

## Understanding Sexting

A continuing trend in social networking is sexting – texting, posting or emailing sexually explicit pictures over the Internet. When the subject of the photo is under the age of 18, the pictures are considered to be child pornography, with very serious legal consequences. U.S. surveys have found that 20 per cent of teens have sent nude photos of themselves to others electronically. Almost half of teens have received sexually suggestive messages.

Understandably, law enforcement agencies do not view the practice lightly. We have seen cases in Ontario where teens with access to pictures have been charged with possession of child pornography, while those who forwarded the pictures on to others have been charged with distribution.

In one U.S. case, a teen charged with transmitting child pornography is now a registered sex offender – a label he will carry for 25 years. Most young people seem to have little or no understanding of the legal and moral implications of sexting.

### Life Consequences

As with other social media, while students now understand what sexting is, they are not taking the consequences seriously: there is no way to “get the pictures back” once they have been sent, others can distribute the images to anyone without your consent or knowledge and the pictures remain in cyberspace indefinitely. Employers and universities are looking into a student’s past by checking their “digital footprint” on the Internet. Finding sexually explicit photos – even if they were posted years earlier – can have devastating and long-term consequences on the lives of students.

### School Consequences

Students need to understand the definition of sexting and the seriousness of it. Take time at the beginning of the school year to explicitly address the issue in homeroom classes and/or during an assembly. Codes of Conduct and/or appropriate use of electronic equipment policies should be updated to include sexting as an offence. Keep the changes general in nature, so they can cover other inappropriate activities. Check to see if your police/board policy covers possession of child pornography, requiring a call to police.

Be aware of amendments to the *Child and Family Services Act* that impose additional reporting responsibilities on educators in respect of child pornography, which is considered sexual abuse and falls under the duty to report. In the *Education Amendment Act*, principals are directed to consider whether behaviour “will have an impact on the school climate.” The behaviour can be subject to discipline even if it did not occur at school or while the student was engaged in a school-related activity. Sexting could fall under this category. Some boards have issued suspensions for sexting under the “conduct injurious to the moral tone of the school” category.

Sexting can also be a bullying issue, if images and/or videos are spread to other students with

malicious intent. This also will turn into a legal issue.

Check with your S.O. to see if the board has expanded policy language to cover sexting and other inappropriate social media misbehaviours. Encourage the board to provide in-service to school leaders on this issue.

Make sure parents are informed as well. Draft an explanatory letter with the definition of sexting and the school consequences, and make sure every parent receives a copy. Add this information to the Parent Handbook and post it on your website and social media platforms. Review it at the first School Council meeting and during Curriculum Night. Many parents may not be aware of sexting or may not understand its seriousness, in school and legally.

### **Legal Consequences**

In Canada, it is not illegal for a teenager under the age of 18 to possess a naked photograph of him/herself or to have a picture of a consensual partner for private use, provided it was “created” by the person having possession of it. According to the Supreme Court of Canada, it is considered a crime when the picture is distributed to a person not depicted in it or part of its creation, as this would amount to child pornography.

It is possible for minors to be convicted under Canada’s child pornography laws, as was the case for a 17-year-old girl from B.C. after she was caught sending nude photos of her boyfriend’s ex to her friends.

According to the Hamilton Police, children under the age of 18 who are involved in any sexual offences can be charged and incur a criminal record, and/or be added to the sex offender registry list.

It is important for students to know the seriousness of the legal implications surrounding sexting. Make sure that both students and parents have access to information about the implications and consequences through a letter or on your school website.

Sources:

Macleans Magazine

Montreal Gazette

Ottawa Citizen

National Post

Hamilton Police

Supreme Court of Canada: R. v. Sharpe, [2001] S.C.J. No. 3, 2001 SCC 2.