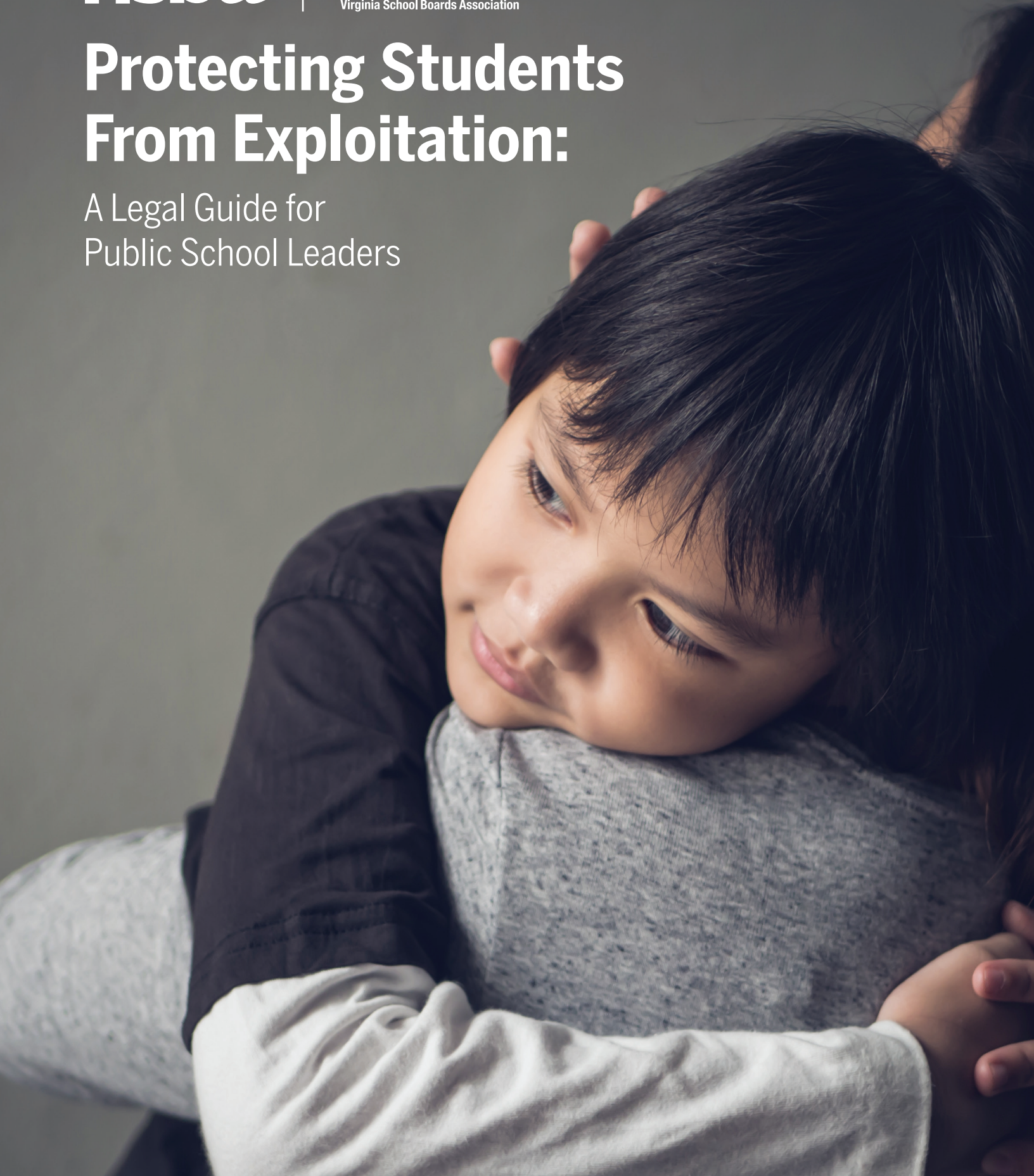




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Protecting Students From Exploitation:

A Legal Guide for
Public School Leaders





Protecting Students From Exploitation:






A Legal Guide for Public School Leaders



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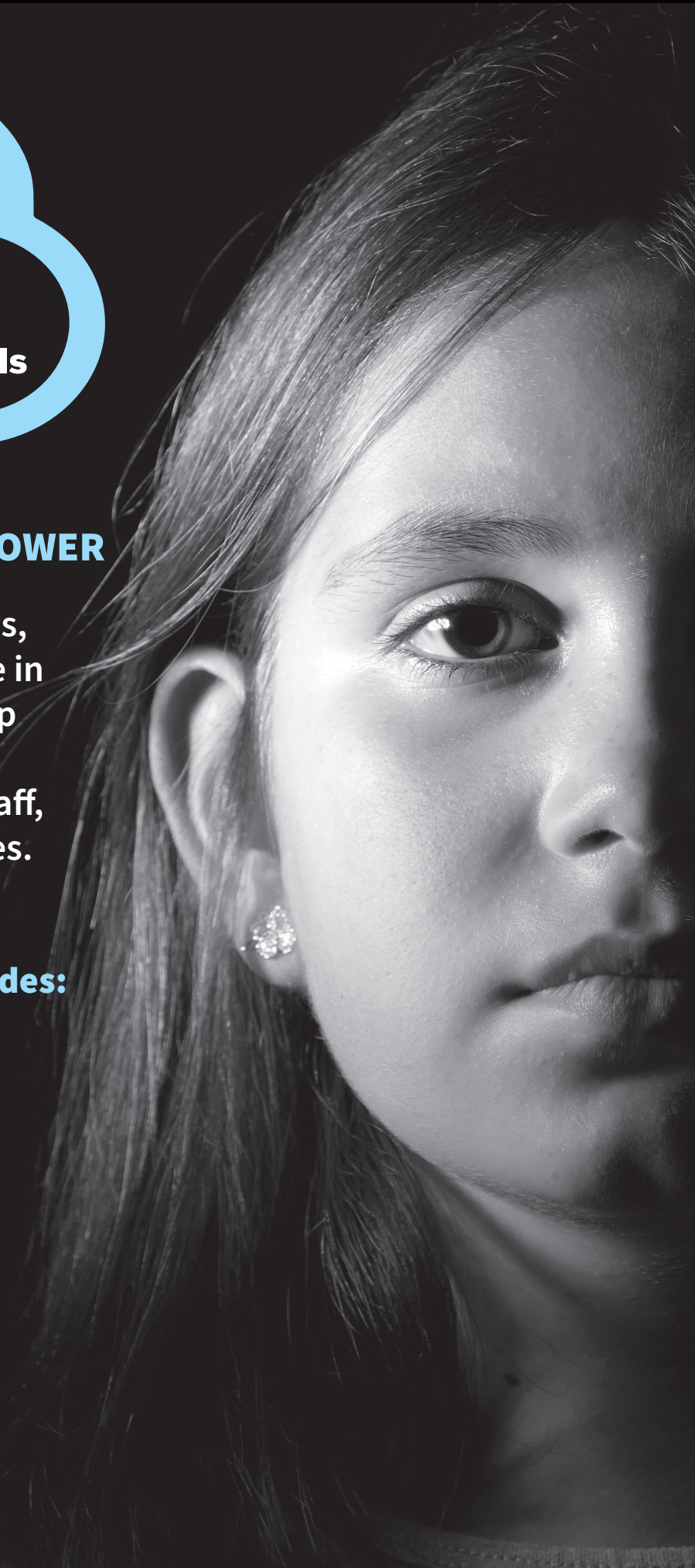


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Introduction

Child exploitation and victimization occur in numerous ways and affect young people of all ages, races, backgrounds, socioeconomic situations, and geographic locations. It is a difficult but important subject for educators, who interact with students more directly and for more hours in a week than most other adults in students' lives. But armed with awareness of the scope and complexities of the child exploitation problem, school leaders can help create a school environment that supports taking action against it.

This guide describes inappropriate and criminal behavior directed at children that may be disturbing to many readers. It is intended as an informative resource for adult educators and school leaders, not as educational material for young students.

K-12 schools, where students spend roughly 180 days per year, are uniquely positioned to raise awareness of the problem, to report suspected exploitation, and to support students impacted by it. Schools can be a crucial part of the prevention effort, as well, partnering with community agencies and groups that touch children's lives like state and local government health, child and family protective service agencies, domestic and family violence shelters and nonprofits, parks and recreation departments, boys and girls clubs, faith organizations, and law enforcement to wrap services around students to create supportive environments where exploiters have less opportunity to target vulnerable students.

School boards can play a substantial and important role in guiding principals, programs, and teachers to prevent child exploitation and to respond effectively to indicators of child victimization. Children and adolescents sometimes express and/or display "red flags" of trauma and distress with little prompting. It can be challenging, however, to gain the trust and confidence of the child, who may have already experienced many disappointments, betrayals, and even exploitation by adults and peers who should have or promised to help them. Sometimes, unfortunately, school staff including teachers and coaches are the perpetrators.

When a teacher or school counselor builds a safe, consistent relationship with a victimized child, though, that one relationship can be the lifeline on which a safe future for that child may be built. So, in providing information and training to leadership and front-line staff, the best words are encouraging words: that helping a child experiencing abuse is something everyone can do, and that for that child, that help can change the course of their life. School boards can emphasize through policy that small gestures of trustworthiness and concern are

“Child exploitation is one of the most reprehensible and destructive offenses confronting America today. It harms the safety and well-being of our young people; it devastates our families and communities; and it degrades our strength as a nation of laws and civic security. No matter what form child exploitation takes—from the creation and circulation of child pornography to the trafficking of children for sex—it demands the full attention of law enforcement, policymakers, community leaders, and service providers, each of whom plays an essential role in combating this unconscionable crime.”¹

—U.S. Department of Justice, April 2016

important to a hurting child, even if the child isn’t immediately “rescued” as a result.

In this guide are answers to questions about the legal issues surrounding child exploitation, so that you, as school leaders, can develop and strengthen procedures to prevent, identify, and respond to child exploitation, and to support students who have been victimized. The information presented here is not legal advice. Please consult your state school boards association and NSBA Council of School Attorneys member before developing or changing board policies.

Special thanks to COSA member Douglas Thorne for his review and Margaret Baldwin, J.D., executive director of Refuge House, a

multi-county domestic and sexual violence center in North Florida, for her contributions and insight.

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The NSBA Council of School Attorneys (COSA) supports school attorneys in their representation of public school boards by providing leadership in legal advocacy for public schools. COSA provides information and practical assistance to more than 3,000 attorneys representing K-12 public school districts and state school boards associations. <https://www.nsba.org/Services/Council-of-School-Attorneys>.

I. Child Victimization Facts and Prevalence

1 What does the term child exploitation and victimization include?

In this guide, the terms “child exploitation” and “child victimization” are used interchangeably to refer to a large group of offenses in which adults take advantage of young people for their own financial, sexual, violent, or manipulative purposes. The terms include abduction and kidnapping, commercial sexual activity, human trafficking (for sex or labor), child abuse and neglect, rape and sexual assault, sexual abuse, online enticement, and child sexual abuse material/child pornography. Appendix A lists common terms used in federal and state laws describing crimes of child exploitation and victimization, with general definitions.

2 How prevalent is child exploitation and victimization?

It is extremely difficult to arrive at accurate numbers of children victimized and exploited, as exploiters go to great lengths to keep their crimes from public view, and victims often are controlled by their exploiters.

The National Center for Missing and Exploited Children (NCMEC), which has received more than 57 million reports of suspected child sexual exploitation since 1998, notes that the most common types of reports it received in 2018 were related to apparent child sexual abuse images, online enticement (including “sextortion”), child sex trafficking, and child sexual molestation.¹

The National Center for Homeless Education indicates that an estimated 100,000 children are traded for sex in the United States each year. Over 250,000 10- to 17-year-olds likely are involved in commercial sexual exploitation in the United States annually, with 60% of those being runaway, throwaway (youth who have been asked, told, or forced to leave home by parents or caregivers with no alternate care arranged), or homeless youth.² Up to one third of teen runaway or throwaway youth will become involved in prostitution within 48 hours of leaving home.³

The National Human Trafficking Hotline notes that nearly 11,000 cases of human trafficking were reported to it in 2018.⁴ More than 18.4 million reports were made to the NCMEC CyberTipline in 2018 — 16.8 million from Facebook alone.⁵

3 How does exploitation and victimization affect children who may be K-12 students?

Federal authorities consider the exploitation and victimization of children, including trafficking, as child abuse. Children who are forced into commercial sexual behavior or labor, of whom explicit photos are taken and distributed, or who are enticed online to engage in sexual acts in person or virtually, all are properly understood as victims. Laws in most states recognize that child victims of trafficking should be diverted from criminal prosecution to supportive services. These are often called “safe harbor” laws.⁶ According to the U.S. Department of Education, this understanding of exploitation as victimization “allows educators and law enforcement and social service providers to minimize judgment, provide services, prevent revictimization, and focus on the safety and well-being of the [child].”⁷

Children who are exploited through sex trafficking and other victimization experience physical, psychological, and emotional trauma that affects behavior educators may witness at school. Victims may exhibit aggression, truancy, and learning difficulties,⁸ as well as memory loss, fear, depression, anxiety, hostility, and anger.⁹ Child sex trafficking victims can experience disease such as HIV/AIDS, unwanted pregnancy, social ostracism, drug addiction, and even death.¹⁰ Children whose explicit images have been shared and now live on the internet experience revictimization with each new crime or notice to the victim, as required under federal law.¹¹

4 How might victimization be connected to a school?

Those seeking to exploit or victimize children, including traffickers, operate in places with large numbers of children and youth, including schools. On campus, traffickers use K-12 students to befriend a target peer and slowly groom him or her to join the criminal enterprise. Traffickers may attend school activities like sporting events to gain access to unsuspecting targets.¹² They may target vulnerable students attending alternative educational programs, such as GED classes. Exploiters also prey on children online through access points such as social media (Facebook, Instagram, Snapchat, etc.) or in person at stores, malls, parks, and the like.¹³

Exploiters often create a superficially loving relationship with the victim to gain trust, dependence, and allegiance, then lure the victim into exploitation through psychological manipulation, drugs, and/or violence.¹⁴ Homeless children and those with unstable home environments are particularly vulnerable to grooming practices of exploiters who offer shelter, love, food, clothing, and apparent stability.

These unfortunate realities make schools places where officials should be aware of, and on the lookout for, signs of exploitation in students and suspicious behavior by those attending school events.

5 How does law enforcement investigate and prosecute child exploitation crimes?

At the federal level, the Department of Justice (DOJ) coordinates the investigation and prosecution of child exploitation through the Project Safe Childhood (PSC) program and other avenues. DOJ also supports the nationwide AMBER alert program.¹⁵ The Federal Bureau of Investigation (FBI), the intelligence and enforcement arm of DOJ, investigates federal crimes involving child exploitation, kidnapping, pornography, and the like.

State and local law enforcement agencies, including state's attorneys, also investigate instances of child abuse and neglect, exploitation, and trafficking. Law enforcement agencies work together, as many crimes against children have state and federal legal components. For school officials, the most active line of communication to law enforcement will be with your local police department, often through your school resource officer (SRO).

II. The School Role: Mandatory Reporting of Child Abuse and Neglect

Schools are uniquely positioned to support students facing exploitation, abuse, and neglect. All school employees, from administrators to custodians to teachers to bus drivers, can help. Although federal law no longer contains a minimum definition of child abuse and neglect that states must meet to receive funding under the Child Abuse Prevention and Treatment Act (CAPTA), every state requires the reporting of child abuse and neglect.

6 Who must report child abuse and neglect?

School personnel are required to report child abuse and neglect under state mandatory reporting laws. All states have adopted mandatory child abuse and neglect reporting laws as a condition of receiving federal funding under CAPTA. Under these state statutes, mandatory reporters must report suspected incidences of child abuse and neglect either to law enforcement or to a child protection agency. Forty-seven states specify professions that are required to report child abuse and neglect. Among those designated professions are teachers, principals, and other school personnel.¹⁶ Currently 18 states require all adults, which would include school staff and volunteers, to report suspected child abuse and neglect.¹⁷

7 How do state child abuse and neglect reporting systems work?

State laws and regulations establish detailed reporting and investigative procedures for cases of suspected child abuse and neglect. They indicate when specific offenses must be reported by child protective services to law enforcement and vice versa, how law enforcement and child protective services must collaborate in investigations (including information sharing), and when reports arising in certain settings (such as military families or tribal contexts) must be reported and to whom. In approximately 26 states, maltreatment of a child caused by someone other than a family member (involving sexual abuse or severe injury to the child) is considered a crime and must be cross-reported to law enforcement agencies for investigation. Human trafficking is included in this requirement in seven states. (See Table 1 below). Sixteen states require child protective services and law enforcement agencies to coordinate investigations and share information in order to minimize the number of times individual children are interviewed.¹⁸

Table 1 – States in Which Child Protective Services Agency Must Notify Law Enforcement About Allegations of Human Trafficking¹⁹

State	Statute/ Administrative Rule	Requirement (summary)
California	Cal. Penal Code Ann. § 11166(j)	County probation or welfare department must immediately after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case. When such a child or youth is missing, or has been abducted, the county probation or welfare department must immediately, or in no case later than 24 hours, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center Database of the FBI and to NCMEC.
Colorado	Colo. Rev. Stat. Ann. 19-3-308(4)(c)	If the county department of social services has reasonable cause to suspect that the child or any other child under the same care is a victim of human trafficking, it must notify the local law enforcement agency as soon as reasonably practicable. In instances of third-party abuse or neglect as it relates to human trafficking, a county department of social services may interview the person alleged to be responsible for the abuse or neglect or prepare an investigative report. If a county department elects to interview the third-party individual, it must first confer with its local law enforcement agency.

(continued on the next page)

State	Statute/ Administrative Rule	Requirement (summary)
Iowa	Iowa Code Ann. § 232.70(5), (7), (9), (10)	If the Department of Human Services has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, it must refer the child identified as a sex trafficking victim, within 24 hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.
Kentucky	Ky. Rev. Stat. Ann. § 620.040 (1)(c)-(d), (2)(c), (3)	If a report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, or the human trafficking of a child, the Cabinet of Health and Family Services must immediately notify the state or county attorney and the local law enforcement agency or the State police.
Massachusetts	Mass. Gen. Laws Ann. ch. 119, § 51B(k)	The department of children and families immediately must report to the district attorney and local law enforcement authorities when early evidence indicates there is reasonable cause to believe that a child has been sexually exploited, is a sexually exploited child, or a child who is otherwise a human trafficking victim.
Michigan	Mich. Comp. Laws Ann. § 722.623(c)(5)-(6)	If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates human trafficking has occurred, the Department of Health and Human Services must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred.
Vermont	Vt. Stat. Ann. tit. 33, § 4915(g)	The Department of Social and Rehabilitation Services must report to and receive assistance from appropriate law enforcement in an incident in which a child suffers serious bodily injury by other than accidental means, and potential violations of human trafficking laws.

Data Source: Child Welfare Information Gateway (2016), *Cross-reporting among responders to child abuse and neglect*, Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau.

In a few states, there are special rules for certain populations and locations. For example, in some states, authorities at a federal military installation must be notified when the alleged child victim is a member of a military family. A few states require the child protective service agency or law enforcement to notify certain Tribal agencies when the alleged maltreatment occurs on Tribal land or involves an “Indian child” as defined by law.²⁰

Once school personnel report child abuse and neglect as required by state law to child protective services and/or law enforcement, those agencies proceed with an investigation. At that point, the school's job is to support the student(s) and maintain a safe learning environment.

8 What constitutes child abuse and neglect?

Federal law has defined child abuse and neglect as “any recent act or failure to act on the part of a parent or caregiver that results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act that presents an imminent risk of serious harm.”²¹ Although federal law no longer requires a specific minimum definition for states to receive federal funds under CAPTA, this definition is helpful as a general framework. State law definitions of child abuse and neglect often are much more specific. As an example, the Iowa statute contains a detailed list of circumstances that constitute child abuse, which includes, among others:

“Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child;”

“[t]he commission of a sexual offense with or to a child . . . as a result of the acts or omissions of the person responsible for the care of the child;”

“[t]he failure on the part of a person responsible for the care of a child to provide . . . care necessary for the child’s health and welfare when financially able to do so, . . . , and the failure resulted in direct harm or created a risk of harm to the child;” and

“the acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in [prostitution].”²²

Most state laws define child abuse and neglect in terms of an act committed by a parent or caregiver. Generally, a parent or caregiver is anyone with a relationship or regular responsibility for the child. These can include parents, guardians, foster parents, relatives, or staff of residential care facilities. A “caregiver” generally means a person responsible for the care of a child, but with whom the child does not reside, without reference to the duration of care.²³ It is important that school policy be based on the specific definitions in your state law.

9 Is child exploitation, including trafficking, abuse and neglect?

Not in all states. As explained above, most states define child abuse and neglect in terms of harm caused by a parent or caregiver. In cases where it is not a parent or caregiver who is exploiting or victimizing the child, the criminal behavior may not fall under the child abuse and neglect category. In that situation, school personnel would need to follow procedures for reporting a crime, which would almost always include notification of the child’s parents.

But school leaders need to know that many states have expanded their definition of child abuse to include trafficking, regardless of whether the perpetrator is a parent or caregiver. This permits civil child protection

agencies to investigate and respond to reports of trafficking. All states include sexual abuse in their definitions of child abuse, and sexual exploitation is an element of the definition of sexual abuse in most jurisdictions. In 21 states, the definition of sexual abuse includes human trafficking (which, in turn, includes sex trafficking or trafficking of children for sexual purposes.)²⁴

This is an area that school personnel should not have to analyze for themselves. As a school leader, you should work with your state school boards association and school attorney member of the NSBA Council of School Attorneys to develop clear policies and procedures for preventing, identifying, and reporting any kind of child victimization, including abuse and neglect, based on your state's laws. These policies and procedures should indicate how and when school personnel are to communicate with law enforcement and other community agencies. School districts also should memorialize their agreements with local community agencies regarding reporting child exploitation, abuse, and neglect.

10 How can school personnel identify students who may be victims of child exploitation including trafficking?

School personnel who interact with students should be aware of risk factors and indicators of child exploitation and abuse/neglect so that they can recognize potential cases that may require reporting. Unfortunately, identifying students who are at risk for, or are, being trafficked or victimized can be difficult. Students who are being controlled or trafficked tend to hide their situation due to a sense of shame and fear, the stigma of activities such as prostitution, the exploiter's power to keep the child quiet through manipulation, and the inability to recognize that he/she is being victimized.

School leaders can assist staff by providing training and resources that help them connect student behavior and appearance at school with risk factors or "red flag" indicators of exploitation or abuse.

Some risk factors associated with children who are trafficked include:

- homelessness and other unstable home environments;
- lack of personal safety;
- poverty;
- family dysfunction (including a history of violence/abuse);
- multiple perpetrator sexual assault;
- inconsistent school attendance;
- emerging LGBTQ identity combined with family alienation and/or peer bullying;
- substance abuse;
- mental illness;
- learning disabilities; and
- lack of social support.²⁵

Exploiters and child traffickers prey on children who are vulnerable due to difficulties in their lives. They offer a seemingly loving relationship, a warm home, money, clothing, and other gifts. They may involve the

child in activities with older teens and adults or offer a “family system.” They may ask that the child call the perpetrator “Daddy” or “Uncle.” And they may isolate the child from normal pursuits, restricting him or her from participating in school or community activities such as sports.

When a child is being abused or exploited, his or her behaviors may indicate that abuse. The U.S. Department of Education provides some behavioral indicators of a child sex trafficking victim:

- frequent and/or unexplained absences from school;
- frequent running away from home;
- references made to frequent travel to other cities;
- bruises or other signs of physical trauma, withdrawn behavior, depression, anxiety, or fear;
- lack of control over a personal schedule and/or identification or travel documents;
- hunger, malnourishment, or inappropriate dress (based on weather conditions or surroundings);
- signs of drug addiction;
- coached or rehearsed responses to questions;
- a sudden change in attire, behavior, relationships, or material possessions (expensive items);
- uncharacteristic promiscuity and/or references to sexual situations or terminology beyond age-specific norms;
- a “boyfriend” or “girlfriend” who is noticeably older and/or controlling;
- an attempt to conceal scars, tattoos, or bruises;
- a sudden change in attention to personal hygiene;
- hyperarousal or symptoms of anger, panic, phobia, irritability, hyperactivity, frequent crying, temper tantrums, regressive behavior, and/or clinging behavior; and
- hypoarousal or symptoms of daydreaming, inability to bond with others, inattention, forgetfulness, and/or shyness.²⁶

11 How can schools assist with child exploitation investigations?

As child protective services and law enforcement investigate a reported case of child exploitation, school personnel may be asked to assist, whether or not the report came from the school. Some of the information schools have related to the student’s situation may be in education records, which are protected from release except in certain situations by federal and state law.

Schools should have clear policies and procedures for working with law enforcement and other investigating agencies so that school personnel know what to do when they are contacted. With solid written agreements (or “memoranda of understanding”) with local community agencies supporting school district policies and procedures, school districts can provide the framework for a system of community support for children and youth who may be at risk. These agreements should address sharing of information, chain of command, timing of reports, and other details important to an effective relationship that helps to prevent and respond to exploitation.

Most school districts already have a clear memorandum of understanding (MOU) with their local law enforcement agency regarding information sharing during criminal investigations. It is important that schools update those MOUs to address instances of child trafficking, online exploitation, and other crimes now covered by state and federal law. Below are some topics that may arise in the course of an investigation relating to child exploitation.

Sharing students' online activity with law enforcement

State and federal laws require parent consent before school officials may release information contained in students' "education records," except in certain specific circumstances. Social media posts made by students generally fall outside the definition of "education records" under the federal student records law, the Family Educational Rights and Privacy Act (FERPA)²⁷, because they are not maintained by schools. If a student's social media post is being maintained by the school district for some reason, however, such as in a discipline file, it is likely an education record and will be subject to protection under federal and state law, as well as the district's student records policy.

If a school district has created a "law enforcement unit," records created and maintained by that unit are excluded from the definition of education records under FERPA, and can be disclosed without parent consent in some circumstances.²⁸ Under FERPA, a law enforcement unit is one or more persons designated by a school district for law enforcement or physical security/safety purposes.²⁹

Sharing school surveillance camera footage

As a general rule, school districts and SROs may use video surveillance in any area where a student does not have a reasonable expectation of privacy. These areas may include hallways, classrooms, the cafeteria, the library, the gym, and the parking lot. Because school districts and SROs have the right to be physically present and to monitor those areas, they may rely on video surveillance to do the same.

A photo or video of a student is an education record, subject to specific exclusions, when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.³⁰ Usually, school surveillance video that is not maintained by the district in a way that associates it with a specific student is not an education record under FERPA. It generally may be disclosed to investigators without parent consent, unless state law requires otherwise. Similarly, if the school district's "law enforcement unit" creates and maintains the surveillance video, FERPA would not prevent disclosure of the video to investigators. But, once a video is an education record (because it is related to a particular student

School staff should follow district protocols for responding to, and reporting, suspected incidents of child exploitation, including child trafficking. These protocols should be carefully developed in conjunction with district policy and MOUs with community agencies and based on applicable state law requirements. In the absence of such protocols, school leaders facing a suspected case of child exploitation should contact law enforcement.

For further guidance in instances of suspected child trafficking, educators may contact the National Human Trafficking Hotline at 1-888-373-7888 at any time. Educators may report instances of suspected missing or exploited children to the National Center for Missing and Exploited Children's CyberTipline at 1-800-843-5678, or www.cybertipline.org.

and maintained by the district), the school district could not disclose it to investigators without parent consent or another special circumstance, like a health or safety emergency or court order.³¹

Making students/employees available for law enforcement interviews

State law often dictates whether and how law enforcement officers or child protective services workers may interview a student suspected of being abused or neglected at school during school hours. The investigators often want to conduct the interview outside the presence of the parent or caregiver, so the school may be asked to make the child available without notification or permission of the parent or caregiver. School district leaders should work closely with their state school boards association and NSBA Council of School Attorneys member to develop clear procedures for this situation that comply with state law. Such procedures often will require the investigators to show photo identification and official documentation such as a court order showing a health or safety emergency. School districts frequently provide by policy that the principal or other designated building administrators oversee such interactions and determine the location for any interview.

Searching student devices

As government entities, public schools are governed by constitutional principles including the Fourth Amendment's prohibition on unreasonable searches and seizures. The Supreme Court held in 1985 that school officials could conduct a search of a student that is "justified at its inception," and "reasonable in scope."³²

A search is justified at its inception if school officials have a reasonable suspicion that the search will turn up evidence of a violation of criminal laws or school rules, and reasonable in scope if the search is limited to the subject matter that led to the search in the first place. Very few courts have ruled on the extent to which schools may search student cell phones, especially in situations where the child is a suspected victim, not perpetrator, of a rule violation.³³ You should consult with your state school boards association and NSBA Council of School Attorneys member before developing or updating policies on this topic.

III. The School Role: Safe Learning Environments



"The overarching goal of schools is to create a safe, supportive environment where students can thrive, learn, and be themselves. This begins with a dedication to students' social and emotional well-being, and effective policies and programs that create a culture of trust."³⁴ This child-centered approach to school safety noted in NSBA's guide, *Fostering Safer Schools*, naturally will include efforts to prevent and respond to child exploitation. In fact, many of the measures suggested for schools by agencies concerned with child exploitation will fit into school districts' existing school climate and safety efforts.

12 Are schools legally required to put measures in place to create a safe online environment?

Yes, under the federal E-rate program. For many years, federal law has required schools receiving E-rate funds to take some minimum steps to maintain safe online environments for students, free of predatory behavior. This is more challenging in today's world, when the overwhelming majority of students have smartphones with them at all times. Research indicates that 95% of teens have access to a smartphone and over half have their own by age

11. There are signs that individual consumption of content is increasing, while shared screen time with family is decreasing, which makes it more difficult for family members to monitor the content children are consuming at home.³⁵

The Children’s Internet Protection Act (CIPA), passed in 2000, is the federal law that imposes requirements on schools or libraries that receive discounts for internet access or internal connections through the E-rate program.³⁶ It requires a school district applying for certain funds for internet access (E-rate discounts or Library Services and Technology Act grants) to certify that it has adopted an internet safety policy that includes use of a “technology protection measure,” i.e., filtering or blocking software, that prevents access to images that are obscene or child pornography.³⁷

At least 27 states have internet filtering laws that apply to publicly funded schools or libraries.

Most of these states merely require school districts or public libraries to adopt internet use policies to prevent minors from gaining access to sexually explicit, obscene, or harmful materials.³⁸

While school efforts to block and filter online content under CIPA may help prevent students from accessing sites where exploiters may connect with them, this will not protect students from the full range of online risks. The U.S. Department of Education’s Cyber Safety for Schools fact sheet lists online threats to students and suggests how to prepare for them. In addition to online predation, the Department identifies threats such as cyberbullying; inappropriate content; sexting; sextortion/ransomware; social media; text messaging sent through devices; instant messaging (via devices, email provider services, apps, and social media messaging features); email; and oversharing.³⁹

In “Close to Home,” the *American School Board Journal* describes how the Atlanta School Board has joined a growing number of districts across the country that have adopted policies, protocols, and programs designed to raise awareness and expand education about the commercial sexual exploitation of children. <https://www.nsba.org/ASBJ/2020/February/Close-to-Home>.



Schools and libraries subject to the Children’s Internet Protection Act are required to adopt and implement an internet safety policy addressing:

- Access by minors to inappropriate matter on the internet;
- The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
- Unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors’ access to materials harmful to them.

In addition to responsible use policies that require awareness training on appropriate online behavior and the risks of inappropriate behavior, schools are employing technological guardrails to keep their students safe at school. Some school districts use artificial intelligence (AI) tools to monitor the activity of all school-owned student computers. Most computers come with content filter software that allows school officials to monitor what students are doing on the internet while using their school computers, and whether their searches and activity are allowed under school policies. This is known as a campus safety management solution or safety management platform. These tools can be used to alert schools to threats and potentially harmful actions within the greater school community, such as suicidal or violent intentions. But these tools have limitations. Some only work with school-sanctioned platforms that run email, document, spreadsheet, and other typical programs, or they only review posts to public social media sites. A vast world of online communication exists outside of what a school district can control or monitor. As discussed under Q14 below, schools' online safety curricula for students should address how students can use online tools smartly and safely.

13 What can schools do to keep students safe from exploitation while at school events?

Facilities security is key to safety planning and prevention of child victimization, including campus security measures such as screening visitors.

Screening visitors, coaches, and volunteers

One basic security measure schools should take is to require check-in and even screening of all adults who interact with students in the school building. Many school districts use visitor management screening systems for all visitor check-ins. A visitor management system is capable of screening visitors using a government- or school-issued ID. The system will then search against databases designated by the school (e.g., sex offender lists, banned visitors) for any concerns in the visitor's background.⁴⁰ If the visitor passes the system's screening, it will print a badge for him/her to wear while at the school. This system can track and maintain a database of visitors over time.

School safety planning

The U.S. Department of Education recommends that schools embed child exploitation prevention strategies in their safety and emergency operations and management planning. A large part of this prevention strategy will be raising awareness of the problem and involving families in the safety planning process. Schools should "provide programs and roles for parents and guardians to make them part of their children's safety and security, both at school and while going to and from school."⁴¹

A best practice is when all members of a school campus, along with parents and community partners, have a shared commitment to work together to prevent crimes and protect victims. This collaboration is critically important to student success and will lead to a safer, healthier school culture.⁴²

—U.S. Department of Education

The Department recommends that schools partner with service providers, governmental agencies, local law enforcement, and other community groups to identify the nature and scope of child exploitation such as trafficking in their community and develop a comprehensive prevention awareness program for students and parents.⁴³

14 What can schools do to address child victimization?

The U.S. Department of Education identifies three main responsibilities of schools regarding child trafficking, which can be applied to child victimization generally:

1. Increase staff awareness and educate staff on the indicators and the nature of child exploitation crimes;
2. Increase parent and student awareness of the risks and realities of trafficking; and
3. Develop and clearly articulate district- or school-wide policies on and protocols for identifying a suspected victim or responding to a disclosure from a suspected victim.⁴⁴

The Department suggests training staff on the risk factors for vulnerable children (see Q10 above), a victim-centered approach, and best practices for working with victimized children and youth, who often feel shame and embarrassment. Staff should be thoroughly trained on the school district's policy and procedures addressing reporting, investigation, and support of students involved in child victimization. Training and awareness programs can be targeted to staff who are particularly likely to be in a position to recognize signs of exploitation, including enrollment personnel (behavior of non-relative adults who may register the child), school nurses (physical signs and symptoms), and school counselors (conversations about challenges at school).⁴⁵

The National Center for Homeless Education recommends that school districts offer students developmentally appropriate trafficking prevention curriculum as part of their efforts on student physical and emotional health and safety. The Center also provides a list of example materials and curricula.⁴⁶ Schools may incorporate awareness and prevention curricula for students in their ongoing social and emotional learning efforts, health courses, and character programs.

Consult with your state school boards association for guidance on how your school district can partner with community groups including law enforcement and child protective services, and national groups like the National Human Trafficking Resource Center, to provide training to staff and educational curriculum for students. Several states have dedicated funds to support programs and services for victims of human trafficking, and for prevention programs like education, training, and public outreach initiatives.⁴⁷

In developing policies and procedures to address child exploitation including trafficking, school districts can work within, or mirror, the framework they currently have in place for reporting, investigating, and supporting students involved in sexual harassment/assault or in child abuse. The procedures should require that administrators be notified immediately of any report of child victimization, including trafficking, while maintaining the student's confidentiality as much as possible. A report of victimization should trigger intervention, care, and support from all relevant providers in the community—law enforcement, health services, mental health services, child and family services, etc.

A sample protocol for school districts to address suspected or confirmed exploitation of a student is available in the Department of Education's publication, *Human Trafficking in America's Schools*.⁴⁸

Before developing or revising any district policy or procedure, consult your state school boards association and school attorney member of the NSBA Council of School Attorneys for guidance on law and practice in your state.

APPENDIX A: CHILD EXPLOITATION AND VICTIMIZATION OFFENSES

**States vary in their definitions of criminal conduct, including sex crimes. Consult with your state school boards association and your NSBA Council of School Attorneys member for information and advice on the legal definitions in your state.*

Abduction/kidnapping – “Abduction” or “kidnapping,” often used synonymously, refer to the unlawful taking of a person against his/her will for a nefarious purpose. State laws differ about the extent to which confinement, deception, enticement, restraint, and use of fear or force must be present to constitute a crime.⁴⁹ With respect to children, the National Center for Missing and Exploited Children (NCMEC) describes abduction through three categories.

Family abduction occurs when a child is taken, retained, or concealed by a family member depriving another of their custody or visitation rights. This can be considered a crime under state and federal law in some circumstances.

Nonfamily abduction occurs when a child is taken by someone known but not related to the child, including an online acquaintance, or by someone unknown to the child.

Infant abduction refers to an abduction of a child under one year.

Child abuse and neglect – Federal law has defined child abuse and neglect as “any recent act or failure to act on the part of a parent or caregiver that results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act that presents an imminent risk of serious harm.”⁵⁰ Federal law now recognizes child sex trafficking as child abuse and neglect.⁵¹ State laws vary in their definitions of child abuse and neglect, but all states define it and require professionals like school personnel to report it.⁵²

Child labor trafficking – Like sex trafficking, children are forced into laboring long hours for little to no pay under substandard or dangerous conditions through fear, intimidation, abuse, and psychological controls. The servitude can occur in contexts including domestic, agricultural, peddling, and work in restaurants and hotels.⁵³

Child pornography – Federal criminal law defines child pornography as any visual depiction of sexually explicit conduct involving a minor (someone under 18). “Visual depiction” includes any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means.⁵⁴ The Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018 creates mandatory minimums for restitution for victims of child sexual abuse imagery distribution, establishes a victim compensation fund, and defines monetary assistance for new victims.⁵⁵

Child sex trafficking – Federal law defines child sex trafficking as the recruitment, enticement, harboring, transportation, provision, obtaining, advertising, maintaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, or benefiting from such a venture, where the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.⁵⁶ Children embroiled in sex trafficking are controlled by their trafficker, and subject to fear, abuse, threats, and manipulation to keep them involved, and to keep them from sharing their situation with others.⁵⁷ Any minor who is induced to perform a commercial sex act is a victim of human trafficking, regardless of whether there is force, fraud, or coercion. In 2015, the Justice for Victims of Trafficking Act amended the Child Abuse and Prevention and Treatment Act (CAPTA) to require states to develop policies to address children served by child welfare agencies who are, or are at risk of becoming, victims of sex trafficking. This change requires states to provide for training of child protective services workers on identifying and addressing reports of child sex trafficking.⁵⁸

Commercial sexual activity – Any sexual act for which something of value is given or received.⁵⁹ Prostitution and child pornography are examples.

Human trafficking – Generally, forced commercial sexual activity or other labor. Federal law defines human trafficking as commercial sex induced by force, fraud, or coercion, or in which the person induced to perform the act is younger than 18; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage debt bondage, or slavery.⁶⁰ Child trafficking for sex or labor was criminalized under federal law with the Trafficking Victims Protection Act of 2000.⁶¹

Online enticement – An umbrella term for a broad range of behavior taking place on the internet (social media, messaging apps, gaming platforms, etc.) in which an individual communicates with someone believed to be a child with the intent to commit a sexual offense or to abduct that child. It includes sextortion, which NCMEC defines as the grooming of a child “to take sexually explicit images and/or ultimately meet face-to-face with someone for sexual purposes, or to engage in a sexual conversation online or, in some instances, to sell/trade the child’s sexual images.”⁶²

Rape and Sexual Assault – The Bureau of Justice Statistics defines rape and sexual assault for purposes of its annual National Crime Victimization Survey:

Rape – The unlawful penetration of a person against the will of the victim, with use or threatened use of force, or attempting such an act. Rape includes psychological coercion and physical force.

Sexual assault – is defined across a wide range of victimizations, separate from rape or attempted rape. These crimes include attacks or attempted attacks generally involving unwanted sexual contact between a victim and offender. Sexual assault may or may not involve force and includes grabbing or fondling.⁶³

Sexual abuse of a child – Generally, adult influence of a child to engage in sexual activity. Federal law defines sexual abuse as the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.⁶⁴ State criminal laws define sexual abuse in a variety of ways.

APPENDIX B: RESOURCES FOR VICTIMS

This is not an exhaustive list of hotlines and referral sources for victims. The list provides current information on these services that are supported by a range of federal and other funding.

Direct Services for Victims*

Children's Advocacy Centers (CACs) – CACs provide a safe, neutral, child and family-friendly atmosphere to provide a range of services and referrals to victims and their families. Often CACs have expertise in the area of child and youth victimization, and they serve as a hub for centralized, multi-disciplinary, victim-centered responses. Today there are over 800 CACs nationwide. To locate a CAC near you visit <https://www.nationalcac.org/find-a-cac/>.

Domestic Violence Shelters – These are places of temporary refuge and support for individuals escaping violent or abusive situations, such as rape and domestic violence. Individuals experiencing any type of violence, such as dating violence and domestic violence, can contact the National Domestic Violence Hotline (at 1-800-799-7233 or www.thehotline.org) to request support, find a shelter, and receive referrals to other related services.

Health Centers – These centers are non-profit or public entities that serve designated medically underserved populations/areas. To locate a nearby health center, visit <http://findahealthcenter.hrsa.gov/>.

The National Center for Missing & Exploited Children – The Center's Family Advocacy Division provides masters-level trained mental health and child welfare professionals to proactively help families, law enforcement, social service agencies, and mental health agencies by providing a support network for child victims and their families. Call 1-800-THE-LOST (1-800-843-5678) or visit www.missingkids.org.

Runaway and Homeless Youth Programs – These programs provide shelter and other comprehensive services to runaway and homeless youth coerced into sex trafficking and exploitation. To find a program, call 1-800-RUNAWAY (1-800-786-2929).

Sexual Assault Programs/Rape Crisis Centers – These community-based organizations assist victims of rape, sexual abuse, and sexual violence. They provide services such as victim advocacy, crisis hotline support, community outreach, and education programs. To find local program and services, call 1-800-656-HOPE (1-800-656-4673).

* U.S. Department of Justice, *The National Strategy for Child Exploitation Prevention and Interdiction* (April 2016), <https://www.justice.gov/psc/file/842411/download>, at 57.

Hotlines and Referral Services for Victims*

Childhelp National Child Abuse Hotline 1-800-4-A-CHILD (1-800-422-4453) – Serving the United States, its territories, and Canada, the hotline is staffed 24/7 with professional crisis counselors who, through interpreters, can provide assistance in over 200 languages. The hotline offers crisis intervention, information, literature, and referrals to thousands of emergency, social service, and support resources. All calls are confidential. www.childhelp.org

National Domestic Violence Hotline 1-800-799-7233 – The hotline provides highly-trained advocates that are available 24/7 to talk confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship. www.thehotline.org

National Human Trafficking Resource Center Hotline 1-888-373-7888 – The hotline is a national, toll-free hotline, available to answer calls from anywhere in the United States, 24/7, in more than 200 languages. The NHTRC offers round-the-clock access to a safe space to report tips, seek services, and ask for help. The NHTRC connects human trafficking victims and survivors to critical support and services and helps equip the anti-trafficking community with tools to effectively combat all forms of human trafficking. www.traffickingresourcecenter.org

National Runaway Safeline 1-800-RUNAWAY (1-800-786-2929) – The Safeline links runaway, homeless, and at-risk youth and their families to crisis counseling, programs, and resources. It uses an approach that combines a 24-hour hotline, interactive online services, a comprehensive website, a national resource database, public service announcement, outreach activities, and collaborative relationships with local and national partners. www.1800runaway.org

National Teen Dating Abuse Helpline 1-866-331-9474 – Trained peer advocates are available 24/7 through the helpline to offer education, support, and advocacy to teens and young adults. Peer advocates help connect callers and texters to resources and helpful websites, help callers create a plan to stay safe, and just listen to callers' concerns. Call, text "loveis" to 22522, or go online to www.loveisrespect.org.

Rape, Abuse, & Incest National Network 1-800-656-HOPE (1-800-656-4673) – The National Sexual Assault Online Hotline and the National Sexual Assault Telephone Hotline, operated by RAINN, provide free and confidential support, and help finding a local health facility, local resources, and other information. www.rainn.org

SAMHSA's National Helpline 1-800-662-HELP (1-800-662-4357) – The Helpline is a free, confidential, 24/7 treatment referral and information service (in English and Spanish) for individuals and families facing mental health and/or substance use disorders. Call or visit the online treatment locators at <https://findtreatment.samhsa.gov/>.

*U.S. Department of Justice, *The National Strategy for Child Exploitation Prevention and Interdiction* (April 2016), <https://www.justice.gov/psc/file/842411/download>, at 58.

APPENDIX C: RESOURCES FOR SCHOOLS

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- ² <http://www.missingkids.com/footer/media/keyfacts>.
- ³ https://youth.gov/youth-topics/runaway-and-homeless-youth/federal-definitions#_ftn.
- ⁴ National Center for Homeless Education, *Sex Trafficking of Minors: What Schools Need to Know to Recognize and Respond to the Trafficking of Students* (Summer 2014), <https://nche.ed.gov/wp-content/uploads/2018/10/trafficking.pdf>, at 3.
- ⁵ <https://humantraffickinghotline.org/states>.
- ⁶ Letter to Mark Zuckerberg, Chief Executive Officer, Facebook from Rt Hon Priti Patel MP, United Kingdom Secretary of State for the Home Department, William P. Barr United States Attorney General, Kevin K. McAleenan United States Secretary of Homeland Security (Acting), Hon Peter Dutton MP, Australian Minister for Home Affairs (October 4, 2019), <https://www.justice.gov/opa/press-release/file/1207081/download>.
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- ¹⁸ Child Welfare Information Gateway, *Cross-reporting among responders to child abuse and neglect*, Washington, DC: U.S. Department of Health and Human Services, Children's Bureau (2016), <https://www.childwelfare.gov/pubPDFs/xreporting.pdf> at 2.
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- ²⁰ *Id.*
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- ²² Iowa Code Ann. § 232.68(2019).
- ²³ See, e.g., *id.*

²⁴ Child Welfare Information Gateway, *Definitions of Human Trafficking*, Washington, DC: U.S. Department of Health and Human Services, Children's Bureau (2016), https://www.childwelfare.gov/pubPDFs/definitions_trafficking.pdf, at 2.

²⁵ See, e.g., U.S. Department of Education, *Human Trafficking in America's Schools* (Jan. 2015), <https://safesupportivelearning.ed.gov/sites/default/files/HumanTraffickinginAmericasSchools.pdf>, at 4.

²⁶ *Id.* at 5. See page 6 for behavioral indicators for labor trafficking.

²⁷ A photo or video of a student is an education record, subject to specific exclusions, when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. 20 U.S.C. §1232g(a)(4) (A)(2019); 34 C.F.R. 99.3(2019).

²⁸ 34 C.F.R. §§99.3, 99.8(2019).

²⁹ 34 C.F.R. §99.8(2019).

³⁰ 20 U.S.C. 1232g(a)(4)(A)(2019); 34 CFR § 99.3(2019); See U.S. Department of Education, *FAQs on Photos and Videos under FERPA*, <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>.

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⁴³ *Id.* at 8.

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⁴⁵ National Center for Homeless Education, *Sex Trafficking of Minors: What Schools Need to Know to Recognize and Respond to the Trafficking of Students* (Summer 2014), <https://nche.ed.gov/wp-content/uploads/2018/10/trafficking.pdf>, at 7.

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⁴⁷ Child Welfare Information Gateway, *Responding to child victims of human trafficking*, Washington, DC: U.S. Department of Health and Human Services, Children's Bureau (2019), <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/traffickingresponse/>, at 5.

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⁵⁰ Child Welfare Information Gateway, *Definitions of Child Abuse and Neglect*, Washington, DC: U.S. Department of Health and Human Services, Children's Bureau (2019), <https://www.childwelfare.gov/pubPDFs/define.pdf>, at 1, citing CAPTA Reauthorization Act of 2010 (P.L. 111-320), 42 U.S.C. § 5101, Note (§ 3). Federal law no longer contains a "minimum definition" of child abuse and neglect.

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⁶² National Center for Missing and Exploited Children, Online Enticement, <http://www.missingkids.com/theissues/onlineenticement>; U.S. Department of Justice, *The National Survey for Child Exploitation Prevention and Interdiction* (April 2016), <https://www.justice.gov/psc/file/842411/download> at 75.

⁶³ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Criminal Victimization, 2018* (Sept. 2019), <https://www.bjs.gov/content/pub/pdf/cv18.pdf>, at 24.

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The National School Boards Association (NSBA) is the leading advocate for public education. For 80 years, we have been leading the effort to support and enhance public education. We are succeeding in creating the best possible environment in which students can realize their dreams.

NSBA is a federation of 49 state associations and the U.S. territory of the Virgin Islands, representing their more than 90,000 school board officials. These local officials govern more than 13,600 local school districts serving more than 50 million public school students. Working with and through our state associations, and serving as their Washington, D.C., office, NSBA advocates for equity and excellence in public education through school board governance.

We believe public education is America's most vital institution. It is a civil right necessary to the dignity and freedom of the American people, and all children deserve equal access to an education that allows them to reach their potential.

In pursuit of these beliefs, NSBA and our members will continue to lead the national conversation about public education, advocate for public policies that ensure all students everywhere have access to a great public education where they live, create a better understanding of the importance of school boards and the benefits of local governance, and enhance the effectiveness of school boards.



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