

TURNING A BLIND EYE SEXUAL ABUSE IN CALIFORNIA SCHOOLS

A WHITE PAPER PRESENTED BY THE TRIAL LAW FIRM OF



TAYLOR RING

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SEXUAL ABUSE IN CALIFORNIA SCHOOLS



THE HEADLINES ARE SHOCKING:

“Teacher of the Year accused of molesting student, charged with 5 felonies” or “Moraga school district settles 90’s sex abuse claims for \$14 million.”

Tragically, these stories are common and all too often underreported.

In our public and private schools, child sexual abuse is frequently hushed up and handled quietly by asking a teacher to find new employment. Recommendations leave out any mention of misconduct issues and the perpetrator can continue the abuse of children at a new school; this is often called “passing the trash.”

Sexual abuse in education receives little national media attention and nowhere on the scale of the Catholic Church abuse scandals. Coverage of these stories stays local in all but the most egregious cases when victims come forward.

HOW PREVALENT IS SEXUAL ABUSE IN OUR SCHOOLS?

A 2004 study conducted by the U.S. Education Department is the most widely cited study looking at the issue.¹

It estimated that one in 10 students suffered sexual abuse by a teacher during their school years (10%).



The Centers for Disease Control and Prevention estimates one in four girls and one in six boys experiences some form of sexual abuse before they turn 18.

To address this epidemic, attorney David Ring doggedly pursues abusive teachers and coaches along with the school administrators, principals and school districts protecting them. By amplifying the voices of those affected by sexual assault and misconduct, he has obtained significant civil monetary judgments forcing institutional change.

CIVIL LAWSUITS: A POWERFUL REMEDY

In a civil matter, the victim or plaintiff files a lawsuit requesting monetary damages against an abuser – and anyone who turned a blind eye: the defendant(s).

The victim can recover economic damages such as therapy bills, but more importantly can recover noneconomic damages for emotional harm, pain and suffering and psychological distress.

Most victims of abuse suffer from PTSD, post-traumatic stress disorder. The abuse impacts them for many years.

A jury can award monetary damages to compensate the victim for not only the actual abuse, but also the life-long injuries the abuse will cause the victim to endure.

Most civil lawsuits settle prior to jury trial. Thus, a victim who fears testifying in court should still speak with an attorney about bringing a civil suit. There are many ways to protect the victim in a lawsuit, including shielding their name in any court documents.

SB 14 ELIMINATES CONSENT AS A DEFENSE

In July 2015, Governor Jerry Brown signed legislation that closed a loophole in civil law providing greater protection to victims of childhood sexual abuse.

Why was the change necessary? In one case, a 14-year-old girl was sexually exploited by her teacher. The teacher received a three-year sentence in criminal court. In the civil lawsuit against the school district for negligent hiring and supervision, however, the school district avoided civil liability, in part, by arguing the 14-year-old student consented, or welcomed, the sexual acts committed on her by her adult teacher.

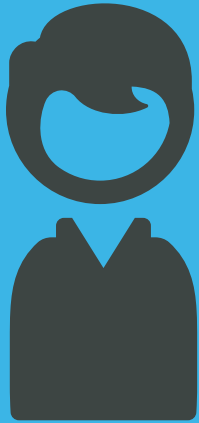
Pursuant to California penal code and case law,² it is no defense to criminal charges if a minor appears to consent to sexual touching. Civil law was less clear.

When the public learned of the school district's tactics, there was outrage, which prompted the legislature to adopt a new law that prohibited any use of the "consent" argument in a case where a minor was sexually assaulted by an adult in a position of authority.

The new law will prohibit defendants such as relatives, teachers, coaches, religious leaders, therapists and others who hold similar positions of trust from arguing that the sexual acts were consensual.

Existing law also bars a defendant from bringing up a minor's sexual history as part of a defense strategy.

FLATTERY: A COMMON ADJECTIVE IN VICTIMS' ACCOUNTS



"He paid a lot of attention to me... it was flattering and nice."

"I liked that he was flirting with me."



CASE NOTE #1

High school female students sexually harassed and abused by "everyone's favorite English teacher" shared similar accounts. Individual meetings strayed from an interview for a school newspaper or help with a paper on romantic poetry and moved toward flirting. Now adults, both women describe how the teacher made them feel beautiful and followed up the compliments by placing his hand on their knees.

Girls complained to the administration about the conduct, but little was done in response.

Finally, after years of exploiting girls in his class, the perpetrator was caught and arrested, but not before the first school attempted to hand him off to another school so they could rid itself of a problem teacher after the complaints kept piling up.





CASE NOTE #2

In a separate case from the mid-1990s, several Moraga female middle school students were sexually abused by a popular male teacher. One girl wrote a letter to the principal once she left the middle school and told him that the teacher had molested her. The principal received the letter and showed it to the superintendent, yet they did nothing.

They simply put the letter in a file and shrugged their shoulders. They told the perpetrator to “be careful.” The perpetrator realized the administrators would do nothing even if they got a direct complaint, and he continued abusing other girls, knowing he could easily get away with it. And he did.

The stories are hard to read, because teachers and coaches occupy a special place of trust. But the abuse of this trust can occur in public schools and the most distinguished private schools. Moreover, it is not limited to male teachers abusing female students; female teachers and coaches may also take advantage of their young male or female students.

Remedies do exist for victims of childhood sexual assault, even if they come forward years after the abuse has ended. The law allows them to do so.



DELAYED DISCLOSURE: HOW LONG DOES A VICTIM HAVE TO FILE A LAWSUIT?

The statute of limitations is the amount of time that a plaintiff can file a lawsuit related to childhood sexual abuse.

Determining this correct limitations period can be very complicated in California.

Generally, in California, a victim of child abuse can sue up until age 26. Sometimes, if certain facts exist, they can sue beyond age 26. However, once a parent learns of the abuse, they should not delay in talking to a civil lawyer. Delay can hurt the victim’s case, even if the law allows a long time to file suit. Memories fade, witnesses disappear. Despite the long statute of limitations, it is important to consult with a lawyer right away.

There are different statutes of limitation for different types of claims. Some are as short as six months from the incident. Others are two years. Others are longer. All three types can be applicable in a case of sexual abuse, even if the victim is a child. It is important to consult with a lawyer who knows child abuse laws to ensure the correct time frame is applied to the case.

Often the police or a prosecutor will tell the parents of an abuse victim to “wait until the criminal case is over before you go to a lawyer for a civil lawsuit.” That is bad advice. Do not follow that advice.

That could cause a victim to be barred from bringing a civil case by waiting too long. The pending criminal case does not excuse the victim or his or her parents from filing a timely civil lawsuit.

WHAT ARE THE STATUTES OF LIMITATIONS FOR CHILDHOOD SEXUAL ABUSE IN CALIFORNIA?

Eight years from the victim’s 18th birthday or three years after the victim realizes that physical or psychological injury has resulted from childhood sexual abuse, no matter what the victim’s age.

SIGNS, SYMPTOMS THAT SHOULD CAUSE CONCERN

Inappropriate sexual conduct at school can range from lewd or suggestive comments via text or chat to sexual touching and grabbing.

Up to 40 percent of sexually abused children exhibit **no immediate signs of abuse.**

40%

Parents can easily overlook or fail to follow up on warning signs. Children may provide subtle hints to test reactions. Disclosures often unfold gradually without a direct, clear account.

The long-term, damaging psychological effects are similar for male and female victims and include depression, substance abuse, self-injury – including attempts at suicide – and dysfunctional relationships.

Due to a fear of a negative reaction from parents or threats of harm from the abuser, many victims do not disclose sexual assault until they are adults. Boys tend to report less often due to extreme embarrassment and fear of how their classmates and others will react if they find out.³



A TICKING CLOCK WHEN PARENTS UNCOVER ABUSE

Children are unlikely to make up stories about abuse. When children do disclose unwelcome sexual conduct, it is most frequently to a friend or sibling.

When you suspect that your child has suffered sexual abuse, first call the police and then call an experienced civil lawyer.

After becoming aware of inappropriate sexual conduct, it is extremely important for parents to speak with an attorney who has experience handling civil sexual abuse lawsuits. A good lawyer will help the family through the maze and confusion of the criminal proceedings.

The lawyer will stay in the background, out of the way of the criminal investigation, but he or she can be invaluable in explaining the process and ensuring that it goes as smoothly as possible for the victim.

THE IMPORTANT FIGHT TO END SEXUAL ABUSE IN CALIFORNIA SCHOOLS

The epidemic of school districts turning a blind eye to inappropriate sexual conduct between teachers and students in our schools must end.

School districts need to act quickly, investigate allegations promptly and take appropriate action whenever a student or parent raises an allegation of sexual abuse.





When districts fail to investigate, do not offer adequate training and supervision or provide glowing (but false) recommendations to problem teachers in order to move them to another school, then civil lawsuits can force the districts to change this behavior. The criminal system does not address this conduct; it is merely aimed at punishing the perpetrator of the abuse.

Holding school districts and administrators and perpetrators responsible through civil litigation is an important way to end the epidemic and bring about permanent change with new policies and training for teachers and coaches.

Source Information

1 "Educator Sexual Misconduct: A Synthesis of Existing Literature," U.S. Department of Education (<https://www2.ed.gov/rschstat/research/pubs/misconductreview/report.pdf>) 2004

2 Cal. Penal Code § 288(a); People v. Lopez, 19 Cal. 4th 282, 293 (1998)

3 <http://www.nolo.com/legal-encyclopedia/statutes-of-limitations-lawsuit-timeline-faq-29038-4.html>



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