

By Gloria Seidule and Daniel Pollack



Battling the Cover-Up Culture of Child Sexual Abuse in Schools

Too many schools are failing in their responsibility to keep children safe from sexual abuse. The doctrine of *in loco parentis* demands that schools assume the responsibility of the parent to keep a child safe at school. Often, instead of protecting children, schools have been covering up sexual abuse of children by teachers, failing to investigate and report alleged abuse, and allowing teachers to silently leave. Not surprisingly, this allows them to find employment as teachers elsewhere, free to resume their predatory behavior.

This “passing the trash” policy has been well-publicized regarding sports, religious, and fraternal institutions. Schools are where children leave the protection of their parents to learn in a presumptive safe environment. How, and why, are some failing to adequately protect our children?

A Recent Case

A school district recently settled a lawsuit by paying above the state statutory immunity limits in a Florida case after the trial court denied the school board’s Motion for Summary Judgment, thereby paving the way for a jury trial for federal and state liability under federal and state law.¹ The facts of this case illustrate the increasingly brazen attitude of schools to cover up sexual abuse by teacher/predators. In the end, the teacher was criminally convicted and sentenced to consecutive life terms by a jury.

In 2011, six high school freshman girls and a parent complained to the administration that the English teacher was engaged in inappropriate sexual touching and harassment. The human



resource director decided to handle the matter “internally” and violated Florida law by failing to notify the Department of Children and Families pursuant to Florida Statute 39.201. Among other things, the internal investigation substantiated the teacher was giving favorable grades to females over males. The students accused the teacher of:

- regularly hugging females;
- making sexual comments to females;
- touching females on their backs, knees, shoulders, wrists, and hips;
- asking female students if they were “on their period” while touching their knee;
- telling a female she did not need to place Styrofoam in her shirt because “any guy would be lucky to have you”; and,
- forcefully embracing a female to the point that she screamed “rape.” The teacher responded “Oh, don’t compliment me like that.”

The school board took no disciplinary action against the teacher, choosing instead to issue a “Letter of Concern” pursuant to a “Progressive Disciplinary Policy” that the teacher was not required to sign and that was not placed in his personnel file. The human resource director told the school resource officer, employed by the Sheriff’s Office, of only one student victim. This officer later testified that if he had known about all of the victims’ complaints, he would have notified his superiors so they could conduct a full-blown investigation.

By failing to notify authorities, the school board swept the allegations under the rug and allowed the teacher to return to the classroom with no discoverable disciplinary action on his record, and no monitoring, supervision, or plan to prevent future abuse.

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Two years later, six more female students came forward with allegations that the teacher was engaging in inappropriate sexual contact with them. The allegations were substantially similar to the prior complaints, but the teacher's actions had escalated to include private, off-campus meetings to engage in sexual activity, placing a mirror under his desk to view females who had been placed in a chair in front of the mirror, distributing cash gifts, and "making out" in the classroom during school hours behind a locked door with the window blinds closed.

When the new allegations were reported to the school board, it hastily approved the teacher's "medical leave" due to "a back injury." The school board once again failed to notify the proper authorities. After the medical leave was approved, a parent reported the teacher to the Sheriff's Office. The police conducted an independent investigation, which resulted in the teacher's arrest and a news release with local news coverage. Only after the arrest did the school board terminate the teacher's employment.

One shudders at the prospect of this teacher being granted a "medical leave" and stealthily removed from his employment with no record of investigation or discipline in his personnel file. Court documents provide irrefutable evidence that the school used its clout and influence to keep the public ignorant of the real facts. The documents show a pattern of denial and efforts at suppression of information, a conscious determination to downplay damning information.

What Went Wrong?

Under federal law, employees acting in an official capacity must be found to have been deliberately indifferent to the safety of the children charged to their care. In this case, after numerous depositions and discovery, the evidence supported a culture within the school district, starting with administration and risk management personnel, and conveyed to

principals and teachers, with the sole purpose of hiding the truth in an effort to protect the institution rather than the children.

Staff training to report a "reasonable suspicion" of child abuse to the police and state agencies was present, but was not followed. Theories for this deliberate indifference, such as bad publicity, legal problems with the teachers' union, fear of retribution, embarrassment, or liability, are potential explanations. Certainly teachers can be subjected to retaliatory student complaints. However, ignoring numerous complaints and violating the law should never be an option.

The school board's "Progressive Disciplinary Policy" allowed numerous violations to take place with an increasingly more serious disciplinary action before the teacher could be terminated. This policy proved ineffective because sexual predators are known to continue their abuse and even escalate their actions, given the opportunity.

What Can Be Done to Protect Students?

When the interests of the schools and their personnel are given precedence over the safety of children, outside regulators and authorities need to have the tools and knowledge to step in and permanently remove sexual predators from the classroom. Self-regulation needs to be eliminated. Administrators and teachers should be trained on how to recognize sexual abuse and sexual predators. When any teacher is reprimanded or terminated for inappropriate sexual conduct it should be well-documented in their personnel file to deter future employment as a teacher. Schools should face penalties for failing to report abuse. Close monitoring of teachers, clear guidelines for reporting, and clear messages of "zero tolerance" for any sexual behavior by a teacher with a student should be grounds for dismissal, with an explanation of the reason for dismissal clearly stated in the personnel file.

School cover-ups can be stopped. The knee-jerk first response should not

be emphatic denial. Indeed, an institution's efforts to keep the public in the dark often backfire. As many have observed, like Watergate, the cover-up is often worse than the crime. In the end, President Nixon admitted, "With hindsight, it is apparent that I should have given more heed to the warning signals I received along the way about a Watergate cover-up and less to the reassurances."²

School must no longer hide or ignore the truth. Schools have a zero tolerance policy for teachers for certain crimes such as possession of drugs that are grounds for automatic dismissal. Why should the sexual abuse of a student not be included in the list of actions that can result in automatic dismissal? Zero tolerance policies for sexually inappropriate actions should be instituted to send a clear message to potential employees that such behavior will not be tolerated. If an allegation is made, immediate removal, pending investigation by outside sources, should be instituted. If substantiated, the teacher should be automatically terminated from employment. If not, sexual predators will be given the green light to continue their predatory activities in the easy hunting grounds that many schools have become. 

Reference Notes

- 42 U.S. Code § 1983; Title IX of the United States Education Amendments of 1972, Public Law No. 92-318, 86 Stat. 235; Fla. Stat. 768.28 [Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs] (2017).
- See <http://www.nytimes.com/1973/05/23/archives/text-of-a-statement-by-the-president-on-allegations-surrounding.html>

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