janelle Hughes: Great points and protection strategies, Katrina. These types of hiring practices can help schools and districts avoid hiring someone with a history of [00:08:00] abuse against children. Let's shift now and hear from Dr. Colleen O'Neil, the Associate Commissioner of Educator Talent at the Colorado Department of Education, about their approach to screening applicants.

Dr. Colleen O'Neil (Recorded): So, in Colorado, we have an open system. You can look up an educator. If there is a flag for some reason for hiring managers—it's not open to the public, but

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for hiring managers—if there is a flag on that particular individual for some reason, you can dig down into that and clearly see why and for what reason. In severe circumstances of sexual misconduct, we will put set suspensions on their licenses, on individual’s licenses, to very clearly say, this person is not hireable right now because they are under investigation for something that is clearly detrimental to our students.

Katrina Gagliano: You can see how in Dr O’Neil’s example of a [00:09:00] situation involving a red flag on an individual’s license, robust and up-to-date online record systems can help schools avoid hiring someone who may be looking to move schools to avoid repercussions of an ASM investigation.

Janelle Hughes: That’s right, Katrina. And one of the first lines of defense against ASM is in hiring practices.

Another set of best practices that can help prevent the aiding and abetting of ASM is for schools and districts to prohibit the suppression of information. In the process of an individual applying for a job within an education agency, schools can commit to requiring the disclosure of any allegations or investigations to the prospective employer during background and reference checks. Schools and districts can also create policies that ban letters of recommendation that omit information about incidents or allegations of ASM. Being transparent about a staff member’s conduct and record can help prevent individuals [00:10:00] with a history of child abuse from moving schools and obtaining a new position in education.

Katrina Gagliano: That’s right, Janelle. There are also other ways that schools and districts can prohibit the suppression of information about ASM. They can prohibit agreements that require employers to suppress information about ASM incidents that result in disciplinary actions. They can create policies that prevent the expunging of an employee’s permanent records. And they can ban private settlements following lawsuits that prevent employers from disclosing information about allegations of ASM.

Janelle Hughes: It’s really good to know that there are steps schools and districts can take to prevent aiding and abetting. Let’s hear more from Dr. O’Neil about the history of ASM information suppression and the work being done in Colorado to ensure that individuals accused of ASM are not able to circumvent repercussions for their actions.

Dr. Colleen O’Neil (Recorded): Many moons ago, they would cut at a local district level. What we would do is say, if you will [00:11:00] just resign, we will let those things go. And that is unacceptable, and it is not okay for kids. Part of the work we have in front of us, and part of the work we’ve done in Colorado, is to make sure that people come to the forefront, and our districts are clear and honest. And that you cannot cut a deal if you have a lawyer that’s saying if they just leave, will you drop all charges or will you not report it or will you not be able to—

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will you *not* make sure that the state knows? That is illegal in the state of Colorado. And so, you have to ensure that those individuals are reporting to Colorado through the mandatory reporting process.

Katrina Gagliano: You can really get a sense for how important strong policies and procedures are for preventing the aiding and abetting of ASM. It's great to hear that Colorado has legislation in place prohibiting some of the tactics we've discussed and that they've placed an emphasis on transparency and mandatory [00:12:00] reporting.

Janelle Hughes: One last tip that I want to mention today is the value of partnerships for creating and implementing policies and procedures that both prevent ASM and the aiding and abetting of ASM. Through our work across the country as a national technical assistance provider, we have heard that districts and states have partnered with school boards, insurance agencies, nonprofits and advocacy organizations, domestic violence and sexual assault prevention service providers, county mental health agencies, and more.

As education agencies look to protect their students from the threat of ASM, they should also think about how they can develop and leverage these state- and local-level partnerships.

Katrina Gagliano: That's a good point, Janelle. Before we go, I want to add that the U.S. Department of Education and its REMS TA Center have multiple resources and training opportunities to help education agencies [00:13:00] prevent ASM and the aiding and abetting of ASM.

This includes a training guide on addressing ASM in schools, an online course on preventing and addressing ASM, and an in-person training on this topic by request. Visit the ASM Click-and-Go page on our site to access all related resources on this topic.

Janelle Hughes: And thank you so much for tuning in today. Remember to follow the REMS TA Center on social media at @remstacenter and to bookmark the #REMSontheAir hashtag—and tweet us using that hashtag as well if you are addressing similar topics. If you have any questions related to our discussion today or just want to learn more, send us your questions by email or give us a call at 1-855-781-REMS or 7367 to pose questions that can possibly be featured on the podcast.

Katrina Gagliano: And don't forget, you can also email us at any time at [00:14:00] info@remstacenter.org to join our mailing list where you'll get up-to-date information on webinars, Web chats, and other virtual opportunities to learn and share. Access additional #REMSontheAir Podcast episodes and share this one with your colleagues by visiting the REMS TA Center's podcast page and clicking the share tabs that appear along the left side of your screen.

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Janelle Hughes: Thank you again for tuning in today.