Ala. Code 1975, § 13A-6-81*

SCHOOL EMPLOYEE ENGAGING IN SEX ACT WITH A STUDENT
(Under Age of 19)

*** [These instructions apply only to offenses committed on or after 07/01/2019]**

The defendant is charged with being a school employee engaging in a sex act with a student under the age of 19.

A person commits the crime of being a school employee engaging in a sex act with a student under the age of 19 if he/she is a school employee and engages in sexual intercourse or sodomy with a student.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

(1) The defendant was a school employee;

(2) **[Insert Name of Victim]** was a student under the age of 19 years old at the time of the offense;

(3) The defendant engaged in sexual intercourse or sodomy with **[Insert Name of Victim]**; **[AND]**

(4) The defendant acted **[Insert Appropriate Mens Rea Element – See Use Notes]**.

A *school employee* includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority or any other school employee who has contact with a student in his/her official capacity as a school employee. [13A-6-80(a)]

A *student* is any person under the age of 19 years enrolled or attending classes in a licensed or accredited public, private, or church school that offers instruction in grades K-12, regardless of whether school is in session. [13A-6-80(b)]

Sexual intercourse has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. [13A-6-60(4)]

Sodomy is any sexual act involving the genitals of one person and the mouth or anus of another person. [13A-6-60(5)]

[Read as appropriate]: It does not matter whether the student was

male or female. [13A-6-81(a)]

[Read as appropriate]: Consent is not a defense to a charge under this law. [13A-6-81(a)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of being a school employee engaging in a sex act with a student under the age of 19, then you shall find the defendant guilty of being a school employee engaging in a sex act with a student under the age of 19.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of being a school employee engaging in a sex act with a student under the age of 19, then you cannot find the defendant guilty of being a school employee engaging in a sex act with a student under the age of 19.

[If there are lesser-included offenses, the Court should instruct on those offenses at this point.]

Use Notes

The statute does not state a specific mens rea element. Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly, and with criminal negligence. See 13A-2-2.

(1) A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

(2) A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is that of a nature or that the circumstance exists. [13A-2-2(2)]

(3) A person acts *recklessly* with respect to a result or to a circumstance when he/ she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]

(4) A person acts with criminal negligence with respect to a result or to a

circumstance which is defined by statute as an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [13A-2-2(4)]

[Approved 05-29-26]