United States Government Accountability Office

Report to the Ranking Member, Committee on Education and the Workforce, House of Representatives

January 2014

CHILD WELFARE

Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel

GAO-14-42

GAO Highlights

Highlights of GAO-14-42, a report to the Ranking Member, Committee on Education and the Workforce, House of Representatives

January 2014

CHILD WELFARE

Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel

Why GAO Did This Study

While all child abuse is troubling, sexual abuse by school personnel raises particular concerns because of the trust placed in schools. Federal laws prohibit sexual harassment, including sexual abuse, in federally-funded education programs and set minimum standards for state laws on reporting suspected child abuse.

GAO was asked to review efforts to address child sexual abuse by school personnel. GAO examined: (1) states' and school districts' steps to help prevent such abuse, (2) their reporting requirements and approaches for investigating allegations, and (3) federal agencies' efforts to address such abuse. GAO reviewed relevant federal laws, regulations, and guidance; surveyed state educational agencies in 50 states and the District of Columbia; and visited four states and six of their districts. States were selected based on actions taken in response to past allegations of abuse. GAO interviewed state agencies, school districts, local law enforcement and child protective service agencies, and experts identified through a systematic literature review.

What GAO Recommends

GAO recommends that Education collaborate with HHS and Justice to compile and disseminate information to states; identify a way to track the prevalence of sexual abuse; and that Education also clarify and disseminate information on how Title IX applies to personnel-to-student sexual abuse in the K-12 setting. Education and HHS provided technical comments and Education concurred with our recommendations. Justice had no comments.

View GAO-14-42. For more information, contact Kay Brown at (202) 512-7215 or brownke@gao.gov.

What GAO Found

To help prevent the sexual abuse of students in public K-12 schools, 46 of the 50 states and the District of Columbia surveyed by GAO required background checks of applicants—such as teachers or bus drivers—seeking public school employment; however, the methods and sources varied widely. Forty-two states established professional standards or codes of conduct for school personnel, and 22 of those included information on appropriate boundaries between personnel and students. Although experts view awareness and prevention training on sexual abuse and misconduct as another key prevention tool, only 18 states reported in the survey that they require school districts to provide this training. However, two of six districts GAO visited provided training to school personnel, volunteers, and students in response to prior allegations of sexual misconduct by school personnel. These trainings covered a variety of topics, including recognizing the signs of abuse and misconduct.

According to GAO's survey, 46 states have laws that require school personnel to report child sexual abuse and designate the agency that investigates reports (local law enforcement and/or child protective services (CPS)), and 43 establish penalties for not reporting. In addition, school districts may have their own policies, which can sometimes create challenges. For example, three of the six school districts GAO visited have policies requiring suspected sexual abuse or misconduct to be reported to school administrators. Local investigative officials reported that such policies can be confusing, as they imply reports should only be made to school officials. This can result in a failure to report to the proper law enforcement or CPS authorities and interfere with investigations. For example, in one case study GAO reviewed, administrators pled guilty to failure to report suspected sexual abuse of a student by a teacher, who was later convicted of ten counts of abuse. Further, state and local officials told GAO that because different agencies can be involved with investigating reports of alleged child sexual abuse or misconduct for different reasons, each of the agencies' particular goals may lead to potential interference with another agency's investigation. In three of the four states GAO visited, law enforcement and CPS had developed methods, such as memorandums of understanding, to minimize this potential conflict and share information and expertise to resolve cases.

Relevant programs at the Departments of Education (Education), Health and Human Services (HHS) and Justice (Justice) have supported state and local efforts to address sexual abuse by school personnel through limited training, guidance on boundary setting, and funding for collaboration among entities responding to allegations. Federal internal controls state that agencies should ensure there are adequate means of communicating with and obtaining information from external stakeholders who have a significant impact on agency goals. Yet, more than 30 of the states that GAO surveyed were not aware of available federal resources. No single agency is leading this effort, and coordination among federal agencies to leverage their resources and disseminate information to assist state and local efforts is limited. Further, the prevalence of this type of abuse is not known. Although several federal agencies collect related data, none systematically identify the extent of sexual abuse by school personnel, and efforts to address this data gap are limited. Finally, Education's regulations under Title IX of the Education Amendments of 1972 (Title IX) require schools to have procedures in place to protect students from sexual abuse by school personnel. However, local officials told GAO that Education's guidance was limited and they are unsure about how to apply these requirements to cases of adult-to-student sexual abuse in K-12 settings.

Contents

Letter		1
	Background	5
	Most States Use Background Checks and Professional Codes of Conduct as Prevention Efforts	15
	Reporting and Investigating Often Involves Multiple Agencies As Well As School Districts, Which Sometimes Presents Challenges	26
	Multiple Federal Agencies Provide Resources to Address Abuse by School Personnel, but Coordination and Data Are Limited	36
	Conclusions	46
	Recommendations for Executive Action	47
	Agency Comments and Our Evaluation	48
Appendix I	Objectives, Scope and Methodology	51
Appendix II	Case Studies	56
Appendix III	Comments from the Department of Education	62
Appendix IV	GAO Contact and Staff Acknowledgements	65
Related GAO Products		66
Table		
	Table 1: Number of State Educational Agencies Aware of Federal Resources to Help Prevent and Respond to Sexual Abuse and Sexual Misconduct by School Personnel, by Topic	43
Figures		
	Figure 1: Continuum of Examples of Possible Behaviors by Perpetrators of Child Sexual Abuse	5

Figure 2: Local, State, and Federal Entities That May Be Involved with Addressing Cases of Child Sexual Abuse and Misconduct by K-12 School Personnel 7
Figure 3: Number of States Requiring Criminal Background Checks for Public K-12 School Employment, By Source 17
Figure 4: Number of States Requiring Awareness and Prevention Training on Sexual Abuse of Students by School Personnel, by Topic 23
Figure 5: Types, Purpose, and Selected Disciplinary Outcomes of Investigations, by Agency Type 31

Abbreviations

BJS	Bureau of Justice Statistics
CAC	Child Advocacy Center
CAPTA	Child Abuse Prevention and Treatment Act
CDC	Centers for Disease Control and Prevention
CJA	Children's Justice Act
CPS	child protective services
CRDC	Civil Rights Data Collection
Education	Department of Education
ESEA	Elementary and Secondary Education Act of 1965
FBI	Federal Bureau of Investigation
HHS	Department of Health and Human Services
Justice	Department of Justice
NASDTEC	National Association of State Directors of Teacher Education and Certification
NCANDS	National Child Abuse and Neglect Data System
NCES	National Center for Education Statistics
NCVS	National Crime Victimization Survey
OCAN	Office on Child Abuse and Neglect
OCR	Office for Civil Rights
OJJDP	Office of Juvenile Justice and Delinquency Prevention
OSHS	Office of Safe and Healthy Students
SSOCS	School Survey on Crime and Safety
Title IX	Title IX of the Education Amendments of 1972

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

January 27, 2014

The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

Dear Mr. Miller:

Over the last decade, a number of media reports were made across the country about sexual abuse[1] of students by public K-12 school personnel. A report prepared for the U.S. Department of Education in 2004 stated that nearly 9.6 percent of students are victims of sexual abuse by school personnel[2]—such as teachers, principals, coaches, and school bus drivers—sometime during their school career.[3] However, the prevalence of sexual abuse by school personnel remains unknown, in part, because some cases go unreported. Further, the term sexual abuse may not capture the full spectrum of the issue. While child sexual abuse typically refers to the criminal act of forcing a child to engage in sexual activity with the perpetrator, other inappropriate behaviors with children may eventually lead to sexual abuse. For example, while not generally criminal, behaviors often referred to as "grooming" may be carried out by the perpetrator with the aim of establishing trust to facilitate future sexual

[1]Definitions of sexual abuse may vary from state to state. For example, sexual abuse may be defined in general terms or by specifying various acts as sexual abuse, such as rape, molestation, or sexual assault. For purposes of this report, we consider sexual abuse to include any sexual activity involving a child that is a crime under applicable state law.

[2]For the purposes of this review, school personnel includes a wide variety of positions including, but not limited to, school district administrators, principals, teachers, paraprofessionals, school nurses, coaches, guidance counselors, school psychologists, school cafeteria staff, janitors, and school bus drivers.

[3]*Shakeshaft, C, Educator Sexual Misconduct: A Synthesis of the Literature*, U.S. Department of Education, 2004. The estimate provided in the report is the most recent information available on the prevalence of such abuse and misconduct and is based on secondary analysis of data collected for the American Association of University Women in Fall 2000 from a sample of 8th through 11th grade students in 80,000 schools and focused on experiences that occurred in school.

activity with the child. These behaviors could lead to sexual misconduct,[4] including unwelcome or sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Further, the growing use of technology and social media as a new and convenient way for adults and students to interact may pose questions about what interactions between school personnel and students are considered appropriate. Early signs of inappropriate behavior with a child can be the key to identifying and preventing the criminal act of sexual abuse.

Sexual abuse of students by school personnel raises particular concerns because of the trust and responsibility placed with schools to ensure a safe and productive learning environment. As research has shown, child sexual abuse often has significant detrimental consequences on children's physical, psychological, academic, and behavioral development.[5] States have the primary role in ensuring the safety of their citizens. While federal law establishes minimum standards for state mandatory reporting laws regarding known or suspected child abuse,[6] states primarily define their own requirements for preventing, reporting, and investigating child abuse and neglect, including child sexual abuse. Variations across state laws may include who is considered a caretaker, who is mandated to report suspected abuse, what must be reported, and to which agency reports should be directed. Further, school districts within a state (sometimes hundreds per state) can establish policies and procedures that go beyond state requirements. In addition, efforts to prevent and respond to child sexual abuse by school personnel may involve various agencies, such as education, child welfare, and criminal

[4]Definitions of sexual misconduct may also vary by state and may include a variety of behaviors. For example, sexual misconduct could include any verbal or physical activity directed toward a child that is sexual in nature and designed to establish a romantic or sexual relationship with the child. Sexual misconduct may eventually lead to sexual abuse, but may not be considered a criminal act in and of itself, although it may be considered a violation of other laws, regulations, or professional codes of conduct. Although we primarily use the terms sexual abuse and misconduct in this report, we occasionally may use alternative terms that encompass related issues, such as child maltreatment or sexual violence.

[5]Robert J. Shoop, *Sexual Exploitation in Schools: How to Spot It and Stop It* (2004).

[6]As a condition of receiving federal funding under the Child Abuse Prevention and Treatment Act (CAPTA), as amended, states must comply with certain requirements, including establishing a state mandatory reporting law. 42 U.S.C. § 5106a(b)(2).

justice,[7] whose roles and missions differ. You asked us to review how states, school districts, and the federal government address child sexual abuse by public K-12 school personnel. Our review addresses the following questions:

1. What steps have states and school districts taken to help prevent child sexual abuse by school personnel?
2. What are states' and school districts' reporting requirements and approaches to investigating allegations of child sexual abuse by school personnel?
3. To what extent have federal agencies made efforts to prevent and respond to child sexual abuse by school personnel?

To perform this work, we used a number of approaches to help identify the steps states, public school districts, and federal agencies have taken to prevent, identify, report, and respond to sexual abuse by public K-12 school personnel against students. To understand the role different levels of government play in addressing these issues, we reviewed relevant federal laws, regulations, and policies; interviewed officials from a range of federal agencies and organizations including the Departments of Education (Education), Health and Human Services (HHS), and Justice (Justice); and reviewed relevant federal agency documents and existing data sources on child sexual abuse. We also interviewed subject matter experts whom we identified through a systematic review of available literature on the topic. Such experts included officials from a range of relevant organizations, including education and child advocacy groups.

To gather a national overview of states' requirements for identifying, reporting, and investigating suspected cases of sexual abuse of students by school personnel, we fielded a survey of state educational agencies in all 50 states and the District of Columbia from May 7 through July 25, 2013. All 50 states and the District of Columbia completed the survey. Survey responses reflect the status of states' requirements at the time of survey completion. The survey included questions on state laws and

[7]For the purposes of this report, child welfare refers to all types of child welfare agencies and includes state and local child protective service agencies, which specifically address child abuse and neglect. Similarly, criminal justice refers to all types of criminal justice entities and includes law enforcement agencies, attorneys general offices, district attorneys' offices, and the courts.

regulations, training, codes of conduct, monitoring, guidance, and federal assistance. We also sent one follow-up question to survey respondents regarding background checks of contract employees at public K-12 schools, which received a response rate of 94 percent.

We also visited four states—Georgia, Massachusetts, Virginia, and Washington—to gather additional information from public school districts, as well as those who investigate cases of sexual abuse and misconduct by school personnel, such as officials from state and local educational and child protective service agencies, local police departments and prosecutor offices, and relevant child advocacy organizations. We selected states that had developed laws or regulations to address prevention, detection, reporting, and/or investigation of child sexual abuse specifically by school personnel. We selected a total of six school districts based on information about policies and training to address such issues, as well as expert recommendations and the proximity of the school district to other offices within each state we visited. We spoke with school superintendents, attorneys that represent schools, human resources personnel, school counselors, and school safety officials, when available. We reviewed policies, training materials, and other relevant documentation and observed one school district's training session on the subject. The results of the site visits are not generalizable to all public school districts, state educational and child welfare agencies, local police departments and prosecutor offices, or relevant child advocacy organizations.

Finally, GAO's investigative staff reviewed closed criminal cases, identified through media and legal database searches, to illustrate the complexities of these cases and how incidents of sexual abuse are identified, reported, and investigated. We selected cases to achieve variation among these criteria: gender of perpetrator and victim, age of child(ren), whether there were multiple victims of the same perpetrator, and the position of the perpetrator in the school (teacher, school administrators, bus driver, janitor, etc.). Our investigators reviewed five cases that were determined to be closed, with no pending litigation. The case study reviews involved travel to several states and interviews with agencies and individuals involved in each case as well as case file reviews. Case studies were conducted from May through July 2013. See appendix II for summaries of the case studies.

We conducted this performance audit from October 2012 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

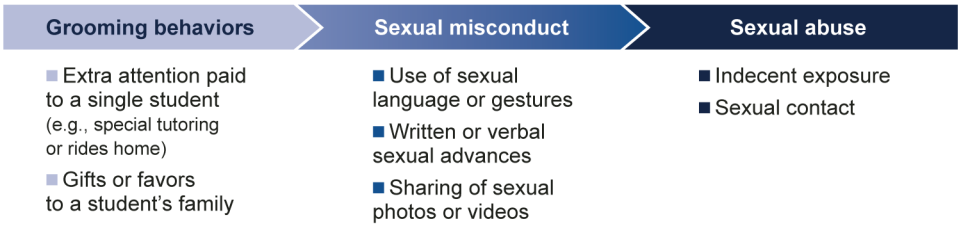
sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our investigative activities were conducted in accordance with standards prescribed by the Council of the Inspectors General for Integrity and Efficiency.

Background

Behaviors of Perpetrators of Child Sexual Abuse

While child sexual abuse—the act of forcing a child to engage in sexual activity with a perpetrator—is generally criminal in nature, perpetrators of such abuse typically exhibit other inappropriate, and sometimes noncriminal, behaviors. These behaviors of perpetrators may be displayed on a continuum and may include grooming, sexual misconduct and child sexual abuse. See figure 1.

Figure 1: Continuum of Examples of Possible Behaviors by Perpetrators of Child Sexual Abuse



Source: GAO analysis of information from experts and site visits.

Note: Definitions of sexual abuse and sexual misconduct may vary from state to state. For example, sexual abuse may be defined in general terms or by specifying various acts as sexual abuse. For purposes of this report, sexual abuse includes any sexual activity involving a child that is a crime under applicable state law. Definitions of sexual misconduct may also vary by state and include a variety of behaviors. For example, sexual misconduct could include any verbal or physical activity directed toward a child that is sexual in nature and designed to establish a romantic or sexual relationship with the child. Grooming behaviors are part of a pattern of behavior and are done with the intent to perpetrate future sexual abuse or misconduct, but the same behaviors may also be done without such intent.

Entities Involved in Addressing Cases of Child Sexual Abuse and Misconduct by School Personnel

State and local agencies in the education, child welfare, and criminal justice systems lead the efforts to prevent, detect, and respond to cases of sexual abuse of and misconduct toward students by public K-12 school personnel. In accordance with their distinct missions and roles, each type of agency plays a part in ensuring the safety and protection of children. Three federal agencies with corresponding missions support state and local efforts: Education, HHS, and Justice (see figure 2).

Figure 2: Local, State, and Federal Entities That May Be Involved with Addressing Cases of Child Sexual Abuse and Misconduct by K-12 School Personnel

Source: GAO analysis of information provided by entities we interviewed.

Notes:

The concentric circles in the figure are solely intended to illustrate the different levels of government, not the relationship between these levels.

For this review, while we generally found that state and federal criminal justice entities had limited involvement with cases of child sexual abuse and misconduct by school personnel, it is possible that state attorneys general offices, state and federal courts, and state and federal law enforcement entities may be involved with such cases.

[a]State offices of professional licensure, which may be located within or separate from state educational agencies, are often involved with cases of child sexual abuse and misconduct by school personnel.

K-12 Education

Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination, including sexual harassment, in federally-funded education programs and activities.[8] According to Education's guidance, sexual abuse of students and sexual misconduct by school personnel are included in the broad set of behaviors prohibited under Title IX.[9] Although Title IX is not a criminal statute, the behaviors prohibited by Title IX may be criminal or noncriminal in nature, depending on state or federal law.

All public and private education institutions that receive federal funds must comply with Title IX. OCR's regulations establish procedural requirements for the prevention or correction of sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination and adoption and publication of grievance procedures providing for prompt and equitable resolution of complaints of sex discrimination. The regulations also require schools receiving federal funds for education programs or activities to designate at least one employee to coordinate Title IX compliance, commonly known as a Title IX coordinator, whose responsibilities include the

[8]Pub. L. No. 92-318, tit. IX, 86 Stat. 235, 373-75 (codified as amended at 20 U.S.C. §§ 1681-88). See also 34 C.F.R. pt. 106. Title IX generally provides that "[n]o person … shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The Supreme Court has held that sex discrimination includes sexual harassment. See *Franklin v. Gwinnett County Pub. Sch.*, 503 U.S. 60, 75 (1992) (citing *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 64 (1986)). Each federal agency that provides financial assistance is responsible for enforcing Title IX.

[9]Education's definition of sexual harassment prohibited under Title IX includes unwelcome conduct of a sexual nature that is sufficiently serious as to deny or limit a student's ability to participate in or benefit from a school's education program or activity. It may be committed by other students, school employees or non-employee third parties. See OCR, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (Washington D.C.: January 2001). For the purposes of this review, we focused on cases involving school personnel-to-student sexual abuse or misconduct in the K-12 setting.

coordination of investigations of complaints alleging noncompliance.[10] OCR is responsible for enforcing schools' compliance with Title IX, and if it finds a school has violated Title IX as the result of sexual abuse or sexual misconduct by school personnel, it will require the school to take appropriate remedial steps.[11]

Education's Office of Safe and Healthy Students (OSHS) administers, coordinates, and recommends policy for improving programs and activities that are designed to provide financial assistance for drug and violence prevention activities, among other things.[12] Specifically, under the Safe and Drug-Free Schools and Communities Act—Title IV, Part A of the Elementary and Secondary Education Act of 1965, as amended—OSHS administers several types of programs, including grants to public K-12 school districts for a broad range of violence prevention activities.[13] While the statute does not specifically identify who may be considered perpetrators of violence for purposes of Title IV grant programs, according to OSHS officials, the funded projects have primarily focused on peer-to-peer violence.

Education's National Center for Education Statistics (NCES) is tasked with collecting, acquiring, compiling and disseminating full and complete statistics on the condition and progress of education at the elementary

[10]34 C.F.R. §§ 106.8 – 106.9.

[11]34 C.F.R. § 106.3(a). According to OCR guidance, in determining whether a school has violated Title IX, OCR will consider whether a school is in compliance with the regulations, whether it appropriately investigated and responded to allegations of sexual harassment, and whether it has taken corrective action to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. OCR is required to make schools aware of potential Title IX violations and to seek voluntary corrective action. If OCR is unable to negotiate a settlement with the school, OCR may initiate an enforcement action to suspend or terminate federal financial assistance, or refer the case to the Department of Justice. See 20 U.S.C. § 1682.

[12]In addition to drug and violence prevention activities, OSHS administers, coordinates, and recommends policy for improving programs and activities that are designed to provide financial assistance for activities that promote the health and well-being of students and school preparedness activities that contribute to improved conditions for learning. For the purposes of this review, we focus on those OSHS grants and projects related to violence prevention in schools.

[13]Pub. L. No. 107-110, §§ 4001-4155, 115 Stat. 1425, 1734-65 (2002) (codified at 20 U.S.C. §§ 7101-65). Awards were last made under these grants in fiscal year 2012. Funding was only awarded to pre-existing programs and at reduced funding levels.

and secondary levels, among other activities.[14] NCES is required to collect data on the incidence, frequency, seriousness, and nature of violence affecting students, including information regarding the relationship between victims and perpetrators.[15] The School Survey on Crime and Safety (SSOCS), administered by NCES, is the primary source of school-level data on crime and safety.

At the state level, state educational agencies are responsible for complying with federal requirements, such as Title IX, and overseeing local school districts' implementation of state and federal requirements. Some of these state agencies also play a key role in ensuring that professionals, including teachers and other school personnel, are qualified to teach in a classroom or operate a school by issuing educator licenses.[16] The authority to issue educator licenses typically resides within state licensure offices, which may be found within or outside of the state educational agencies. Licensure offices establish and enforce a set of behaviors commonly known as a professional code of conduct and oversee the discipline of educational practitioners who violate such professional codes of conduct.

At the local level, school districts operate local public elementary and secondary schools. In school year 2011 to 2012, over 49.5 million students were enrolled in the nation's 98,328 public elementary and secondary schools.[17] School districts carry out state and federal requirements and may have the authority to go beyond any minimum requirements and create their own policies regarding how schools under their jurisdiction operate. When an allegation of sexual abuse or misconduct is reported, the school district and school may conduct their own investigations to determine any violations of employment conditions, which may result in actions taken against the employee, such as termination of employment.

[14]Education Sciences Reform Act of 2002, Pub. L. No. 107-279, §§ 151-58, 116 Stat. 1940, 1957-62 (codified as amended at 20 U.S.C. §§ 9541-48).

[15]20 U.S.C. § 9543(a)(1)(H).

[16]The types of positions within schools that require a state educator license vary by state.

[17]P. Keaton, *Selected Statistics From the Common Core of Data: School Year 2011–12,* NCES 2013-441, U.S. Department of Education, National Center for Education Statistics (Washington, D.C.: 2013).

Child Welfare

HHS is the principal federal agency that provides oversight of state implementation of federal child welfare requirements. State and local child welfare programs are intended, in part, to protect children who have been maltreated and help prevent maltreatment. HHS uses the term child maltreatment to include neglect and abuse—not only physical and emotional abuse but also sexual abuse.[18] Initially enacted in 1974, the Child Abuse Prevention and Treatment Act (CAPTA) strengthened federal support for states in preventing and responding to child abuse and neglect, which has historically involved cases of intra-familial abuse and neglect.[19] CAPTA, as amended, authorizes federal funding for grants to states to support prevention, investigation, and handling of cases of child maltreatment. As a condition of receiving federal grant funds under CAPTA, states are required to, among other things, have:

- a state law for mandatory reporting by individuals required to report known or suspected child abuse or neglect;[20]
- procedures in place for screening and promptly investigating reports of known or suspected child abuse or neglect, and for ensuring children's safety;[21]
- a state law or statewide program that includes the cooperation of state law enforcement officials, courts with jurisdiction, and appropriate state agencies providing human services in the investigation, assessment, prosecution and treatment of child abuse and neglect;[22] and
- provisions that grant immunity from prosecution (under state and local laws and regulations) for individuals who make good faith reports of known or suspected child abuse or neglect.[23]

[18]Child welfare programs aim to protect children from both abuse and neglect; however, neglect is generally not applicable in situations of abuse or misconduct by school personnel.

[19]Pub. L. No. 93-247, 88 Stat. 4 (1974) (codified as amended at 42 U.S.C. § 5101 *et. seq*.). See also 45 C.F.R. pt. 1340.

[20]42 U.S.C. § 5106a(b)(2)(B)(i). CAPTA does not require states to provide a penalty for failure to report child abuse or neglect, nor does it address where such a report is to be made.

[21]42 U.S.C. § 5106a(b)(2)(B)(iv), (v), (vi).

[22]42 U.S.C. § 5106a(b)(2)(B)(xi).

[23]42 U.S.C. § 5106a(b)(2)(B)(vii).

For those states that apply for and receive Children's Justice Act (CJA) grants—authorized under section 107 of CAPTA—the state must establish a multidisciplinary (or CJA) taskforce to improve the investigation and prosecution of child abuse and neglect cases.[24] According to HHS, most states have policies that require cross-system reporting of at least some child abuse and neglect reports, across child protective services, law enforcement agencies, and prosecutor's offices, regardless of where the initial report is made.[25]

CAPTA defines child abuse and neglect as "at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm."[26] CAPTA defines sexual abuse to include "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 inter-familial relationships, statutory rape, molestation, prostitution or other forms of sexual exploitation of children or incest with children."[27] For purposes of compliance with CAPTA's requirements, states' definitions of "child abuse and neglect" and "sexual abuse" must be consistent with the definitions provided by CAPTA; however, states may also expand on these definitions in their state laws. For example, state law may define who constitutes a "caretaker" and states generally include parents, guardians, and day care workers, though states' definitions of caretaker may vary.

In their mandatory reporting laws, states may establish different standards for reporting child abuse or neglect and may choose whom to

[24]These grants were originally authorized by the CJA, which amended CAPTA Pub. L. No. 99-401, tit. I, 100 Stat. 903, 903-07 (1986) (codified as amended at 42 U.S.C. § 5106c). Only states that are eligible for the basic state grants under CAPTA can apply for CJA grants.

[25]U.S. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway, *Cross-Reporting Among Responders to Child Abuse and Neglect (*Washington, D.C.: 2013).

[26]42 U.S.C. § 5101 note.

[27]42 U.S.C. § 5106g.

include in their definitions of mandatory reporter.[28] Those designated as mandatory reporters typically have frequent contact with children and may include teachers, principals, social workers, and other school personnel such as volunteers; physicians, nurses, and other health-care workers; counselors, therapists, and other mental health professionals; child care providers; medical examiners or coroners; and law enforcement officers.

The 1988 amendments to the CAPTA required HHS to establish a national data collection and analysis program for data on child abuse and neglect.[29] HHS responded to this requirement by establishing and maintaining the National Child Abuse and Neglect Data System (NCANDS), which is a voluntary data-reporting system. Since at least 2000, state child protective service agencies have increasingly voluntarily provided data on children who were maltreated to HHS for NCANDS. From these data, HHS conducts analysis and publishes a yearly *Child Maltreatment* report. The most recent report, for fiscal year 2011, presents national data about child abuse and neglect known to child protective service agencies in the United States. In addition, in accordance with CAPTA's requirements, HHS has established a national information clearinghouse—the Child Welfare Information Gateway—and conducts research, in consultation with other federal agencies and experts, to provide information needed to better protect children from child abuse or neglect and to improve the well-being of victims.[30]

The Office on Child Abuse and Neglect (OCAN), a division of the Children's Bureau within HHS' Administration for Children and Families, helps states meet federal CAPTA requirements and takes the federal lead in educating states and communities about how to prevent and respond to child abuse and neglect. HHS also provides training and technical assistance to child welfare systems at the state and local levels through

[28]According to HHS, as of August 2012, New Jersey and Wyoming were the only two states that had not enumerated specific professional groups as mandatory reporters, but required all persons to report. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway, *Mandatory Reporters of Child Abuse and Neglect,* (Washington, D.C.: June 2012).

[29]Child Abuse Prevention, Adoption, and Family Services Act of 1988, Pub. L. No. 100-294, sec. 101, § 6(b)(1), 102 Stat. 102, 107.

[30]See 42 U.S.C. §§ 5104, 5105(a).

the Children's Bureau, its regional offices, and various National Resource Centers.[31]

Another office within HHS that focuses on the prevention of violence is the Centers for Disease Control and Prevention's (CDC) Division of Violence Prevention. The CDC views child maltreatment as a serious public health problem with extensive short- and long-term health consequences, and seeks to stop the abuse before it occurs. The mission of CDC's child maltreatment prevention program is to prevent maltreatment and its consequences through surveillance, research and development, capacity building, communication, and leadership. These priorities guide the agency's approach to child maltreatment, which is through the promotion of safe, stable, and nurturing relationships and environments between children and their caregivers.

State child protective service agencies track allegations of child sexual abuse and provide support to their local offices, policy guidance and clarification, staff training, and case monitoring services. Local child protective service (CPS) agencies investigate reports of suspected child abuse, including child sexual abuse. Local CPS agencies also refer cases to law enforcement agencies or district attorneys for criminal investigation and prosecution.

Criminal Justice

Justice—the primary federal criminal investigation and enforcement agency—also administers grants and collects data on criminal activity.[32] Its Office of Juvenile Justice and Delinquency Prevention (OJJDP) is responsible for providing national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization.[33] OJJDP supports states and communities in their efforts to develop and implement effective and coordinated prevention and intervention

[31]HHS' National Resource Centers provide technical assistance in specific focus areas with the goal of helping agencies, managers, family and juvenile courts, and other child welfare professionals better serve children and families.

[32]Justice plays a more involved role when activities involving a student could constitute a federal crime, such as when mail or the Internet is used to sexually abuse children. Such crimes were outside of the scope of this review.

[33]OJJDP administers grants and other activities under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, Pub. L. No. 93-415, 88 Stat. 1109 (codified as amended at 42 U.S.C. § 5601 *et seq.*).

programs and to improve the juvenile justice system so that it protects public safety, holds offenders accountable, and provides treatment and rehabilitative services tailored to the needs of juveniles and their families. OJJDP administers projects, programs, and initiatives related to crimes against children and children's exposure to violence. It provides leadership and funding in the areas of prevention, intervention, treatment, and enforcement.

To better understand crime victimization, the Bureau of Justice Statistics (BJS) conducts the National Crime Victimization Survey (NCVS), the nation's primary source of such information. Each year, data are obtained from a nationally representative sample of about 40,000 households to capture information about the frequency, characteristics, and consequences of criminal victimization in the United States. The survey consists of interviewing victims (including children ages 12 through 18) about exposure to crime, and enables BJS to estimate the likelihood of victimization by rape and sexual assault, among other crimes, for the population as a whole as well as for segments of the population. The NCVS provides the largest national forum for victims to describe the impact of crime and characteristics of violent offenders.

At the local level, law enforcement agencies and district attorneys are responsible for investigating and prosecuting cases of child sexual abuse by school personnel regardless of whether the case was referred to them by CPS or some other source. Law enforcement agencies and district attorneys generally decide if a case warrants action on their part, based on the facts and circumstances of each case.

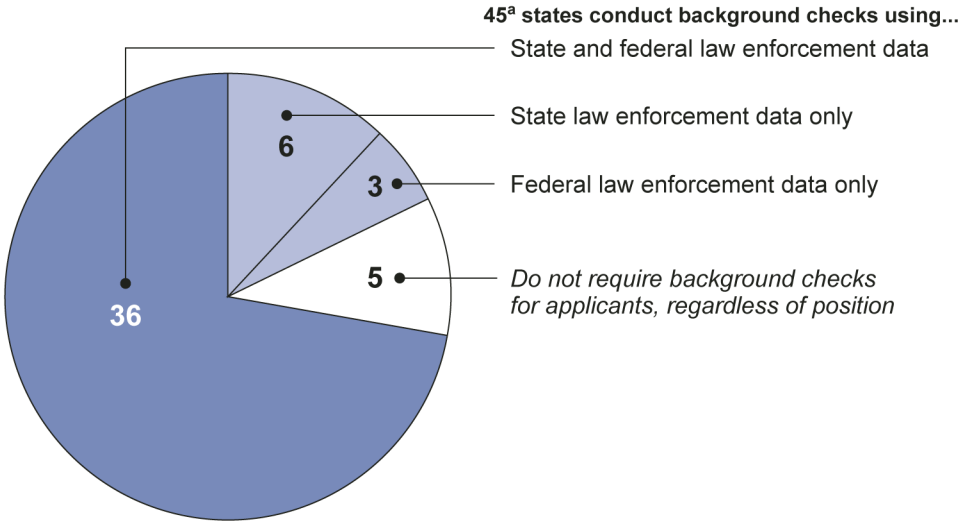
Most States Use Background Checks and Professional Codes of Conduct as Prevention Efforts

Most States Rely on Background Checks to Screen Applicants for Positions in Public K-12 Schools but Concerns over Completeness and Accuracy Exist

Background checks were the primary tool states used to prevent sexual abuse and misconduct by school personnel, according to our survey. Experts on child sexual abuse we spoke with recommend that schools and districts incorporate background checks—typically used to screen for criminal or other relevant histories of applicants—into the hiring process as part of their efforts to help protect the safety of children in school. Forty-six states reported in our survey that they required background checks for applicants seeking employment in a public K-12 school, regardless of whether the position was as a school principal, teacher, or secretary, for example. However, the methods and sources used to conduct background checks for school personnel varied widely, and included matching an applicant's name and date of birth, Social Security number, or fingerprints to state or federal criminal databases, or child abuse and neglect registries. According to our survey, 36 states relied on both state and federal sources of criminal data—such as a state law enforcement database or the Federal Bureau of Investigation's Interstate Identification Index[34]—to gather information on applicants (see Figure 3).

[34]The Federal Bureau of Investigation's Interstate Identification Index is an automated information system used to exchange criminal history records and related information between federal, state, and local criminal justice agencies, for this purpose. The index includes arrest and conviction information voluntarily reported by federal, state, and local agencies. Other federal sources include Justice's national sex offender public registry, which is a publicly available web-based tool that can be used to search for sex offenders by name and/or location. See http://www.nsopw.gov/en-US/Home/About. The national sex offender public registry is a cooperative effort between state agencies that host public sex offender registries and the federal government. The website is operated by Justice.

Figure 3: Number of States Requiring Criminal Background Checks for Public K-12 School Employment, By Source



Source: GAO analysis of state survey data.

[a]Of the 46 states requiring background checks for applicants seeking employment in public K-12 schools, regardless of position, 45 identified the use of either state and/or federal law enforcement data sources when conducting background checks; one state did not indicate the sources used for obtaining background information on applicants.

In addition, nearly half of all states (25) reported consulting the National Association of State Directors of Teacher Education and Certification (NASDTEC) clearinghouse—a database of information voluntarily reported by states on teachers who have lost teaching certificates due to abuse or misconduct, according to a NASDTEC official.[35]

In addition to screening public school job applicants, some states required background checks of other adults who may interact with students in public K-12 schools. For example, according to our survey, 17 states required background checks for school volunteers. In addition, 36 states required background checks for contract employees working in public K-12 schools, often under certain conditions, such as those who may have direct or unsupervised contact with students, or for certain positions, such

[35]According to NASDTEC, the clearinghouse contains information about teacher education and certified personnel in all 50 states, U.S. territories, and the Canadian provinces.

as cafeteria, transportation, janitorial, or maintenance workers. According to our survey, 12 states did not require background checks for contract employees working in public K-12 schools.

Some school districts we visited established their own policies for background checks to help safeguard children in their schools. For example, in one district, volunteer applicants must complete a disclosure form that asks about prior convictions and abuses and undergo a background check before serving as a volunteer, even though the state, according to our survey, does not require background checks for volunteers in its public K-12 schools.[36] Another school district developed a system to conduct background checks for school volunteers and contractors based on their level of contact with students, according to officials. Because background checks are costly, only those volunteers who may have time alone with children, such as a chaperone on an overnight trip, undergo a full state and federal criminal history background check, which includes nationwide data on federal and state criminal arrests and convictions.

State and local education officials and industry experts, however, have identified limitations to background checks that raise questions about the sufficiency of the checks alone to help protect students. In our previous work, we noted that criminal history checks on school employees may not be adequate when they are not national, fingerprint-based, or recurring.[37] Several education, criminal justice, and other officials also raised concerns over the completeness of the data available through background checks. For example,

- Education officials in one state told us that whether a sex offender is included in the state's public sex offender registry depends upon the local court system, and not all offenders will be identified through such a search.
- Officials in two states cited their inability to access relevant data across states, such as another state's child abuse and neglect

[36]According to policy in this district, active volunteers are required to have a background check at least every 2 years.

[37]GAO, *K-12 Education: Selected Cases of Public and Private Schools That Hired or Retained Individuals with Histories of Sexual Misconduct,* GAO-11-200 (Washington, D.C.: Dec. 8, 2010).

registry, which is problematic when applicants come from other locations.

- Aside from checks of criminal data, a NASDTEC official told us that states do not uniformly report information on educators who have been disciplined to the NASDTEC clearinghouse. State educational officials in each of the four states we visited also said they have identified missing, incomplete, or incorrect data in the database.
- An assistant district attorney expressed concern that federal law enforcement databases only capture information on predators who have been caught and charged with crimes—a fraction of all sexual predators who perpetrate abuses against children.
- Representatives from a risk management company told us few offenders are caught the first time they abuse, and sex offenders often have many victims before they are caught.

Case Study: Background Checks Do Not Pick Up What Is Not Reported

A male second grade teacher was convicted of aggravated criminal sexual abuse and sentenced to 60 years in prison for sexually abusing 10 female students in two different school districts, despite undergoing a background check which included a criminal history check, reference check, and a review of his teaching experience. At the first school district at which he taught, the teacher had been disciplined for downloading pornography onto his work computer. He was also disciplined at the same school and not rehired after a parent filed a complaint alleging that the teacher told a student that she reminded him of a female movie star, gave the student pictures of that star, repeatedly stared at the student and touched her unnecessarily on several occasions, though not in any inappropriate areas. When he left the school, he received a positive recommendation, and neither of the alleged incidents was relayed to his new employer. The teacher's suspicious behavior was brought to the attention of officials when a mother at the second school learned from her daughter about activities occurring during her after-school program that suggested the possibility of sexual abuse. The teacher was later convicted of aggravated criminal sexual abuse of eight girls at the second school and two girls at the first school. According to school district officials, the second school district that hired him has implemented additional steps to help protect student safety, such as additional reference checks, including sources independently identified.

In addition to concerns over completeness of the data, officials representing state education and employee groups have questioned the accuracy of data available for background checks. For example, officials from one state educational agency told us that because their state's public sex offender registry is searchable by name and not Social Security number, confusion can arise when searching for common names. In addition, representatives of a teacher's union expressed

concern over possible mistaken identities or other errors associated with background checks.[38]

A Majority of States Have Established Professional Codes of Conduct for Licensed School Personnel as a Tool to Hold Them Accountable for their Behavior

Professional standards or codes of conduct serve as another tool that 42 states reported using as part of their efforts to try to prevent sexual abuse and misconduct by school personnel. According to experts, policies that identify acceptable and unacceptable behavior for school personnel—such as being behind closed doors with a student—can help staff, students, and parents determine when violations of the rules have occurred. Such policies can help to identify questionable behavior that should be reported and communicate to school personnel the potential consequences of violating the rules, such as termination of employment, which may also deter potential abuse, according to experts. Thirty-four of the 42 states with professional standards or codes of conduct reported that they apply only to licensed professionals, such as teachers and school principals, rather than to all school personnel.[39] Twenty-two states reported that their standards or codes of conduct help define boundaries between school personnel and students through examples of appropriate and inappropriate behavior, including the use of technology such as cell phones and social media such as Facebook. During our site visits, we identified some states that developed educator codes of conduct, or similar policies, that identify examples of unethical or unprofessional conduct with students and that, if violated, are grounds for disciplinary action. For example, one state's policy guidance requires contact between school personnel and students to always be nonsexual, appropriate to the circumstances, and unambiguous in meaning. According to this policy guidance, acts such as unnecessarily invading a student's personal privacy and singling out a particular student or group

[38]The National Employment Law Project, a non-profit advocacy organization in support of low-wage and unemployed workers, recently released a report which cites inaccuracies and missing critical information in background checks conducted by the FBI. According to the report, because states do not routinely update information following initial arrests to the FBI, such records often lack final disposition information, such as updated information on charges that have been dismissed. Consequently, applicants may be denied employment based on unsubstantiated and erroneous charges. Madeline Neighly and Maurice Emsellem, *Wanted: Accurate FBI Background Checks for Employment* (National Employment Law Project, July 2013).

[39]License requirements may vary from state to state. School personnel that generally do not hold professional licenses from the state educational agency or state licensing agency include, for example, janitors, and school bus drivers.

of students for personal attention and friendship beyond the bounds of an appropriate educator/mentor-student relationship constitute violations of these boundaries and may result in formal disciplinary action.

According to our survey, 15 states address behavior commonly referred to as grooming—behavior intended to establish trust with a student to facilitate future sexual activity—in their standards or codes of conduct. According to experts we spoke with, some perpetrators of child sexual abuse groom potential victims by devoting a significant amount of time and attention interacting with them one-on-one. Although such interactions taken individually may not be problematic, a pattern of such behavior—such as a teacher repeatedly driving a student home alone—could indicate a possible problem. Officials in one school district we visited explained that perpetrators of child sexual abuse sometimes also groom other individuals—such as members of the child's family—to gain their trust, in the hope that these individuals will not view certain behavior as inappropriate. For example, school district officials told us of a case where an alleged perpetrator bought a house for a family as a means to maintain contact with young children and foster a sense of dependency. While experts suggest that grooming behavior can be difficult to identify, identifying and addressing violations of boundaries or rules by school personnel as they occur may help prevent future abuse.

Case Study: "Grooming" the Victims

A male middle school teacher was arrested, charged with, and pled guilty to seven counts of indecent liberties with a child and indecent liberties with a student, and sentenced to 18-22 months in prison for each count, consecutively, for inappropriate acts with multiple female students. The school principal reported to law enforcement that the teacher was acting inappropriately with female students. A law enforcement investigation found that the male teacher had engaged in "grooming" behavior with multiple students, including taking them out to dinner in groups as well as in one-on-one situations and buying them gifts, such as a necklace, computer, cell phone, and camera. In addition, through the course of the investigation, instances of touching and kissing between the teacher and some of the students were revealed. A forensic examination of his computer also revealed pornographic images that appeared to be edited to depict the faces of some of his students on someone else's body.

Officials in some school districts we visited spoke to us of challenges arising from applying seemingly black-and-white sexual abuse prevention policies to the real-life school environment. For example, while employees at one school district are generally prohibited from transporting students

in their personal vehicles,[40] school district officials expressed concern that a teacher may feel obliged to do so upon learning that a student does not have a ride home after a tutoring session. In an example from another school district, officials said that rules about social media—such as prohibiting teachers and students from being Facebook friends—are not feasible; some teachers use this forum as a way to share educational interests or to quickly share messages about school event cancellations. What is important, instead, is transparency in communication, according to officials. Similarly, officials in another district explained that it is the conduct and behavior of school personnel that should be closely evaluated, not the means of communication. In developing local policies, school district officials suggested that it is important for districts to be able to tailor policies to meet their individual needs. For example, officials from one school district we visited said that state guidance with overly prescriptive rules on the behavior of school personnel is impractical, and that certain factors, such as the age levels of the students and student demographics, among other things, should be considered.

While Most States Do Not Require It, Some School Districts We Visited Provide Sexual Abuse Prevention Training to School Personnel, Volunteers, and Students

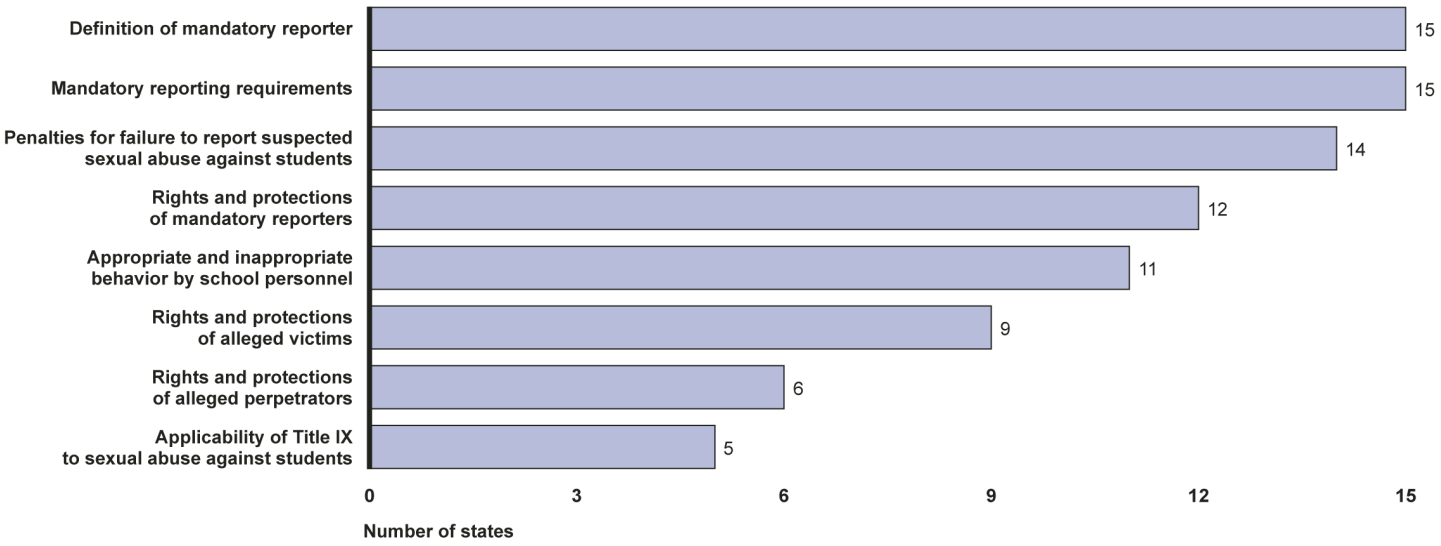
We found that most states do not require awareness and prevention training, although according to experts, high quality training on the prevention of child sexual abuse by school personnel is critical to help school officials identify early warning signs of abuse and know how to respond when questionable behavior is suspected. Ideally, experts recommend that school personnel, parents, and students receive some type of training as part of school's efforts to prevent child sexual abuse. According to our survey, 18 states required school districts to provide awareness and prevention training on sexual abuse or misconduct by school personnel against students. At least 15 of the 18 states required school district superintendents, school administrators, counselors, psychologists, and teachers to attend this training; however, fewer than half of the 18 states required Title IX coordinators, cafeteria and janitorial personnel, and bus drivers to take the training. Ten states required coaches to attend sexual abuse training while eleven states require training for sexual misconduct. Aside from school staff, three states required students to attend awareness and prevention training and one

[40]The policy in this school district states that on a case-by-case basis, administrators may make exceptions to this requirement in the event of emergencies or unusual circumstances.

state required it for school volunteers, such as tutors. No states reported requiring districts to offer training for parents.

Regarding training content, states most frequently required school district awareness and prevention training on sexual abuse to cover topics related to mandatory reporting requirements (see fig. 4).[41] An expert from a risk management firm we spoke with told us that training on mandatory reporting requirements, such as who is considered a mandatory reporter and to whom reports should be made, generally does not adequately focus on preventing child sexual abuse in the first place.

Figure 4: Number of States Requiring Awareness and Prevention Training on Sexual Abuse of Students by School Personnel, by Topic



Source: GAO analysis of state survey data.

Experts told us that prevention training should include information on appropriate and inappropriate behavior by school personnel and on the grooming process, so that patterns of behavior may be more closely monitored and evaluated. Because of this, a number of experts also recommend training that is scenario-based, to give participants the opportunity to practice responses. In addition, some experts suggest that

[41]Our survey did not directly assess whether or to what extent states provided training on mandatory reporting requirements to school personnel.

training be provided to all staff—such as bus drivers and cafeteria personnel—in addition to teachers and school administrators. According to one expert, for training to be effective, it should also be given to parents—who may be among the first to notice warning signs—as well as students, in an age-appropriate manner. For example, age-appropriate training for young students may include information on expectations of privacy, whereas older students may learn about unhealthy relationships and setting appropriate boundaries. Some experts suggest that combining prevention training with other safety measures, such as background checks and code of conduct policies, helps school districts reduce their vulnerability to potential perpetrators of child sexual abuse. Additionally, according to a risk management expert, the offer of lower insurance rates by insurance companies may provide an additional incentive for school districts to implement multiple risk management strategies to protect against sexual abuse by school personnel.

Some school districts we visited developed training aimed at preventing child sexual abuse by school personnel for a range of personnel, volunteers, and students, as recommended by experts, and delivered the training in-person and online. For example, in response to prior allegations of child sexual abuse by a teacher, according to officials, one district developed in-person training modules designed for executive-level managers such as school superintendents, staff, volunteers, and students.[42] Officials in another district said the district recently developed an online, interactive training course on preventing adult sexual misconduct with students that will be required for all staff, including bus drivers and cafeteria workers, volunteers and student mentors.[43] In addition to including examples of appropriate and inappropriate behavior in their training, these school districts also include scenarios depicting questionable interactions between school personnel and students. For example, officials said their district's online training course includes scenarios of 'gray area' behaviors—such as a teacher being alone in a room with a student—where the level of appropriateness depends on the context of the situation and the age of the student. A few school districts

[42]According to officials, the district requires training for all staff who interact with students, including athletic coaches. In addition, the student training module is video-based and intended as a training component for 9th grade health courses.

[43]According to school district officials, in order to be licensed by that state, teachers currently must complete an online training module on their responsibilities as mandatory reporters of suspected child abuse and neglect and certify the course's completion.

also assessed training participants on their understanding of the material presented. For example, one district requires all employees to demonstrate a minimum competence of at least 80 percent on an assessment of a sexual harassment compliance video, which, according to officials, includes information on employee-student relationships.

Officials in several school districts cited time and cost constraints to providing training on the prevention of child sexual abuse by school personnel. Officials said it can be difficult for teachers to attend this training, as well as other required training, in the limited time allotted for their professional development. In addition, some officials said the cost of hiring substitute teachers to take the place of teachers in training, and training materials, if developed by another organization, can be cost prohibitive. To help increase the accessibility of training to wider audiences and lower costs, experts we spoke with have suggested online training and train-the-trainer approaches—in which school district administrators or other representatives receive the training and then pass the information on to school personnel in their local districts.

Case Study: Training is Not Always Enough

Behavior by school personnel that is not criminal may nevertheless be inappropriate. A female high school teacher and coach was found to have engaged in an ongoing sexual relationship with a female 16-year old student. The teacher's conviction of sexual assault was later overturned because the student had reached the age of consent at the time of the sexual relationship. According to district officials, the teacher would have received annual training that identified standards of conduct for educators, including what constitutes inappropriate behavior between school personnel and students. Since this case, the state has changed its law to provide that consensual sex between a student and teacher with supervisory or disciplinary authority over the student constitutes sexual assault, even if the student is at or past the age of consent.

Reporting and Investigating Often Involves Multiple Agencies As Well As School Districts, Which Sometimes Presents Challenges

Most States Have Minimum Child Abuse Reporting Requirements and Some School Districts We Visited Have Additional Reporting Policies

State laws in almost all of the states we surveyed identified school personnel—who are often in a position to look for, identify and report suspicions of abuse—as mandatory reporters.[44] Such positions typically included school administrators, teachers, school psychologists, and school nurses, among other positions, according to our survey. In light of recent cases of sexual abuse by school personnel involving multiple children and occurring over a number of years, some states have also expanded their definition of mandatory reporter, according to some experts we interviewed. For example, one state recently expanded its mandatory reporting law to include all public and private K-12 employees as mandatory reporters, whereas previously it had included only school teachers and officials.[45] According to our survey, mandatory reporters were most often required by state law to report to the state or local child protective service agency (41 states for sexual abuse and 36 states for sexual misconduct) and local law enforcement (35 states for sexual abuse and 31 states for sexual misconduct). In addition, some states' laws also required reports to a school employee designee (18 states for both sexual abuse and misconduct) or a state educational agency (17 states for both sexual abuse and misconduct).

[44]Specifically, 46 states responded that their state laws identify school personnel as mandatory reporters for sexual abuse while 41 states do so for sexual misconduct.

[45]This state's mandatory reporting law also includes other professions as mandatory reporters, such as physicians, nurses, and social workers, in addition to employees at the K-12 level. The recent amendments to the state's mandatory reporting law also added employees of public and private institutions of postsecondary and higher education.

Beyond the minimum reporting requirements outlined under state mandatory reporting laws, three state educational agencies and five of the school districts we visited have made additional efforts to ensure that mandatory reporters in K-12 education understand their responsibility to report. For example, officials with one state educational agency we visited said the state provided training to school districts on developing policies and communicating with school personnel about their role in reporting suspected abuse, including who, what, when, and how to report such suspicions. At the local level, officials at one school district we met with said they included reporting requirements in school personnel handbooks and/or in staff meeting discussions. Other school districts we visited had developed additional means to ensure that personnel knew when to report suspected abuse. For example, one school district created ID sized "cheat sheets" for school personnel to carry or use as a reminder of the district's policies on reporting suspected abuse by school personnel. While experts we spoke with noted that it is important for school districts to be able to establish their own policies with additional requirements or information appropriate for their school, we found that states do not always monitor such policies for compliance with state laws and state educational agency policies. For example, according to our survey, 32 states reported that they did not monitor school districts to ensure that any relevant policies and procedures at the district level adhered to state requirements regarding sexual abuse and 10 reported not monitoring for adherence to policies and procedures regarding misconduct by school personnel.

Challenges Arise with Ensuring Reports of Such Abuse and Misconduct are Made

Experts and officials in three of the four state educational agencies and three of the six school districts we visited reported challenges with ensuring that school personnel comply with the policies on reporting suspected sexual abuse by school personnel. In response to these challenges, these state and local level agencies told us they have taken certain steps to build awareness about such responsibilities. Challenges included:

Uncertainty about whether to report. Experts explained that mandatory reporters may have difficulty deciding whether to report those behaviors that are not criminal in nature, but otherwise may be questionable—the gray area. Officials in four of the school districts we visited noted that school personnel have asked if such gray area behaviors warrant reporting to CPS or law enforcement. To ensure that reports are made, three school districts we visited specified in policy the types of behaviors that warrant reporting. As one school official explained, after having a past incident of suspected sexual misconduct in one of its schools, the

school district expanded its code of conduct to further outline boundaries between school personnel and students in an effort to not only prevent its occurrence, but also to help mandatory reporters understand when such reports should be made.

Delayed and incomplete reports. During our site visits, CPS and local law enforcement officials told us that reports of suspected child sexual abuse or misconduct made only to school administrators have resulted in delayed reports to CPS and/or law enforcement. Some state mandatory reporting laws, including the law in at least two states we visited, permit school staff to report to the person in charge of the facility in which they work, who is then required to report to CPS or law enforcement. For example, in one state we visited, consistent with that state's mandatory reporting law, one school district's policy only requires school staff to report to designated school officials rather than directly to CPS or law enforcement. Further, one state CPS agency noted that when reports are filed second-hand by school district officials rather than the actual witness, critical details and context may be missing from the report. Some states recently amended their laws to prevent such second-hand reporting. One state, for example, amended its laws to specifically require mandatory reporters to report known or suspected child abuse or neglect directly to CPS, law enforcement, or another designated authority, instead of just reporting to a supervisor, as was permitted prior to the amendment.

Failure to report. CAPTA requires states' laws to include provisions that grant individuals immunity from prosecution for reports of known or suspected child abuse or neglect made in good faith, which may encourage reporting. States have established procedures for mandatory reporters to report alleged abuse, and state law generally protects them from prosecution for reports made in good faith even if their suspicions turn out to be unfounded. However, experts we spoke with noted that failure to report—when school personnel witness or suspect, but do not report, sexual abuse—may occur. Experts told us that cognitive dissonance—the inability for someone to believe that something outside of their current view could be happening—often occurs when school personnel witness colleagues perpetrate sexual abuse or misconduct. For example, a mandatory reporter may dismiss suspicions about a colleague because such suspicions go against their pre-existing views. As a result of these uncertainties or disbeliefs, experts also told us that mandatory reporters may choose not to report suspicions of such behaviors. As previously discussed, training for school administrators, school personnel,

students and parents may also help people identify behaviors that are questionable.

Failure to report occurs even though some states have established penalties for failure to report within a specified amount of time. According to our survey, 43 states have penalties for failure to report suspected sexual abuse by school personnel, and 37 have penalties for failure to report sexual misconduct by school personnel. Such penalties most often included criminal penalties, fines, and suspension or revocation of a license. For example, the law of one state we visited provides that mandatory reporters who fail to file a report within 24 hours after having reason to suspect a reportable offense of child abuse and neglect shall be fined no more than $500 for the first failure, and at least $1,000 for any subsequent failures. For some cases, such as those evidencing acts of rape, the law provides that a person who knowingly and intentionally fails to make the required report shall be found guilty of a misdemeanor.[46] For half of the state educational agencies we visited, failure to report was grounds for license revocation. At the local level, half of the school districts we visited reported having a zero-tolerance policy for failing to report suspected sexual abuse or misconduct, in part because districts and school personnel could be held liable and face civil suits for not reporting—a lesson one of these school districts had learned firsthand. Officials at this school district said the district paid $3 million as a result of a lawsuit which alleged that a principal in the district had failed to take action in response to reports from teachers of inappropriate contact between an elementary school teacher and students.

[46]The law of another state we visited provides that violation of the state's mandatory reporting requirements shall be punished by a fine of not more than $1,000. The law also provides for additional fines and possible imprisonment for certain types of violations, such as knowingly and willfully filing frivolous reports, or willfully failing to report known child abuse or neglect that resulted in serious bodily injury to or death of a child.

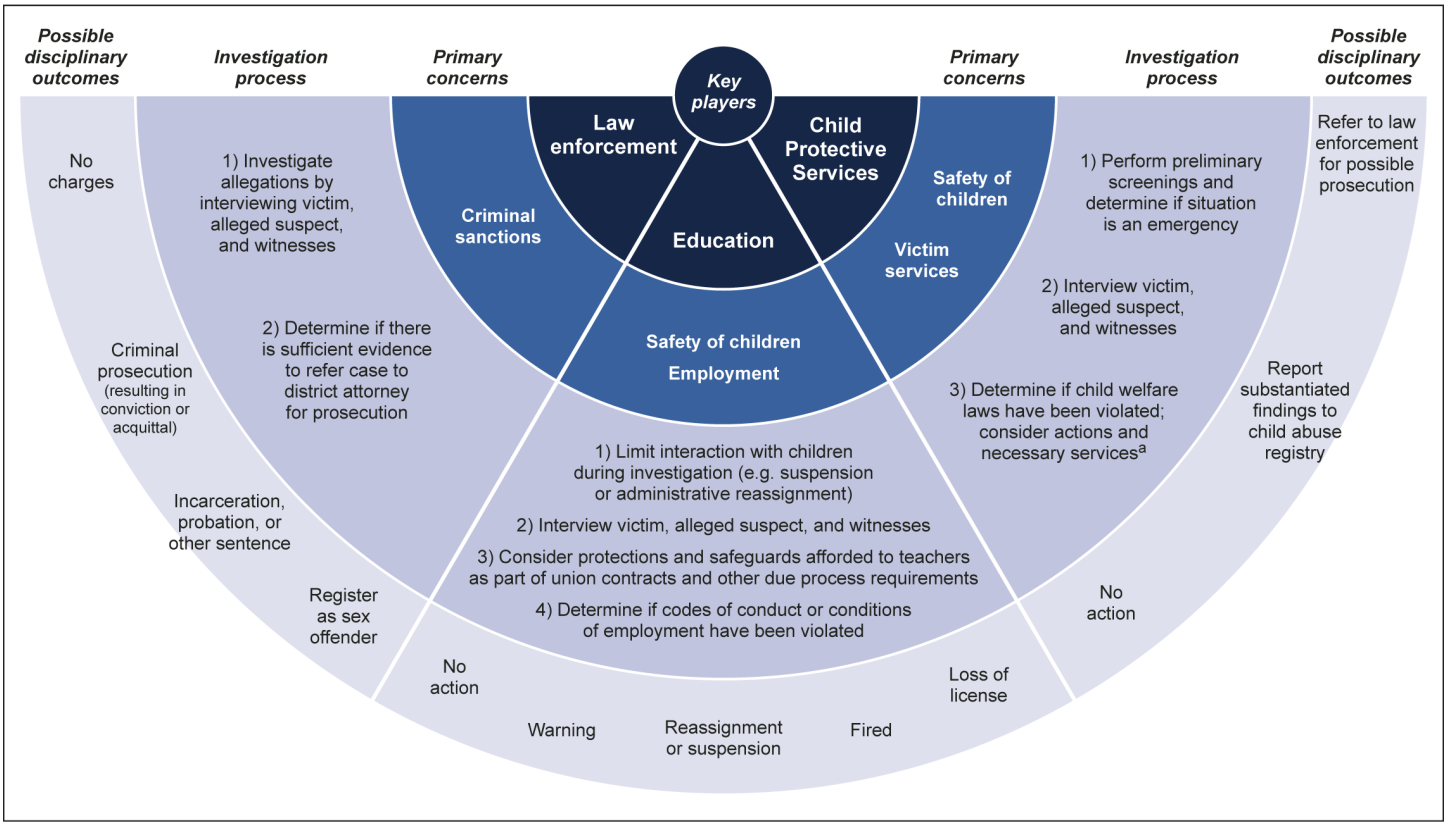
Case Study: Failure to Report

Multiple school administrators, including the school district director of human resources and the superintendent, pled guilty to misdemeanor charges for failure to report in a case where a male teacher was found guilty of aggravated criminal sexual abuse of eight female second graders. A parent reported to the school district superintendent, who reported to the school principal, that her child had told her about suspicious activities at school. Upon receiving the report, the school principal stated that she would investigate. She later reported back to the parents that the teacher used "poor judgment." About 3 months later, by word of mouth, the police learned of similar allegations and opened an investigation, through which other students were identified as possible victims. A search of the teacher's classroom revealed, among other things, blindfolds and scarves that tested positive for the teacher's semen. Although state law required educators to report suspected abuse to CPS or law enforcement, these school administrators failed to do so.

Investigations Into Allegations of Sexual Abuse May Be Conducted By School Districts and Other State and Local Agencies

Responding to reports of sexual abuse of students by public K-12 school personnel often involves criminal justice, child welfare, and educational agencies, and could result in multiple investigations to determine the extent of violations of various laws or policies. According to our survey, state laws often dictate which agency or agencies have authority to investigate cases of alleged sexual abuse or misconduct. Each agency, operating under its own authority, may investigate a case of suspected child sexual abuse or misconduct by school personnel to determine whether certain violations have occurred, including violations of criminal laws, civil laws such as requirements related to child well-being, or conditions of employment. In addition, each agency may have to meet different standards of evidence and requirements when conducting its investigation. For example, the standard of evidence needed for a school to determine whether an employee violated a professional code of conduct may be different from the standard of evidence needed to prosecute someone for a crime. See figure 5.

Figure 5: Types, Purpose, and Selected Disciplinary Outcomes of Investigations, by Agency Type



Source: GAO analysis of information from experts and site visits.

Note: This table identifies examples of disciplinary outcomes that may result from investigations. It does not include the services or support that investigative agencies may also provide, such as counseling services. It does not include federal agencies.

[a]Some child protective service (CPS) agencies we visited noted they use a lower standard of evidence than agencies responsible for enforcing criminal laws (such as a preponderance of the evidence instead of beyond a reasonable doubt) to determine if sexual abuse occurred. For example, one CPS agency we spoke with noted that its investigators are directed to consider "grooming" behavior to be abuse. Further, they can take a wide variety of actions and provide a variety of services, such as a transfer of schools or counseling services.

Determining which agency takes the lead in an investigation of alleged child sexual abuse by school personnel can be difficult. In addition, timing when additional investigations by other agencies should occur can vary by case and state. While CPS often takes the lead for investigations of parental abuse, in cases where school personnel are the suspected perpetrators of sexual abuse or misconduct, state laws determine whether CPS or law enforcement will take the lead on such investigations. As previously noted, our survey indicated that mandatory reporters are required by some state laws to notify CPS of potential

sexual abuse or misconduct, while several states required reports to local law enforcement. Some states' laws allowed mandatory reporters to notify either of the agencies, as long as at least one is notified. According to officials in the states we visited, in those instances when a state requires mandatory reporters to notify CPS, CPS will receive the notification, but may or may not have authority under that state's law to investigate cases involving school personnel and may refer the case to law enforcement. In the states we visited, CPS's involvement in cases in which the alleged perpetrators were school personnel ranged from not participating in the investigation at all to leading the interview with the victim or, in some cases, conducting an independent review. When allegations of child sexual abuse or sexual misconduct by school personnel arise, state educational agencies may also have the authority to conduct their own investigations. According to our survey, 15 states provided authority to state professional practices or licensing boards to investigate reports of child sexual abuse by school personnel, while 17 states did so for reports of sexual misconduct. State offices that oversee educator licensing may be able to suspend or revoke an educator's license for violations of state licensing requirements; for instance, in two states we visited, these offices were authorized to revoke licenses for reasons such as criminal conviction, conduct detrimental to the health or welfare of students, or other good cause, including gross misconduct or negligence. For example, in one state we visited, officials from the state educational agency told us they had revoked the license of a guidance counselor who started a relationship with a student after the student graduated based on evidence that the counselor had begun "grooming" the student while she was still enrolled in school. No criminal charges were filed due to the age of the individual, but the state educational agency took action based on violations of the school's code of conduct for licensed educators.

Challenges May Arise When Multiple Parties Investigate

Because different agencies can be involved with investigating reports of alleged child sexual abuse or misconduct by school personnel for different reasons, each of the agencies' particular goals may lead to potential interference with another agency's investigation, according to education, child welfare, and law enforcement officials, and experts we interviewed. Specifically, conflicting missions can lead to subjecting children to multiple interviews, not sharing reports, and prematurely alerting alleged perpetrators of investigations. For example:

- *School or school district investigations can interfere with law enforcement and CPS investigations.* Law enforcement, district attorneys, and CPS officials we spoke with said that school and school district administrators' initial inquiries into reports of sexual

abuse or misconduct before a formal report is made to law enforcement or CPS can interfere with the criminal and child welfare investigations and unintentionally cause additional trauma for the victim. We learned from our site visits that school officials may initiate their own investigations before reporting the allegation to CPS or law enforcement for different reasons, which include gathering additional information to determine whether an incident should be reported, and typically are structured to serve interests such as taking quick action to address any personnel decisions, reducing the financial impact on the school of suspending teachers, and protecting the school's reputation. One school district we visited organizes a team that determines whether to report an incident to CPS; however, officials told us that the district makes it clear to staff that they may file a report regardless of the team's decision. In one state we visited, school district officials told us they prioritize law enforcement investigations above their own, but it is not always possible to wait to conduct their own investigation because criminal cases may take more time—sometimes a year or longer. As they explained, this could interfere with their ability to take timely and appropriate personnel actions, such as suspension or termination of employment, if warranted.

To help prevent these long waits, one state educational agency official told us his agency encouraged school administrators to get as much information as possible about a reported case before law enforcement eventually stopped the district's investigation. An attorney that worked for one district we visited noted the financial expense to the school and possible impact on a teacher's reputation of keeping teachers on administrative suspension for long periods of time. School officials may also conduct investigations to protect their own reputation or that of the school district. Because of the school's investigation, the alleged victim may be subjected to multiple interviews by different parties, which, law enforcement as well as CPS and Child Advocacy Center (CAC) officials told us, can place an undue burden on the victim and their family. Further, law enforcement officials told us of concerns they have with schools initiating their own investigation. For example, if school officials are not trained in proper interview techniques, they may inappropriately dismiss an allegation and fail to report it to those who are properly trained to investigate such cases.

- *The goals of assessing child safety and determining criminal activity can sometimes conflict with one another.* In determining potential harm to a child, CPS may be required to notify the alleged perpetrator of its investigation. Such requirements and actions can sometimes conflict with law enforcement investigations. For example, in one state we visited, CPS is authorized to initiate an investigation in some

circumstances when the alleged perpetrator is a teacher. In this state, CPS is required to conduct an initial review within 5 days of receipt of a report to determine if the report is valid, and if so, it determines whether to initiate an investigation, which often involves interviewing the alleged victim and the alleged perpetrator. Law enforcement officials we spoke with said that this practice can sometimes conflict with their preferred approach of using the element of surprise to capture critical information from the perpetrator. In one example, law enforcement officials stated that an alleged perpetrator who knew of their investigation fled the area, further complicating the case and putting others at risk of harm.

Challenges are Sometimes Addressed through Collaboration between Agencies during Investigations

While the goals and requirements of each agency investigating reports of suspected child sexual abuse by school personnel can potentially compromise other investigations, agencies we visited have established ways to increase collaboration to address these challenges. All six school districts, five CPS agencies, three law enforcement agencies, and two district attorneys we spoke with told us they either informally collaborate during these investigations or have formal agreements in place to collaborate with each other. In some instances, collaboration is mandated by state law.[47] For example, the law in one state we visited required each county to develop and adopt a written protocol for handling criminal child sexual abuse investigations that addresses coordination between the prosecutor's office, law enforcement, CPS, children's advocacy centers, local advocacy groups, community sexual assault programs, and other relevant agencies.

[47]States that receive federal funding under CAPTA are required to have a state law or statewide program that includes the cooperation of state law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in the investigation, assessment, prosecution and treatment of child abuse and neglect.

Case Study: Communication between Agencies

After a parent filed a report with local law enforcement alleging that a female school bus driver had engaged in an inappropriate relationship with a male student, investigators learned from the student that the relationship lasted 2 years and began when the student was 15 years old. When police interviewed the bus driver the next day, she was arrested and confessed to having a sexual encounter with the student when he was 15. The police formally notified the school district, per an agreement between law enforcement and the school district, and the bus driver was placed on suspension. She was later convicted of indecent liberties with a child, received a suspended prison sentence, and was required to register as a sex offender, among other penalties. Upon this conviction, the school district terminated the bus driver's employment. Law enforcement officials who investigated the case reported that they had a good working relationship with the school district.

In three of the four states we visited, we found that law enforcement and CPS formed multi-disciplinary task teams and set protocols, through memoranda of understanding, for how to respond to allegations of child sexual abuse. One protocol specifically included procedures for how to settle disagreements between agencies about cases. However, these memoranda and/or multidisciplinary networks generally did not include school officials. We were told by two district attorneys that since the collaboration between law enforcement and CPS included a broader focus on child sexual abuse and misconduct by any type of perpetrator, the district attorneys would determine on a case-by-case basis whether to include school officials. During these interagency meetings, the facts of the case are reviewed and plans are made to properly interview the child(ren). For example, one state we visited developed a Sexual Assault Intervention Networks (SAINs) program, which is a collaborative effort involving CPS, local law enforcement, and the district attorney's office. As soon as CPS receives a report of child sexual abuse, these agencies coordinate as a multidisciplinary team to reduce the number of times a child is interviewed by different professionals and provide needed services for the child and family. Many state and local agencies, including the four states we visited, also have CACs that serve as safe places for victims and provide specialists for investigative interviews. For example, in one state we visited, within 48 hours of notification that law enforcement is initiating an investigation, the prosecutor convenes a multidisciplinary meeting at the CAC that includes CPS, law enforcement, advocacy groups, and school districts, when applicable. Officials from law enforcement, district attorneys' offices, CPS, and educational agencies we spoke with stated that these collaborative approaches are critical to helping them understand one another's goals, increasing information sharing, and minimizing additional harm to the victim in the form of multiple interviews.

Case Study: Supporting Another Agency's Goals

When a male high school coach was charged with, and pled guilty to, sexual battery of a minor for sending inappropriate text messages to a female student containing pornographic photos, the police, the prosecutor, and the school district worked together closely. The prosecuting attorney understood the needs of the school district, which, in this case, included investigating and prosecuting the case before the start of a new school year. The detective reported that he was able to investigate the crime and obtain a guilty plea within 30 days—crediting the prosecuting attorney and cooperation from family and school personnel. The detective reported that the outcome of the investigation could not have worked out any better.

Multiple Federal Agencies Provide Resources to Address Abuse by School Personnel, but Coordination and Data Are Limited

Federal Agencies Provide Limited Training, Guidance, and Funding, and Collect Data Related to Child Sexual Abuse, but These Efforts Are Not Well Coordinated or Disseminated

The issue of sexual abuse by school personnel crosses several federal agencies' missions, with no single agency having a clear leading role to coordinate with other agencies to oversee the prevention of and response to such situations. Education, HHS, and Justice each have distinct missions and each can lend unique expertise to help states, school districts, and schools prevent and respond to sexual abuse by school personnel. The agencies have worked together on the issue of child abuse in the past. In response to a requirement in the 1988 amendments to CAPTA, HHS led 30 federal agencies in a Federal Inter-Agency Task Force on Child Abuse and Neglect to help coordinate federal activities related to the prevention and treatment of child abuse and neglect. Education and Justice were members of the task force. According to one HHS official, following the 1996 amendments to CAPTA, which eliminated the requirement for such a task force, federal agency members have continued to voluntarily coordinate as a work group to communicate and exchange ideas concerning child maltreatment-related programs and activities; collect information about federal child maltreatment prevention and treatment activities; and provide a basis for collective action through

which funding and resources can be maximized. However, in July 2013, the lead official responsible for coordinating these meetings told us that none of the meetings have focused on addressing sexual abuse when perpetrated by school personnel.

With respect to their individual agency efforts to support states and school districts to address this issue, Education, HHS, and Justice have provided limited support in the form of training, guidance and resources, federal funding, and data collection. This support either addresses school personnel-to-student sexual abuse and misconduct directly or through more general ways to prevent violence or child sexual abuse. Agency officials provided examples, including:

Training

- In partnership with a school district we visited, Education's Office of Safe and Healthy Students (OSHS) conducted training on the prevention of and response to educator sexual misconduct, covering such topics as establishing proper boundaries between school personnel and students, identifying and training staff to recognize the signs of adult sexual misconduct, and establishing policies and procedures on how to prevent and respond to sexual abuse by school personnel. The school district received grant funds through Education's Readiness and Emergency Management for Schools program to develop this training after several incidents of abuse by school personnel occurred in the district, including a high profile case that culminated in the murder of a teacher accused of sexual misconduct with students. OSHS has provided the training to other school districts throughout the country on request. For example, in 2012, OSHS arranged 11 training sessions across nine states for a variety of education entities, including school districts, which had a combined total of approximately 500 attendees. According to OSHS officials, the training targeted security officers, superintendents, assistant superintendents, and school counselors. In addition, one training was conducted at a school district in May 2013 and three others are scheduled or planned for later in the year. Education also funded a video module geared towards students as a training component for 9th grade health courses at one school district. The video included vignettes designed to prompt student discussion about what to say when confronted by sexual abuse or misconduct by school personnel, who to talk to, and who can help, according to district officials.
- OCR officials said they conduct presentations on Title IX issues involving both student-to-student and school personnel-to-student harassment. OCR officials also told us they use assistance centers to

respond to requests from schools for information and provide technical assistance, such as training and guidance to help communicate a school's responsibilities under Title IX, and to help schools implement the regulations. The centers have also received requests for assistance with sexual harassment training. OCR officials said this type of broad training on sexual harassment could also be applicable in cases of sexual abuse perpetrated by school personnel.

- Although not focused specifically on sexual abuse by public K-12 school personnel, Justice's OJJDP has funded Darkness to Light trainings, which focus on the rehabilitation and prevention of child sexual abuse in all settings, including public K-12 schools.

Guidance and resources

- OSHS developed and distributed a technical assistance guide on educator sexual misconduct explaining what educator sexual misconduct is and how to prevent and respond to it. According to OSHS officials, this guide was shared with an electronic list of grantees and others involved in measuring school climates, primarily school districts and some state officials. Because the guidance was well received, OSHS officials told us they provided additional training to school districts.
- In 2001, OCR issued *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*. The guidance provided information about schools' responsibility to take immediate and effective steps to end sexual harassment, including sexual abuse of students by school personnel. In 2006, OCR reissued the 2001 guidance with a letter reminding schools of their obligations. In 2008, OCR issued a pamphlet answering questions on sexual harassment and has since issued two dear colleague letters about peer harassment and sexual violence, respectively, both of which refer to OCR's 2001 guidance on personnel-to-student harassment.
- In 2007, the CDC developed a resource on practices for preventing child sexual abuse in youth-serving organizations.[48] According to CDC officials we spoke with, this resource was designed to include practices that can be applied to many different organizations, including schools. For example, the report includes information on protocols involving employment screening, interactions between

[48]Saul J, Audage NC. *Preventing Child Sexual Abuse Within Youth-serving Organizations: Getting Started on Policies and Procedures,* Centers for Disease Control and Prevention, National Center for Injury Prevention and Control (2007). The recommendations contained in this resource are based upon comments from experts at a meeting sponsored by CDC in August 2004.

individuals, monitoring employee behavior, ensuring a safe environment, responding to inappropriate behavior, and training. CDC officials also explained that organizations, including schools, need to provide continuous training and review so that all employees know that the school takes sexual abuse seriously and has a policy about appropriate behavior and responding to sexual abuse. Further, CDC officials told us that organizations need to review how the policy is working over time, and see if there are any lessons learned that could be incorporated into the school's policy. In the event that the organization has any cases of sexual abuse, the policies also need to be applied and tested. CDC officials told us they use the practices resource to conduct presentations at conferences to help many different kinds of organizations address child sexual abuse. In addition, risk management organizations and insurance companies recommend the use and application of the information in the CDC resource. For example, one insurance company told us that after evaluating an organization, such as a school district, including its risk, mission, and operations, they have recommended using CDC's resource as a guide to developing step-by-step policies and procedures.

- HHS' Administration for Children and Families has a web/Internet portal of information addressing the prevention and treatment of child abuse and neglect called the Child Welfare Information Gateway. While many of the resources on the portal provide information that addresses child abuse and neglect broadly and in the context of the family environment, the portal also provides a few resources on identifying adults at risk of sexually abusing children and examples of sexual abuse by school staff are provided. For example, the portal includes a link to CDC's resource and other materials on prevention, though not specific to schools. Experts and federal officials we spoke with told us that additional information that specifically addresses these types of cases could be helpful to include on the portal.

Other grants

- CDC funded cooperative agreements in 2002 with three states that provided services related to child sexual abuse.[49] All of the grantees looked at the prevention of sexual abuse at the societal level and two states, Massachusetts and Georgia, specifically included schools. For example, Georgia used a CDC grant to conduct train-the-trainer programs in conjunction with the state's educational agency to address child sexual abuse. Officials said CDC's resource was useful

[49]According to CDC officials, this program ended in 2008.

for developing the training curriculum because it includes all the important processes needed for preventing child sexual abuse in organizations that serve youth.

- HHS' Administration for Children and Families and Justice's Office for Victims of Crime, through the CJA program, provide grants to states to improve administrative and judicial proceedings regarding the investigation and prosecution of child abuse cases, particularly child sexual abuse cases.[50] To be eligible, states are required to establish multidisciplinary or CJA task forces. These task forces are made up of representatives from local law enforcement departments, CPS agencies, and child advocates, among other professionals.[51] In some of states we visited, multi-disciplinary task forces have used CJA grant money and other federally-supported resources to conduct educational awareness and outreach to schools, as well as trainings to help improve the skills of those conducting forensic interviews of victims when allegations of sexual abuse are reported.

Data collection and analysis

Although several federal agencies collect related data, none collect comprehensive data that would quantify the prevalence of sexual abuse by school personnel. Some examples of the federal efforts to collect data include the following:

- Through its National Center for Education Statistics (NCES), Education collects information on school safety and crime. Although NCES' school violence data are required by statute to include

[50]Funding for CJA grants comes from the Crime Victims Fund (CVF), which is administered by Justice's Office for Victims of Crime (OVC). The CVF, initially established by the Victims of Crime Act of 1984, is funded by fines and penalties paid by convicted federal offenders. Each year OVC transfers approximately $17 million from the CVF to HHS' Administration on Children and Families to make grants under section 107 of CAPTA, as amended. HHS then distributes these funds to states through formula grants in the amount of $50,000 to each state, plus an additional amount based on the population of children under 18 years of age in the applicant's jurisdiction. Additionally, OVC retains a portion of the CVF for a discretionary grant program that provides resources to tribal communities to improve the investigation and prosecution of child abuse. See 42 U.S.C. §§ 10601-08.

[51]Under the Victims of Child Abuse Act of 1990, as amended, OJJDP also provides grant funding to the National Children's Alliance and the Regional Children's Advocacy Centers program to establish and enhance local CACs and the multidisciplinary response to child abuse throughout the United States. Funding under the Victims of Child Abuse Act also supports the delivery of training and technical assistance to child abuse professionals and prosecutors to improve the investigation and prosecution of child abuse. See 42 U.S.C. §§ 13001-004.

information on the relationship between victims and perpetrators, NCES does not capture information about whether the perpetrators of sexual abuse against students are school personnel.[52] We examined the School Survey on Crime and Safety (SSOCS)—one of the primary sources of school-level data on crime and safety—and spoke with NCES officials who said the survey is not designed to collect information on whether school personnel are the perpetrators of child sexual abuse in schools. According to an official at NCES, the survey captures counts of crime, including "rape or attempted rape" and "sexual battery other than rape" that occurred at school from a nationally representative cross-section of schools; however, it does not capture information about who specifically committed those crimes, and only captures crimes committed on school grounds. Furthermore, the official explained that, due to uncertainties in future funding for these surveys, NCES does not plan to add variables that would capture the type of perpetrator. According to one NCES official, NCES does not view the SSOCS as the appropriate vehicle for collecting incident-level data and determined that data on violence against all persons, including students, are already collected through the National Crime Victimization Survey (NCVS) carried out by Justice. NCES officials asked Justice's Bureau of Justice Statistics (BJS) to make some changes to the NCVS to account for alleged perpetrators who are school personnel, but acknowledged that more could be done to obtain more accurate counts and robust analysis. In 2007, BJS added the variable "teacher/school staff" to a question in the NCVS that asks about how the victim knew the offender; however, from 2007 to 2012, no cases of sexual violence against any students ages 12 to 18 by school personnel were reported in the NCVS. Further, as the survey is currently designed, data collected are limited to capturing information about victims age 12 and older. BJS officials offered several reasons why the NCVS may not be capturing cases of sexual violence by teacher/school staff. For example, the survey draws from a small sample of children ages 12 through18; uses broad language in the two questions asked; and captures crimes occurring within the last 6 months, when generally, victims of sexual abuse do not report such abuse until they are adults, according to official we spoke with. In addition, they explained, sexual violence is difficult to measure and children may not fully understand what is happening to them or be unwilling to report it.

[52]20 U.S.C. § 9543(a)(1)(H).

- According to an Education official, the agency's Civil Rights Data Collection (CRDC) is another data set which captures wide-ranging information on education and civil rights issues from public schools and is used by OCR for enforcement and monitoring of compliance with federal civil rights laws, including Title IX.[53] However, while these data cover the universe of schools, data specifically on reports of school personnel as alleged perpetrators is not collected.
- Education's OCR also maintains an electronic database of complaints regarding Title IX issues; however, the system does not have a variable that identifies the alleged perpetrator of sexual violence.
- HHS captures data in the National Child Abuse and Neglect Data System (NCANDS). These data are reported by state child protective services agencies; however, NCANDS does not specifically identify whether the alleged perpetrators of child sexual abuse are school personnel.[54]

While Education, HHS, and Justice all have data systems that capture information from state and local entities about child abuse, none capture the extent of sexual abuse and misconduct perpetrated by public K-12 school personnel. In response to a requirement in the 2002 reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), Education had taken steps to understand this issue by contracting with an expert in the field, who conducted a study on educator sexual misconduct to identify the prevalence of sexual abuse by school personnel. Because of limited data, instead of original research, the 2004 study resulted in a synthesis of existing literature on the prevalence of educator sexual misconduct, offender characteristics, targets of misconduct, and recommendations for prevention, such as written school- and school district-level policies prohibiting such behavior, hiring and screening practices to identify red flags in applicant backgrounds, and educating employees and students about unacceptable behaviors. Even if

[53]The CRDC collects information about school characteristics and about programs, services, and outcomes for students. Among the topics included are students' participation in algebra and other college-preparatory subjects, retention, teacher experience/absenteeism, school funding, harassment, restraint/seclusion, and additional information related to discipline. The 2009-2010 CRDC collection included the first of its kind school and district level reporting of harassment. However, many districts were unable to provide complete data on students reported to have been harassed, and incidents by type of harassment. As a result, these data may be underestimated.

[54]Reports by state child welfare agencies to NCANDS are identified as "substantiated/founded" or "unsubstantiated/unfounded".

there were systems designed to capture data on school personnel as perpetrators of sexual abuse and misconduct, interested stakeholders would still need to check multiple systems for information about criminal activity, actions taken against licensure, and cases captured in child welfare databases. One expert we spoke with suggested that original research or a longitudinal study could help stakeholders and the general public understand the full scope of the problem.

State and Local Agencies Have Limited Awareness of Federal Resources to Help Prevent and Respond to Sexual Abuse and Misconduct by School Personnel

According to our survey of state educational agencies, less than half of the states said they were aware of resources available to them from the federal agencies. See table 1.

Table 1: Number of State Educational Agencies Aware of Federal Resources to Help Prevent and Respond to Sexual Abuse and Sexual Misconduct by School Personnel, by Topic

Resources from Federal Agencies	Number of States Aware of Information/Guidance	
	Sexual abuse	Sexual misconduct
Education	18	19
HHS	12	11
Justice	11	11

Source: GAO analysis of survey data from 50 states and the District of Columbia.

In addition to limited awareness of existing federal resources to address this issue, according to our survey, 29 states said additional guidance and technical assistance from the federal government could be useful to states or school districts to help address sexual abuse or misconduct by school personnel. Examples of such assistance included guidance on developing professional standards and codes of conduct, examples of training models and materials, federal sponsorship or provision of training that addresses prevention and response, and opportunities for federal grants to states for outreach and prevention programs. State officials we spoke with frequently mentioned their need for additional guidance and technical assistance to help with policies to prevent and respond to sexual abuse by school personnel. Furthermore, some school district officials we spoke with at our selected site visits were unaware of guidance from the federal agencies when developing their own policies to address sexual abuse and misconduct.

The limited coordination among Education, HHS, and Justice to leverage combined resources, expertise, and capacities across agencies may hinder the agencies' efforts to address this complex issue in a crosscutting and multidisciplinary way. The Government Performance and Results Act of 1993 (GPRA), as updated by the GPRA Modernization Act of 2010,[55] establishes a framework for a crosscutting and integrated approach to focusing on results and improving government performance. This framework includes identifying how an agency is working with other agencies to achieve its performance goals. Furthermore, according to the *Standards for Internal Control in the Federal Government*, federal agencies should ensure there are adequate means of communicating with external stakeholders who have a significant impact on agency goals.[56] No single federal agency is leading the effort, and weaknesses in coordination among these agencies to disseminate comprehensive information to state and local entities may leave states and local entities without important information that could help ensure a comprehensive and integrated approach to addressing this issue.

Education's Regulations and Guidance for Title IX Include Requirements to Protect Students, but K-12 Educators Are Unclear On How To Apply the Requirements

Education plays an important role in addressing the issue of sexual abuse by school personnel through its oversight of schools' and districts' compliance with Title IX, including requiring schools to designate an employee as a Title IX coordinator and adopt grievance procedures for the resolution of complaints of Title IX violations. However, we found limited awareness and, in some cases, confusion about the role of Title IX coordinators when allegations of sexual abuse or misconduct by public K-12 school personnel against students arise. School officials at four of the six school districts we visited told us that Title IX coordinators are not involved when allegations of sexual abuse or sexual misconduct are made against school personnel. For example, one district official said the Title IX coordinator is generally the district athletic director who handles discrimination and gender equality issues, and it is human resource officers, principals, and superintendents that most often handle reports of suspected sexual abuse or misconduct by school personnel. Subject

[55]Pub. L. No. 111-352, 124 Stat. 3866 (2011) (amending Pub. L. No. 103-62, 107 Stat. 285).

[56]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

matter experts and association officials representing Title IX coordinators also said these cases are generally not handled through Title IX coordinators. Further, these experts and officials explained that K-12 education professionals generally view Title IX requirements as more applicable in athletic programs or in cases of employee-to-employee harassment. Other experts who have worked with school administrators or school districts to provide training on preventing child sexual abuse told us some school administrators were not aware of the requirements of Title IX, who the Title IX coordinator was, or the coordinator's responsibilities.

Title IX prohibits sexual harassment in education programs or activities, and compliance with Title IX and Education's regulations is required of all schools receiving federal assistance, including public K-12 school districts and schools; however, Education's related guidance and other outreach to specify how the regulations apply to situations where K-12 school personnel perpetrate sexual abuse or misconduct against students is limited. As a result, schools may be left on their own to determine which cases are subject to Title IX compliance requirements. For example, in two school districts we visited, school officials said they interpreted Title IX violations to include adult-to-adult or student-to-student incidents, not adult-to-student incidents. In one school district official's view, sexual harassment consists of an element of adult behavior toward another adult co-worker and is not relevant to cases of sexual abuse of students. Education's 2001 guidance specifies that Title IX protects students from sexual harassment by a teacher or other school employee, among other types of harassment, and includes some examples of prohibited conduct. Although some of the examples are in K-12 settings, the guidance focuses more on a variety of situations in a college campus or university setting.[57] OCR officials explained that, while sexual abuse was covered in its 2001 sexual harassment guidance, through compliance investigations and technical assistance with schools, officials concluded that schools needed additional guidance on Title IX's applicability to sexual abuse allegations. OCR developed and issued a pamphlet in 2008 which condensed the material covered in the 2001 guidance into a more accessible format and included some examples of inappropriate sexual

[57]U.S. Department of Education, Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (Washington, D.C.: January 2001).

conduct between K-12 school personnel and students.[58] Education's sexual harassment guidance since 2008 has focused on peer-perpetrated sexual harassment and violence against students and refers readers to its prior guidance for information about personnel-to-student sexual harassment, despite continued reports of cases involving sexual abuse and misconduct by public K-12 school personnel and the changing nature of interactions between students and school personnel through the use of social media, for example.

An official we spoke with at one association representing Title IX coordinators told us that much of Education's guidance never took hold at the K-12 education level. OCR officials explained that while they receive some complaints against school personnel, they receive many more about student-to-student harassment. In addition to OCR's written guidance, OCR officials said they conduct presentations on Title IX issues involving both student-to-student and school personnel-to-student harassment and use assistance centers to provide technical assistance, as mentioned earlier. Despite these efforts, one association representing Title IX coordinators told us they receive calls from school superintendents—and to a lesser degree, athletic directors—to better understand the requirements under Title IX and inquire about available training, because there is limited information available about how Title IX applies to the specific types of situations that arise in K-12 education.

Conclusions

The sexual abuse of students and sexual misconduct by public K-12 school personnel is a complex problem, and such behavior is particularly egregious because schools are entrusted with educating the nation's children. There are no simple solutions to this problem and, although states and school districts are taking some positive steps, current efforts are clearly not enough. Background checks can help identify some previous offenders; however, they have limitations. Professional standards and codes of conduct can help clarify what is considered inappropriate behavior but often do not apply to all school staff, and training on recognizing and preventing child sexual abuse by school personnel is not widespread. School administrators can respond quickly to limit contact when abuse is suspected, but their action can also hinder

[58]U.S. Department of Education, Office for Civil Rights, *Sexual Harassment: It's Not Academic (*Washington D.C.: 2008).

CPS and law enforcement investigations without close collaboration among all parties. Unless these individual components are both strengthened and integrated, states and school districts will continue to miss opportunities to prevent and respond quickly and effectively to child abuse by school personnel.

The federal government, through its existing resources and expertise, is well positioned to assist states and localities and to help strengthen their prevention and response efforts. Education, HHS, and Justice each bring specific expertise to the table. However, because federal efforts and collaboration to date have been limited, states, districts, and schools have worked to address this type of sexual abuse and misconduct with minimal federal guidance on model policies, programs, and practices. Further, most states are not aware of the federal resources that are currently available. In addition, some states have enacted laws and states and school districts have developed policies to prevent and respond to such abuse but have limited information on the magnitude of the problem, which the federal government is in a position to provide. Finally, limited understanding of how Title IX requirements apply to allegations of suspected sexual abuse or misconduct by school personnel against K-12 students may hinder state and local efforts to properly address such cases, prevent such behaviors and actions in the future, and ultimately protect children from harm.

Recommendations for Executive Action

In order to help inform federal, state, and local initiatives to prevent and respond to child sexual abuse by school personnel, the Secretary of Education should lead an effort, in collaboration with the Secretary of HHS and the Attorney General, to leverage resources, expertise, and capacities across the departments to:

- Develop a comprehensive package of materials for states, districts, and schools that outlines steps that can be taken to prevent and respond to child sexual abuse by school personnel. For example, this could include compiling, assessing, and enhancing existing guidance, training materials, grant opportunities, and other resources;
- Determine the most cost-effective way to disseminate federal information so that relevant state and local educational agencies, child welfare agencies, and criminal justice entities are aware of and have access to it; and
- Identify mechanisms to better track and analyze the prevalence of child sexual abuse by school personnel through existing federal data collection systems, such as the School Survey on Crime and Safety,

the National Child Abuse and Neglect Data System, and the National Crime Victimization Survey.

To help ensure that Title IX requirements to prevent and address sexual harassment, including sexual abuse and misconduct by school personnel against students, are carried out appropriately at public K-12 schools, the Secretary of Education should:

- Clarify and disseminate information on the roles and responsibilities of Title IX coordinators and more clearly emphasize that Title IX also applies to public K-12 schools and to cases involving school personnel-to-student sexual abuse and misconduct. For example, Education could update its existing Title IX guidance to specifically include information about adult-to-student sexual abuse and the applicability of Title IX to K-12 schools, examples of the types of behavior that may violate Title IX, and instructions on how to ensure school personnel can effectively carry out their responsibilities.

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Education, HHS, and Justice for review and comment. Education provided formal comments that are reproduced in appendix III. Education and HHS provided technical comments, which we incorporated as appropriate. Justice did not have any technical or formal comments.

Education agreed that there is an important federal role in adequately informing and equipping state and local entities to address the prevention of and response to child sexual abuse by school personnel. Education also noted that while the federal government is well positioned to help states and localities, it is vital that all states also have a policy that requires background checks of all adults working with students.

Education concurred with our recommendation that the department, in collaboration with HHS and Justice, leverage resources, expertise, and capacities to compile and disseminate information to states and identify a way to track the prevalence of sexual abuse by school personnel. In response, Education said that it is taking action to revise its Adult Sexual Misconduct training module offered through the Office of Safe and Healthy Students to target a wider audience, including school volunteers. We believe this is an important step and suggest Education widely disseminate its revised training module and encourage state and local educational agencies to adopt the training for all who come into contact with students. Education said it will explore ways to collaborate with HHS and Justice to develop resources and provide more comprehensive

technical assistance in a cost-effective way. Further, Education said it will explore methods to better track and analyze the prevalence of child sexual abuse by school personnel. Without these data, the federal government will continue to lack key information to help target technical assistance and other resources and equip state and local entities with the information to better address this issue.

In response to our recommendation to clarify and disseminate information about the applicability of Title IX in cases of adult-to-student sexual abuse and misconduct, Education said its Office for Civil Rights is currently developing guidance on peer sexual violence. This guidance will again mention that Title IX applies to sexual harassment at the K-12 and postsecondary levels and remind schools that Title IX also prohibits sexual harassment of students by employees. It will also provide information on the roles and responsibilities of the Title IX coordinators. In addition, Education said this office plans to develop policy guidance focusing on schools' requirements to designate a Title IX coordinator and explaining the coordinators' roles and responsibilities in the K-12 and postsecondary settings. We continue to encourage Education to consider ways to make all guidance on this issue as clear as possible, which may require issuing a set of guidance separate from the one focusing on peers that highlights the importance of this issue and the applicability of Title IX in situations of abuse by school personnel.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 4 days from the report date. At that time, we will send copies to the Secretary of Education, HHS, and the Attorney General and interested congressional committees. The report will also be available at no charge on the GAO Web site at www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-7215 or Brownke@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Sincerely yours,

Kay C. Brown

Kay Brown, Director
Education, Workforce, and Income Security Issues

Appendix I: Objectives, Scope and Methodology

This appendix discusses in detail our methodology for addressing three research questions:

(1) What steps have states and school districts taken to help prevent child sexual abuse by school personnel? (2) What are states and school districts' reporting requirements and approaches to investigating allegations of child sexual abuse by school personnel? and (3) To what extent have federal agencies made efforts to prevent and respond to child sexual abuse by school personnel? To address these questions, we reviewed relevant federal laws, regulations, and guidance; conducted interviews with Education, HHS, and Justice officials and with other representatives of the K-12 education, child welfare, and criminal justice communities; surveyed state educational agencies in 50 states and the District of Columbia; and conducted site visits to four states and six of their school districts, where we interviewed state agencies, school districts, local law enforcement and child protective service agencies and reviewed relevant information. We conducted this performance audit from October 2012 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our investigative activities were conducted in accordance with standards prescribed by the Council of the Inspectors General for Integrity and Efficiency.

Review of Federal Laws, Regulations, Guidance and Data

To identify federal efforts to prevent and respond to child sexual abuse by school personnel, we reviewed relevant federal laws as well as Education's regulations and guidance on Title IX requirements for schools. We also reviewed Education's School Survey on Crime and Safety, HHS' National Child Abuse and Neglect Data System, and Justice's National Crime Victimization Survey to identify information federal agencies collect on child sexual abuse and misconduct perpetrated by school personnel.

Interviews with Federal Officials and Other Experts

To examine the federal role in addressing child sexual abuse by K-12 public school personnel, we interviewed officials from Education, HHS, and Justice, relevant education and child welfare groups, and risk management organizations. At Education, we spoke with officials in the Office for Civil Rights, Office of Safe and Healthy Students, and the

National Center for Education Statistics. At HHS, we spoke with officials at the Administration for Children and Families' Children's Bureau. At Justice, we interviewed officials from the Office for Victims of Crime, Office of Juvenile Justice and Delinquency Prevention, and the Bureau of Justice Statistics. We interviewed experts from a broad range of education and child welfare groups including the American Association of School Administrators, the Association of Title IX Administrators, Committee for Children, the National Association of State Directors of Teacher Education and Certification, the National School Board Association, the Crimes Against Children Research Center, Darkness to Light, Stop it Now, and Stop Educator Sexual Abuse, Misconduct and Exploitation. We also interviewed officials at risk management organizations such as First Nonprofit Insurance Company and Praesidium, Inc.

Case Studies

To obtain national-level information on states' requirements and practices for preventing and addressing sexual abuse and sexual misconduct by school personnel in public K-12 schools, we designed and administered a Web-based survey to state commissioners and superintendents of education in the 50 states and the District of Columbia. The survey was conducted between May and July 2013, with 100 percent of states responding to the survey. The survey included questions about state laws and regulations regarding employment practices, training, mandatory reporting, and investigations of allegations of sexual abuse and sexual misconduct by school personnel; state codes of conduct, and monitoring and guidance provided to school districts; and assistance from the federal government. In July 2013, we sent a follow-up question by e-mail to all survey respondents about requirements for background checks for contract employees working in public K-12 schools. We received responses to the additional question from 48 states through August 2013.[1]

Because this was not a sample survey, there are no sampling errors. However, the practical difficulties of conducting any survey may introduce nonsampling errors, such as variations in how respondents interpret questions and their willingness to offer accurate responses. We took

[1]As of August 2013, Connecticut, New Mexico, and West Virginia had not provided responses to our follow-up question.

steps to minimize nonsampling errors, including pretesting draft survey instruments and using a Web-based administration system. Specifically, during survey development, we pretested draft instruments with officials in Alabama, Oregon, Pennsylvania, and Washington state. We also received comments on our draft survey from Education's Office for Civil Rights, Office of Elementary and Secondary Education, and Office of the General Counsel; and HHS' Administration for Children and Families. In the pretests and expert reviews, we were generally interested in the clarity of the questions and the flow and layout of the survey. For example, we wanted to ensure that terms used in the survey were clear and known to the respondents, categories provided in closed-ended questions were complete and exclusive, and the ordering of survey sections and the questions within each section were appropriate. On the basis of the pretests and expert reviews, the Web instrument underwent some revisions. A second step we took to minimize nonsampling errors was using a web-based survey. By allowing respondents to enter their responses directly into an electronic instrument, this method automatically created a record for each respondent in a data file and eliminated the need for and the errors associated with a manual data entry process. When the survey data were analyzed, a second, independent analyst checked all computer programs to further minimize error. Responses to the additional question received by email were analyzed and the results were corroborated by additional team members.

While we did not independently validate all of the information that state officials reported through our survey, we reviewed the survey responses overall to determine that they were complete and did not contradict one another. Also, where necessary, we requested further clarification from states to their responses on the additional survey question. On the basis of our steps, we believe our survey data from both sources are sufficiently reliable for the purposes of our work.

Site Visits

To gather more in-depth information about state and local requirements and practices to prevent and respond to child sexual abuse and misconduct by school personnel, we conducted site visits to four states: Georgia, Massachusetts, Virginia, and Washington. We selected states that were identified during our initial expert interviews as having developed laws or regulations to address prevention, detection, reporting, and/or investigation of child sexual abuse specifically by school personnel. We selected a total of six public school districts based on information about their policies and training to address such issues, expert recommendations, and the geographic location of the school

district within each state we visited. We also based selections on states or local districts that had previously dealt with a case of reported child sexual abuse or misconduct by public K-12 school personnel. In addition to public school districts, we visited and gathered information from others who are involved in responding to cases of sexual abuse and misconduct by school personnel, such as officials from state educational and child welfare agencies, local police departments and prosecutors' offices, and relevant child advocacy organizations.

Across the states we visited, we interviewed officials at four state educational agencies, which supervise elementary and secondary education, four state child protective service agencies, six public school districts, four school boards or teachers' associations, two local departments of child protection, five police departments, five district attorney's offices, two Children's Advocacy Centers (CAC), one service organization for victims (non-CAC), and three child advocacy groups. At the school districts we visited, we spoke with school superintendents, attorneys, human resources personnel, school counselors, and school safety officials, when available. During each of these interviews, we collected information on state and local policies and procedures for responding to and investigating reports of child sexual abuse or misconduct and challenges and strategies in addressing reports of child sexual abuse and misconduct by public K-12 school personnel. We also gathered and reviewed general information about how cases were managed and any lessons learned. For the CAC and service organizations, we learned about procedures for handling reports, how interviews are conducted, the roles of the different agencies working with these organizations, and toured two CAC facilities, including the rooms where interviews with children take place. We also observed one school district's training session for school personnel on the subject. We reviewed policies, training materials, and other relevant documentation.

Information we gathered on our site visits represents the conditions present at the time of our visit. We cannot comment on any changes that may have occurred after our fieldwork was completed. Our site visit findings cannot be generalized to the larger state or local education, child welfare, or law enforcement population.

Closed Case Reviews

To illustrate the complexities of cases of sexual abuse and misconduct by K-12 school personnel and how incidents are identified, reported, and investigated, investigators from GAO's Forensic Audits and Investigative Service team reviewed closed criminal cases identified through media

and legal database searches. We selected cases for further review to achieve variation among these criteria: gender of perpetrator, age of child(ren), if there were multiple victims of the same perpetrator, and perpetrators who held different positions in the school (teacher, school official, bus driver, janitor, etc.). The investigators reviewed five cases that were determined to be closed, with no pending litigation. The case study reviews included travel to several states and interviews with agencies and individuals involved in each case (including, but not limited to, law enforcement personnel, school administrators, prosecutors, and child welfare agencies). In addition, we reviewed case files and other relevant documents. Case study reviews were conducted from May 2013 through July 2013. Our investigative activities were conducted in accordance with standards prescribed by the Council of the Inspectors General for Integrity and Efficiency.

Appendix II: Case Studies

The facts described in the following five cases come from our investigators' interviews with agencies and individuals involved in each case and a review of case files and other relevant documents. These cases are meant to illustrate concepts and issues discussed in the report; we made no independent evaluations of the merits of the underlying cases. (See App. I for information on the case study methodology.)

Case A

As discussed in the report, one of the challenges with preventing and addressing child abuse by school personnel is the failure to report allegations to law enforcement or child protective services. According to investigators interviewed and documents we reviewed, in November 2006, a mother learned from her second-grade daughter about activities occurring during the after-school program the daughter attended that suggested the possibility of sexual abuse by a second-grade teacher. On the day she learned of these activities, the child's mother reported the alleged suspicious activities to the district superintendent, who informed the school principal. The next day the child's parents met with the principal, who agreed to conduct an investigation. The principal's investigation concluded with a phone call to the child's parents in which the school principal stated the incident was a matter of "poor judgment" by the teacher. Unsatisfied, the child's parents again contacted the district superintendent who ordered an investigation at the district level. About a month later, the parents received a letter stating that the district's investigation was complete, and the incident was referred to as a personnel matter. The letter also said the school district could not discuss the issue with the parents. The parents reported that they moved their daughter to another school because they felt that the school district failed to handle the matter appropriately.

In January 2007, a report was made to the police department by a police officer, who had heard from his wife, a teacher in the same school district, an allegation that the male second-grade teacher may have sexually molested a female student. The police department initiated an investigation. Also in January 2007, following the filing of the police report by the officer, the parents allowed their child to be interviewed by a trained child welfare investigator. The investigator's interview identified a likelihood of abuse, and two additional potential victims were named by the child. Those potential victims were also interviewed by child welfare investigators and provided the investigators with detailed allegations of abuse similar to those found in the interview of the first child. Police investigators also interviewed the district superintendent, who shared the results of the district's investigation and expressed his satisfaction with

the results of the inquiry. Police investigators obtained and executed search warrants, which resulted in the seizure of toys, food items, scarves, a blindfold and a notebook from the teacher's classroom. A semen stain was identified on the scarves and a blindfold that the police later matched through DNA analysis to the teacher. Two days after the police report was filed, the teacher was arrested, and he was eventually convicted of aggravated criminal sexual abuse against eight victims in this case and sentenced to 48 years in prison.

No report of alleged sexual molestation had been made by school or district officials to police or the child welfare agency. According to the prosecutor, state law requires that educators report potential abuse to law enforcement or the child welfare agency; he further said that notifying district officials does not satisfy this requirement. Their failure to report potential child sex abuse resulted in misdemeanor pleas by the school principal, the school district's director of human resources, and the district superintendent.

During the course of their investigation, police investigators also learned that the teacher had previously been a second grade teacher in a neighboring school district for 2 years and had been allegedly involved in two incidents that were not brought to the attention of his subsequent employer. In the first incident, the school found that the teacher had been subscribing to inappropriate Internet web sites in violation of Board of Education policy and the school district's code of conduct by downloading pornography to a school computer and sending that material from the school computer to his home computer. For that incident, he received a letter of reprimand in his personnel file from the school district's Office of the Superintendent, telling him to desist and obtain counseling. Additionally, he was suspended with pay for 5 days and advised that any further incident of this nature would lead to termination. The second incident involved a female student, whose parents filed a complaint with the school about 7 months after the first incident involving pornography, alleging that the teacher told the student that she reminded him of a female movie star, gave the student pictures of that star, repeatedly stared at the student and touched the student unnecessarily on several occasions, though not in any inappropriate areas. The school district placed the teacher on paid administrative leave for the remainder of the school year and did not rehire him. When he left the school, he received a positive recommendation, and neither of the alleged incidents was relayed to his new employer.

In addition, during the investigation, the police investigators also learned about similar allegations involving two female students and the teacher while he was employed previously at the other school. The teacher was convicted of aggravated criminal sexual abuse of two children in this school district, for which he received an additional sentence of 12 years, to be served consecutively with the 48-year sentence.

Another challenge discussed in the report is the limitations of background checks. At the time of the incident, the second school district that hired the teacher would have conducted a background check on the teacher as part of the hiring process that consisted of a criminal history check, reference check, and a review of his teaching experience. Today, according to district officials, the school district also checks sex offender registries and related websites, performs additional reference checks including sources independently identified, takes fingerprints and checks the fingerprints for criminal history and identity, and, since 2008, does a check with the child welfare agency to see whether there are reports of pending child abuse investigations or findings of child abuse. Since this incident, the school district has also implemented periodic mandatory training using the child welfare agency's staff to teach classes on mandatory reporting requirements and recognizing signs of potential abuse.

Case B

As described in the report, school personnel who commit sexual abuse of students may engage in "grooming" behavior with potential victims: behavior carried out with the intent of establishing trust with a student to facilitate future sexual activity. In October 2009, a middle school principal reported an allegation that a teacher at the school had engaged in inappropriate touching of students to an attorney for the school district, who then reported it to police. A subsequent investigation by the police department, which included interviews with parents and students, identified behavior between the teacher and multiple students that included taking female students out to dinner in groups as well as in one-on-one situations. It also identified instances of the teacher buying gifts such as a necklace, computer, cell phone, and camera for students. Additionally, instances of touching and kissing were identified between the teacher and some of the students. A forensic examination of the teacher's computer revealed child pornography. The examination also revealed several pornographic pictures depicting sexual acts which appeared to be edited to depict the faces of his students on someone else's body. The teacher was arrested in October 2009 and subsequently convicted in November 2011 of seven counts of indecent liberties with a

child and indecent liberties with a student, and sentenced to 18-22 months in prison on each count, consecutively.

Case C

As discussed in the report, sexual abuse and misconduct by school personnel may include a range of behavior. In some cases, behavior by school personnel that is not criminal may still be inappropriate. In November 2006, the mother of a 16-year-old female student contacted the local police department with an allegation of an inappropriate relationship between her daughter and a female high school teacher/softball coach. The mother became concerned after she:

- found letters in her daughter's purse that she suspected were from the teacher;
- became aware of her daughter skipping classes to stay in the teacher's classroom;
- found out that her daughter had been seen on the athletic track with the teacher;
- learned that the teacher had driven her daughter home from school; and
- realized that her daughter had visited the teacher's residence.

In response, the police initiated an investigation that found that the relationship between the teacher and the student had progressed to a sexual relationship. Although the teacher was prosecuted and convicted of sexual assault, the state supreme court later overturned the teacher's criminal conviction because the student had reached the state's age of consent at the time of the sexual relationship. Following this case, the state changed its law to provide that consensual sex between a student and teacher, who has supervisory or disciplinary authority over the student, constitutes sexual assault even if the student is at or past the age of consent. The student was not in the teacher's class, but the court recognized that, on occasion, the student was subject to the teacher's authority while she was assigned to cafeteria duty and, as a student in the school, is expected to obey teachers because they are faculty members.

In addition, as discussed in more detail in the body of this report, preventative measures such as training may not necessarily prevent sexual abuse or misconduct by school personnel. In this case, the teacher, according to the principal, would have received annual training that identified standards of conduct for educators, which included what constitutes inappropriate behaviors between school personnel and students.

Case D

As discussed in the report, addressing allegations of sexual abuse or misconduct by school personnel can be facilitated by communication between the various agencies involved. In 2011, a mother reported to the local police department an allegation of an inappropriate relationship between her son, who was 17 years old at the time, and his former middle school bus driver. The mother made the report after finding suspicious items, including three pairs of women's panties and photos of the female bus driver, clothed, on her son's USB flash drive. The police interviewed her son, who told the detective that he and the bus driver loved each other and planned to get married when he turned 18 years old. He further stated to police that in 2009, when he was 15 years old, the bus driver engaged in a sexual encounter with him. The police immediately arrested the bus driver, who confessed to the sexual encounter during their initial interviews. The police formally notified the school district, per an agreement between law enforcement and the school district, and the bus driver was placed on suspension. The investigation revealed that the incident was a singular sexual encounter and did not identify other victims or prior complaints of inappropriate contact or allegations involving students against the bus driver. The bus driver was convicted in 2012 of taking indecent liberties with a child, received a sentence of 5 years in prison (of which 4 were suspended and 1 was stayed for 10 years), and was ordered to register as a sex offender, have no contact with the victim, obtain treatment from a licensed therapist, and to make a one-time restitution payment to the victim to cover the cost of his counseling treatment. Upon the conviction, the school district terminated the bus driver's employment. Law enforcement officials who investigated the case reported that they had a good working relationship with the school district.

Case E

In another example of inter-agency cooperation, in August 2011, a mother contacted the county sheriff's office to report allegations of inappropriate text messages and pornographic images on her 16-year-old daughter's cell phone from a male high school coach. Upon receiving the initial report, the sheriff's office notified school officials about the allegation and worked collaboratively with the school district to ensure appropriate administrative action. The principal said that at the time the high school did not have a policy that prohibited educators from interacting with students by cell phone or Internet. During interviews with detectives, the coach admitted that he sent inappropriate messages and images to the victim. In September 2011, the coach pled guilty to a charge of sexual battery of a minor and was sentenced to a term of 10 years. The sentence was suspended and he was placed on probation for 10 years and required to register as a sex offender. While there were no formal

policies or procedures for how the prosecutor or detective worked with school officials, such collaboration did occur in this case. The prosecutor's office obtained a conviction of sexual battery of a minor within 30 days of the initial report. The detective said the outcome of the investigation could not have been any better. He said they were able to investigate the crime and obtain a guilty plea in a short period of time – crediting the prosecuting attorney and cooperation they received from family and school personnel.

Appendix III: Comments from the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

WASHINGTON, D.C. 20202

THE ASSISTANT SECRETARY

December 18, 2013

Ms. Kay E. Brown
Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Brown:

I am writing in response to the recommendations made in the U.S. Government Accountability Office (GAO) draft report, "Child Welfare: Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel" (GAO-14-42). I appreciate the opportunity to comment on the draft report on behalf of the U.S. Department of Education (Department).

We appreciate GAO's thorough review of how states, school districts, and the federal government address child sexual abuse by public K-12 school personnel. The Department shares the view, outlined in the report, that sexual abuse by school personnel raises particular concerns because of the trust placed with schools. Child sexual abuse has a wide array of significant detrimental consequences on the physical, psychological, academic, and behavioral development of children. As this report acknowledges, the Department has voluntarily undertaken efforts to address the issue of sexual abuse of students. Still, there remains much that needs to be done.

The report has offered recommendations, and we provide our responses to these recommendations below in addressing this most important issue.

Recommendations: *In order to help inform federal, state, and local initiatives to prevent and respond to child sexual abuse by school personnel, the Secretary of Education should lead an effort, in collaboration with the Secretary of HHS and the Attorney General, to leverage resources, expertise, and capacities across the departments to:*

- *Develop a comprehensive package of materials for states, districts, and schools that outlines steps that can be taken to prevent and respond to child sexual abuse by school personnel. For example, this could include compiling, assessing, and enhancing information on existing guidance, training materials, grant opportunities, and other resources;*

www.ed.gov

400 MARYLAND AVE., SW, WASHINGTON, DC 20202

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- *Determine the most cost-effective way to disseminate federal information so that relevant state and local educational agencies, child welfare agencies, and criminal justice entities are aware of and have access to it; and*

- *Identify mechanisms to better track and analyze the prevalence of child sexual abuse by school personnel through existing federal data collection systems, such as the School Survey on Crime and Safety, the National Child Abuse and Neglect Data System, and the National Crime Victimization Survey.*

Response: While state and local agencies in education, child welfare, and criminal justice systems lead the efforts to prevent, detect, and respond to cases of sexual abuse of and misconduct toward students by public K-12 school personnel, the Department agrees that there is an important federal role in adequately informing and equipping these partners to address the prevention of and response to child sexual abuse by school personnel. The Department is taking action to revise its Adult Sexual Misconduct training module offered through the Office of Safe and Healthy Students to target a wider audience, including school volunteers. In addition, the Department will explore ways, given available resources, to collaborate with the Departments of Health and Human Services and Justice to develop resources and provide more comprehensive technical assistance, in a cost-effective manner, to our various stakeholders. To the extent possible, the Department will explore methods to better track and analyze the prevalence of child sexual abuse by school personnel. In addition, although the Federal government is well positioned to help States and localities address these issues, the Department believes it is vital that all states have a policy requiring background checks of all adults working with students.

Recommendation: *To help ensure that Title IX requirements to prevent and address sexual harassment, including sexual abuse and misconduct by school personnel against students, are carried out appropriately at public K-12 schools, the Secretary of Education should clarify and disseminate information on the roles and responsibilities of Title IX coordinators and more clearly emphasize that Title IX also applies to public K-12 schools and to cases involving school personnel-to-student sexual abuse and misconduct. For example, Education could update its existing Title IX guidance to specifically include information about adult-to-student sexual abuse and the applicability of Title IX to K-12 schools, examples of the types of behavior that may violate Title IX, and instructions on how to ensure school personnel can effectively carry out their responsibilities.*

Response: The Department shares GAO's interest in clarifying and disseminating information about the protections available to K-12 students who are sexually abused or mistreated by school personnel. The Office for Civil Rights (OCR) is currently developing guidance on peer sexual violence that will supplement its existing body of guidance on sexual harassment. In that document, OCR will again make clear that Title IX applies to sexual harassment at the K-12 and postsecondary levels and remind schools that Title IX also prohibits sexual harassment of students by employees, as it will reiterate principles

2

from OCR's prior guidance, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (2001), which included a section entitled "Harassment by Teachers and Other Employees," as well as *Sexual Harassment: It's Not Academic* (2008), which stated numerous times that employee-on-student sexual harassment is prohibited under Title IX. The new document will also provide clarity and information on the roles and responsibilities of Title IX coordinators. Additionally, OCR plans to develop policy guidance focusing on schools' requirement to designate a Title IX coordinator and explaining coordinators' roles and responsibilities in the K-12 and postsecondary settings. These resources will make clear that Title IX prohibits sexual harassment of students, including sexual abuse and misconduct by school personnel, and that Title IX coordinators are responsible for overseeing and coordinating a school's obligation to respond to sexual harassment of which it knows or reasonably should know, including sexual harassment by school employees.

We appreciate the opportunity to review the draft report and comment on the recommendations. I am also enclosing a document with technical comments.

Sincerely,

Deborah S. Delisle

3

Appendix IV: GAO Contact and Staff Acknowledgements

GAO Contact:

Kay Brown, (202) 512-7215 or brownke@gao.gov.

Staff Acknowledgements:

In addition to the contact named above, individuals making key contributions to this report were Sara Schibanoff Kelly, Assistant Director; Melissa Jaynes; Avani Locke; and Claudine Pauselli. Also contributing to this report were James Bennett, Gary Bianchi, Sarah Cornetto, Paul Desaulniers, Holly Dye, Wayne McElrath, Joel Marus, Jean McSween, Ramon Rodriguez, Almeta Spencer, Julie Spetz, and Helina Wong.

Related GAO Products

Child Care: Overview of Relevant Employment Laws and Cases of Sex Offenders at Child Care Facilities. GAO-11-757. Washington, D.C.: August 19, 2011.

Child Maltreatment: Strengthening National Data on Child Fatalities Could Aid in Prevention. GAO-11-599. Washington, D.C.: July 7, 2011.

K-12 Education: Selected Cases of Public and Private Schools That Hired or Retained Individuals with Histories of Sexual Misconduct. GAO-11-200. Washington, D.C.: December 8, 2010.

Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers. GAO-09-719T. Washington, D.C.: May 19, 2009.

Residential Facilities: Improved Data and Enhanced Oversight Would Help Safeguard the Well-Being of Youth with Behavioral and Emotional Challenges. GAO-08-346. Washington, D.C.: May 13, 2008.

Residential Treatment Programs: Concerns Regarding Abuse and Death in Certain Programs for Troubled Youth. GAO-08-146T. Washington, D.C.: October 10, 2007.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (http://www.gao.gov). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to http://www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, http://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube. Subscribe to our RSS Feeds or E-mail Updates. Listen to our Podcasts. Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: http://www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Please Print on Recycled Paper.