



# OLR RESEARCH REPORT

September 9, 2013

2013-R-0283

## **SUSPECTED CHILD SEXUAL ABUSE REPORTING BY THE STATE'S COLLEGES AND UNIVERSITIES**

By: Robin K. Cohen, Principal Analyst

This report summarizes the policies the state's higher education institutions have adopted on the reporting of suspected child sexual abuse that occurs on their campuses.

### **SUMMARY**

There is considerable variation in how the state's public and private colleges and universities respond to reports of suspected child abuse, including child sexual abuse, that occurs on their campuses or at school-sponsored events. While most schools have a policy on how to deal with such abuse, some do not. The more comprehensive policies, such as UConn's, include a clear direction to report the abuse and expressly reference the state's mandated reporter law. Some of the policies explicitly reference the term child sexual abuse, while others use the more generic child abuse term, which, by law, includes sexual abuse. Most of the policies were adopted within the last year.

Among the schools that do not have a policy are the community colleges (whose sexual assault policies apply only to inappropriate adult relationships) and Charter Oak College. The sexual assault reporting policies of Eastern Connecticut State University (ECSU) and Southern Connecticut State University (SCSU) contain explicit references to child sexual abuse, although only ECSU references the state mandated reporter law. An official from the Board of Regents for Higher Education (BOR) has indicated that the board is looking at creating a uniform policy for all constituent units.

Four of the five independent schools from which we received policies have a comprehensive reporting policy like UConn's. This includes providing specific guidelines for responding to reports and making references to the mandated reporter law.

In most cases, the policies designate campus police departments as the entity to which reports must be made. But at a few schools, the designated party is the federal Title IX coordinator. Title IX of federal law protects students from discrimination, and sexual assault and harassment are considered forms of discrimination. Both campus police and Title IX coordinators are considered campus security authorities (CSA) under the federal *Cleary Act* (see below). Under the *Cleary Act*, such authorities must report on crimes, including sexual assault, that are reported to them and the protocols for addressing them. The schools, in turn, must collect data on these reports. Neither of these federal laws directly references child sexual abuse reporting, but in the wake of the Penn State child sexual abuse scandal, it appears that many schools have broadened their view of the reach of the laws to include sexual abuse of minors.

## **UCONN**

On January 25, 2012, the UConn Board of Trustees approved a sexual assault response [policy](#) (SARP) governing employee reporting of child abuse. It requires any university employee who has reasonable cause to believe a sexual assault has occurred (the policy does not specify where the assault occurs), regardless of the victim's age, to comply with the policy.

The policy directs employees who are mandated child abuse reporters to comply with the state's mandated reporter law. This law requires numerous individuals who, in the ordinary course of their employment or profession, have reasonable cause to believe a child has been abused, neglected, or placed in imminent risk of serious harm, to report to the Department of Children and Families (DCF) or the police (CGS § [17a-101\(b\)](#)). A child can be considered abused if he or she (1) has been inflicted with physical injuries other than by accidental means; (2) has injuries that vary with his or her given history; or (3) is in a condition that is the result of maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment (CGS § [46b-120\(7\)](#)).

UConn's policy encourages other employees to report suspected abuse to the DCF 24-hour hotline. It includes a [link](#) to DCF guidance for reporting, such as how to report and the reporter's immunity from prosecution, and provides the hotline number.

### ***Sexual Assault Response Policy***

The SARP requires any employee who witnesses or receives a report of a sexual assault, to report the incident as soon as possible to at least one of the following UConn offices:

1. Title IX coordinator,
2. Community Standards, or
3. Diversity and Equity.

The report must include the (1) date, time, and location of the assault; (2) date that the incident was reported to the employee; and (3) identities of the victim and, if disclosed, the perpetrator.

The SARP states that it is not the reporting employee's duty to investigate the report. It also specifies that it does not prevent an employee from also reporting the information to the UConn Police.

### ***Reports to Campus Police***

According to UConn officials, the employees of the three offices identified above are considered campus security authorities (CSA), as defined under the federal *Clery* Act (see below). Typically, the CSA provides reports of assaults reporting under *Clery* to the UConn Police within one hour of receipt, according to the officials. Under state law, police are mandated reporters.

### **BOR FOR HIGHER EDUCATION**

The BOR was consolidated in 2011. It oversees all of the state's public higher education constituent units except UConn. According to a BOR official, the community colleges and Charter Oak College have no policies on reporting of child sexual abuse. Of the three CSU constituent units whose sexual assault reporting policies we received, only ECSU's contains any reference to suspected child abuse reporting.

Before 2011, neither the CSU board nor the board overseeing the community colleges had any sort of comprehensive, uniform, system-wide policy on child abuse reporting, according to a BOR official. The new BOR's staff is currently reviewing previous constituent unit policies to ensure uniformity, presumably including policies on child sexual abuse reporting. In the meantime, any individual constituent unit policies apply.

## **CCSU**

CCSU's [Sexual Misconduct Protocol Manual](#) (dated April 15, 2012) addresses what actions CCSU faculty or staff members, in the context of their duties, must take when they receive a report accusing a student or employee of sexual misconduct. Sexual misconduct includes sexual assault, exploitation, and harassment. The policy applies to assaults against anyone on CCSU property, at CCSU-sponsored programs or events, and at certain off-campus events. It does not mention assaults against children, although it states that consent to sexual activity can never be given by anyone under age 16.

## **ECSU**

As part of its [policy](#) (established in March 2012) on sexual misconduct and sexual assault, ECSU has a Sexual Assault Response Team (SART). The team consists of the coordinator of the university's Women's Center, the university police chief or designee, and the offices of Counseling and Psychological Services and Student Health Services. Its mission is to provide a coordinated, efficient, and supportive response to sexual assault victims.

The policy requires any university employee informed of an allegation of sexual misconduct or assault involving a student to contact a SART member.

The policy contains a separate section on victims under age 18. It states that the mandated reporting requirement of the "Child Protection Law may require that a report be made to the Connecticut Department of Social Services." (It appears that this reference should be to DCF, not DSS.)

## **SCSU**

SCSU's [policy](#) is similar to ECSU's and includes the SART model. It states that sexual assault includes child sexual abuse. It directs the victim to report directly to campus police.

## INDEPENDENT COLLEGES AND UNIVERSITIES

### ***Fairfield University***

Fairfield University's Policies and Procedures Manual includes a section entitled "[Sexual Misconduct Policy](#)." It lists several offenses, including child abuse, that are considered a form of such misconduct and are thus prohibited. It provides the statutory definition of child abuse. In general, the university's disciplinary jurisdiction is limited to offenses that occur on campus.

***Employee Reporting of Child Abuse.*** The policy describes the roles of different university staff in receiving and acting on reports of offenses. As to reporting, the policy differentiates between victims under and over age 18. The policy requires university employees who are made aware of child abuse to report in compliance with state law if they are mandated reporters. The policy summarizes what the law requires of the reporter. All employees, regardless of whether they are mandated reporters, must also report child abuse to the university's Department of Public Safety and the Fairfield Police Department.

Non-mandated reporters are "strongly encouraged" to report suspected abuse to the DCF hotline and are reminded that they are protected under state law for reporting in good faith even if an investigation fails to substantiate the abuse.

***Response to Reports.*** The university's Department of Public Safety is the university's "first responder" for purposes of reports of campus crime. Whenever it receives a report of sexual misconduct, it "will independently" contact Fairfield police.

The policy also requires the matter to be referred to the university's Title IX compliance coordinator/investigator. This official must contact the victim to explain his or her options and the services and resources available to him or her. The official must also help the victim file a Title IX sexual misconduct complaint.

### ***University of Hartford***

The University of Hartford requires any member of the university "community" (undefined) who observes an action or behavior that is reasonably suspected to be child abuse, including child sexual abuse or exploitation, on campus or at a university-sponsored event to immediately contact either the school's Public Safety department or DCF (hotline number provided). The university has a separate reporting policy

for cases when the child is believed to be “in immediate” danger. In these instances, the reporter must contact either campus Public Safety or the local police.

The policy also strictly prohibits retaliatory action against someone who makes a good faith report or testifies in a legal action on child abuse. It gives the university the right to take disciplinary action, including dismissal, against an employee who willfully fails to report suspected abuse.

The [policy](#) contains a separate section on suspected child abuse observed or suspected in connection with a research project. The university’s Human Subjects Committee reviews, approves, and monitors reporting procedures, and the principal investigator is responsible for all aspects of the research, including reporting any child abuse observed or suspected in connection with the research. In addition to following the above-mentioned protocol, the policy requires anyone who observes action or behavior suspected to be child abuse that is connected to research to also contact the Associate Provost and Dean of Graduate Studies (phone number provided).

### ***University of New Haven***

The University of New Haven’s guidelines for child abuse reporting state that (1) the university has a responsibility to prevent abuse of children enrolled in its programs (camps and clinics), whenever possible; (2) the university has a “zero tolerance” policy for abuse; and (3) a report must be made to the DCF hotline whenever there is an allegation that a staff member has abused a child. The university immediately suspends the staff member against whom the allegation is made pending an investigation.

The policy summarizes the mandated reporter law. It specifically references the two reporters applicable to school personnel (i.e., (1) any person paid to care for a child in any public or private facility or licensed child care facility or (2) someone paid to care for children in any public or private facility (see CGS § [17a-101\(b\)](#)).

The policy appears to require staff who witness or become aware of child abuse in one of the school’s camps or clinics to contact “people who can help.” It is not clear if this refers to DCF, school administrators, or both, but based on the earlier language in the policy, at a minimum, it appears that DCF must be contacted.

The policy also addresses people who are not mandated reporters, or those who “outside the ordinary course of employment or profession” have reasonable cause to suspect or believe that a child is at imminent risk of being abused.

***Parental Notification.*** The policy requires that a parent be immediately notified when a report is made to DCF that a university staff member is suspected of abusing or placing his or her child at imminent risk of serious harm. It is not clear whether DCF or the university must provide this notice but it is DCF’s responsibility to notify the university when it gets a report.

### ***University of St. Joseph***

The University of St. Joseph (USJ) adopted its child abuse reporting policy in January 2013. It directs employees who work directly with children to familiarize themselves with and adhere to the state’s mandated reporter law. It outlines the law in detail, including defining child abuse and listing those reporters enumerated in the law who potentially could be university employees.

To provide further clarity, the policy specifies that it applies to employees working with children participating in its programs, including the Gengras Center and the School for Young Children, swimming lessons and other athletic activities, summer camps, and other recreational or learning experiences.

The policy also establishes a reporting protocol, as follows:

1. If a child is in imminent danger, Campus Safety must be notified.
2. If the USJ employee believes that a child for whom he or she has professional responsibility has been abused and the employee is a mandated reporter, he or she must report to DCF.
3. An employee who makes a report to DCF must also immediately report the incident and the DCF report to at least one of the following: his or her direct supervisor, the area director, relevant dean or provost, and senior Human Resources administrator.
4. Non-mandated reporter employees who believe they have witnessed the abuse of a child participating in a USJ program must immediately report the incident to their supervisor and the relevant program or area director, dean, or vice president.

5. When an employee believes that another employee has abused a child in a USJ program, he or she must immediately report that concern to the senior human resources administrator.
6. An employee who receives a report must ensure that an incident report is created and submitted to the campus safety director.
7. The appropriate area manager works with Human Resources and Campus Safety offices to investigate the allegations and determine what follow up action is needed.

### ***Wesleyan University***

Wesleyan's child abuse reporting policy is part of the *Wesleyan University Incident Reporting Policy*. It was issued in December 2007 and revised in November 2012. It is a general policy that applies to reporting all types of incidents, not just child abuse or neglect. It applies to university trustees, officers, faculty, staff, employees, and students.

The policy lists numerous categories of incidents that must be reported and where the report must go. Suspected child abuse reports go to local police (911); campus public safety; and the offices of Risk Management, General Counsel, or both.

The university's reporting policy can be found on the university's website [www.wesleyan.edu/generalcounsel/policies.html](http://www.wesleyan.edu/generalcounsel/policies.html)

### **CLERY ACT AND REPORTING OF CRIMINAL ACTIVITY ON COLLEGE CAMPUSES**

Congress passed the *Crime Awareness and Campus Security Act of 1990* in response to the 1986 brutal rape and murder of a Pennsylvania college student, Jeanne Clery. That act, generally referred to as the *Clery Act*, requires institutions that receive federal financial aid to (1) collect crime reports from a variety of individuals and organizations that *Clery* considers to be CSAs and make the information public and (2) give timely warnings about any crimes that affect student or faculty safety (20 USC § 1092).

Under *Clery* regulations, a CSA includes:

1. a campus police department or campus security,
2. individuals responsible for campus security but who do not constitute a campus police department or campus security,

3. any individual or organization specified in an institution's campus security statement of security policy as a person or entity to whom students or employees should report criminal offenses, and
4. an institution official who has significant responsibility for student and campus activities.

The regulations also require institutions to include in their annual report how their policies on campus law enforcement encourage accurate and prompt reporting of all crimes to campus police and appropriate police agencies (34 CFR § 688.46).

The *Handbook for Campus Safety and Security Reporting* (2011 edition) elaborates on what CSAs do. Specifically, it states that CSAs report to the official or office that the higher education institution designates to collect crime reports, such as the campus police or security department, when they receive reports alleging a Clery Act crime that they conclude were made in good faith (Handbook, page 76).

The U.S. Department of Education can fine schools up to \$27,500 for each *Clery* violation.

## **OTHER RESOURCES**

See OLR report [2011-R-0397](#) for a listing of the mandated reporters.

RC:ts