

McGrath Newsletter Series

The Psychodynamics of School Sexual Abuse Investigations

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Sexual abuse of school children by educators is far more prevalent than we would like to believe. During 18 years of legal practice representing school boards, at least 40 percent of the school-employee discipline cases I have worked with have involved sexual misconduct by employees toward students.

A recent study commissioned by the American Association of University Women reported that 81 percent of students surveyed in grades 8-11 said they had been sexually harassed or abused in school, 18 percent of them by school employees. In her 1991 book *Educator Sexual Abuse*, Idaho educator Sherry B. Bithel estimates that one in 20 teachers has engaged in sexual misconduct with students, ranging from obscene comments to sexual intercourse.

When an educator is accused of sexual abuse, the key to fair and just resolution is prompt, thorough investigation. In sexual abuse cases, the facts may be hard to find unless the investigator understands the thought processes and emotional concerns of all those involved.

Hard experience from hundreds of interviews has taught me the strategies that allow for successful investigation and appropriate handling of employee discipline cases involving sexual abuse. Be forewarned that this approach differs from the one used to investigate competency cases or cases involving other kinds of employee misconduct.

Working Definition

A recent article by Florence Webb of the Association of California School Administrators has provided valuable insight into defining sexual abuse in an educational setting. Adult-to-student sexual abuse in schools has three elements:

any behavior by an adult (2) directed at a student(3) that is intended to sexually arouse or titillate the adult or the child. The behavior includes touching parts of the body, including breasts, genitals, or buttocks, as well as exposure of the genitals, verbal propositions, or conversations of a sexual nature.

This is a working definition for purposes of employee discipline. It is based on behavior that is likely to harm children and deprive them of a sense of physical or psychological safety. It is not the definition used to delineate criminal conduct. Terms such as "statutory rape," "child abuse," "assault," and "battery" have other more limited definitions designed to punish criminals.

The issue of fault arises when sexual involvement between school employee and student comes to light. In a recent newspaper article detailing three cases of sexual misconduct, parents and students were quoted as saying: "The girls ought to know not to go out with teachers" and "I don't think we can dump this all on the adults and say, 'This is all your fault.' Teenagers have brains."

Psychiatrist and sexual abuse expert Roland C. Summit takes a contrary position on responsibility. In an article for *Child Abuse and Neglect*, he argues, "[Assuming] that an adolescent can be sexually attractive, seductive, and even deliberately provocative, it should be clear that no child has equal power to say 'no' to a parental figure or to anticipate the consequences of sexual involvement with a caretaker. Ordinary ethics

demand that the adult in such a mismatch bear sole responsibility for any clandestine sexual activity with a minor."

Many authorities question whether a student can ever authentically consent to sexual activity with an educator because of the inherent power differences that exist between them. In his concurring opinion in the 1994 case of *Doe v. Taylor Independent School District, Court of Appeals Judge Patrick E. Higginbotham said*, "Make no mistake about it. This is not a case about a high school coach who happened to have an affair with a student. It is about abuse of power."

When sexual overtures are made to a student by someone seen by the student as a caregiver, the effects on the student are likely to be traumatic, says David Finkelhor, in *A Sourcebook on Child Sexual Abuse*. The same sense of betrayal and shame that attaches to incest can be found in cases where a pseudo-parental relationship has been sexualized.

I have encountered a great deal of anger and disbelief on the part of educators when they hear the kinds of statistics cited earlier. Their anger comes partly in the grief process that accompanies a colleague's violation of trust. Often colleagues express intense anger, first toward the victims for coming forward, then at the administration and other people who are responsible for an investigation. "Witch hunt!" they cry.

Many educators feel attacked as a group. Others feel unappreciated and tainted unjustly by the situation. Still others fear they too will be investigated, a subject I will address later.

If anger and disbelief go unrecognized or ignored during an investigation of a staff member, a backlash can occur midway through the process. The potential reaction can be minimized if anger and disbelief are acknowledged as a normal emotional response during an investigation. School employees need to know that administrators understand their feelings and are doing their best to respect everyone's rights.

Interview Essentials

Investigation of child sexual abuse allegations should include a broad interview field. Initially investigators are following up on rumors, a painstaking process of interviewing adults and students in the environment around the situation to determine what each knows.

The investigator must track down every lead given in an interview. Quite often, proof of an abusive incident is found by piecing together information from a number of people who either have been told about it by the victim or who have seen some aspect of it themselves. If every lead is not investigated, the "smoking gun" may be missed and an investigation will come up negative, when in fact abuse has occurred.

Much of the criticism leveled against school administrators for the way they have investigated sexual abuse cases is unwarranted. We expect educators to step into an emotionally charged situation and conduct interviews that require a highly trained and skilled investigator. Interviewing witnesses, the alleged victim, and the accused is a delicate process that should only be undertaken by an investigator with extensive experience­someone who understands the legal, emotional, and psychological dynamics at play.

Unless school personnel are highly trained for this type of investigation, the best results will be obtained by outside investigators with a proven track record. Under no circumstances, given the inherent conflict of interest, should interviews be conducted by administrators from the same school as the accused. Also, it is vital to be gender sensitive, i.e., using a female interviewer with a female interviewee.

Boundary Questions

Interviews should be focused broadly, looking for "boundary violations." Human boundaries create a sense of safety and security. For example, when we stand in a crowded elevator with strangers, most of us stare uncomfortably at the floor indicator, unable to tolerate such close proximity with others. It violates our physical boundaries.

In a school setting, boundary violations often involve marginally inappropriate behavior that may or may not constitute sexual abuse. Young people instinctively recognize these boundary violations and often nickname the employee engaged in such violations as "pervert," based on their perceived sense of inappropriateness.

Physical contact with a student is not necessarily a boundary violation. An appropriate hug or a pat on the back communicates emotional warmth. Behaviors that signal an employee's lack of respect for a student's sense of appropriateness and safety, however, are clues to a potential underlying problem.

We experience a whole range of reactions when boundaries are violated. Frequently, in the legal cases I handle, a teacher observes the inappropriate behavior of a colleague and goes away with a sense that something didn't "feel right." In one case, a teacher saw a colleague holding a young student in his lap on several occasions for what seemed a little too long and a little too close. The teacher had an uncomfortable feeling about the situation but questioned her own judgment as to whether a problem existed.

A number of times, people I interviewed told me they woke up in the middle of the night and could not get back to sleep because they kept thinking about a questionable situation they had seen or heard. That is the boundary warning system at work.

Often an observer has difficulty putting his or her feelings into words and ends up hesitant to relay the observation to another, particularly a supervisor. Because these incidents are usually not sexual abuse, but rather a clue that something may be amiss, many times they go unreported.

A good investigator learns to trust this sense of boundaries and notice when the warning system activates. It is important to explain the nature of boundary violations to the individuals who are being interviewed and to encourage them to mention any observations during the interview or to a supervisor. If it doesn't feel right, it deserves further consideration.

Often, boundary violations serve as a "bread crumb" trail leading to abusive behavior. Most school employees automatically set clear boundaries for behavior with students. The perpetrating adult, however, will go as far as the child permits. The clear projection of boundaries by the adult distinguishes a friendly teacher from the one students call "pervert."

If an investigator follows the trail pointed out by his or her sense of appropriate boundaries, sometimes it leads to a school employee with poor judgment who needs a wake-up call. But unfortunately, all too often an investigator finds sexual abuse.

Many times, the victim of such abuse has had life experiences that have left him or her with a confused sense of personal boundaries. This student is unable to deter inappropriate behavior of the adult. Often the young person targeted by an abusive adult is the one who is hungry for attention, love, and understanding. The student bonds tightly with the adult based on trust and affection. As the situation progresses, the adult takes advantage of that trust and crosses the boundary into various types of sexual misconduct.

Traumatized Victims

Many psychological defense mechanisms come into play to make the student reluctant to talk about abuse. Frequently, young people are made to believe they lured the adult into it. They think if they truly love and care for the adult, they should protect that person from the harmful consequences of disclosure.

The ability to create these feelings of guilt and shame in the victim is the hallmark of an abusive adult. Often the student is threatened into silence with a failing grade, refusal to give a letter of reference, or physical violence.

When a young person who is suspected of being a victim of abuse is interviewed, we must recognize the impact of emotional trauma. Often, trauma triggers the psychological defense mechanism of denial and blocks victims' recognition of the harm they have suffered.

Denial is an unconscious attempt to underestimate or block out knowledge of threatening events. Colloquially, denial may be defined as a way of avoiding being painfully connected to something emotionally unacceptable. Although the term "denial" sounds like a conscious and volitional act, this psychological defense mechanism operates in the unconscious and renders the information "out of awareness." The victim is not in contact with the reality of the situation.

Denial is a way of creating a sense of safety and security in the face of the unconfrontable. It can lead to increased gullibility and susceptibility to injurious activities or re-victimization.

Denial also may cause injured students to underestimate the extent of their victimization and its long-term effects, thereby supporting their avoidance of help-focused interventions. Minimization is another psychological defense mechanism that may explain why students do not report sexual abuse. The student may be aware of the abuse, but deals with it as being "not so bad" or "no big deal."

If an investigator is not aware of the way people create psychological safety when traumatized, he or she may stop the interview if the young person says that nothing happened, even though conflicting evidence exists. Best results are obtained by interviewing the people in the environment of the alleged victim before interviewing the alleged victim. This practice enables the investigator to gain knowledge into the victim's interests, family, friends, and behaviors prior to the interview.

Understanding the victim is crucial to the success of the investigation. The adult who abused the child was able to read the child's needs and address his or her attention to them. The investigator also must reach the child in this manner. This delicate task is accomplished by knowing the child as a person, understanding the source of his or her pain, rationalizations, sense of guilt and shame, and, most of all, by knowing that it hurts.

Once the investigator has established a relationship of trust with the alleged victim, he or she may be able to transfer allegiance from the abusive adult to the investigator and others who are attempting to intervene. Only when this relationship is established can the whole truth be told.

Internal Conflicts

If sexually abusive educators looked like monsters, matters would be simplified. The fact is, however, they often are well liked by students and colleagues. People in the educational environment become incredibly confused. They have a difficult time reconciling the person they know with the heinous behavior they are

hearing about. It is often easier, and certainly more comfortable, to assume that the student is lying.

Psychiatrist Roland C. Summit, in *Child Abuse and Neglect*, reports, "The men implicated in most ongoing sexual molestations are quite obviously not perverted. They tend to be hardworking, devoted family men. They may be better educated, more law abiding, and more religious than average."

In contrast, the student is likely to give a poor impression. This conflict is compounded by the fact that the perpetrator often isolates his or her victim from other students and swears the victim to secrecy. These actions make the child even more dependent on the adult and often less involved in the ordinary social circles of the school.

Therefore, when the abusive behaviors come to light, the initial response is characteristically in support of the adult.

A young victim knows, at some level, that his or her experiences do not fit the norm. The child may think, "*There's something wrong with me*" or even "*I am evil.*" Or he or she may think, "*I am more mature than my classmates. I don't need them. I need this adult who really understands me.*" The student is likely to fear the consequences of the sexual conduct being exposed and may have great difficulty trusting an investigator and saying what happened.

Summit says: "Rather than being calculating or practiced, the child is most often fearful, tentative, and confused about the nature of the continuing sexual experience and the outcome of disclosure. If a respectable, reasonable adult is accused of perverse, assaultive behavior by an uncertain, emotionally distraught child, most adults who hear the accusation will fault the child. This belief in rejection by potential adult caregivers increases the helplessness, hopelessness, isolation, and self-blame that make up the most damaging aspects of child sexual victimization."

Diverse Pressures

Often adults are greatly disturbed by the devastation caused in the life of the perpetrator by alleged or even proven child sexual abuse. In contrast, some adults are unsure of the actual harm caused to the young victim. This conflict is not limited to the school setting.

Summit writes: "The summary message in this explosion of information is that sexual abuse of children is much more common and damaging to individuals and to society than has ever been acknowledged by clinical or social scientists. There is also a predictable counter-assertion, that while a child's sexual contacts with adults may be relatively common, the experience of the child is not uniformly harmful, but rather neutral or beneficial. Whatever the merits of various arguments, it is clear that any child trying to cope with a sexualized relationship with an adult is facing an uncertain and highly variable response from whatever personal or professional resources are enlisted for help."

When I train educators about sexual abuse at school, the fear in the room is palpable. People believe their careers are hanging by a precarious thread that can be snapped at any moment by a student's accusation of sexual misconduct. This personal sense of vulnerability leads people to be highly suspicious of complaining

students. This fear makes it nearly impossible to convince educators that false accusations are a rarity and that the concern about sexually abusive educators is legitimate.

In investigating sexual abuse cases, I often notice that people who have never engaged in sexual misconduct with minors may try to explain the behavior of the perpetrator with comments like, "Oh, I almost did something like that," or "Oh, I was tempted. I can understand how that might happen."

Most of us have fantasies about conduct that may violate certain boundaries. Even though we do not act on our thoughts or fantasies, we may feel guilty about them. As a result, we can empathize with those who cross the line. We downplay the major differences between thinking about and doing that draws the critical distinction between our behavior and the behavior of the sexually abusive educator.

Adult offenders present themselves as "normal" in most areas of interaction with other adults. We assume they think as we think. But sexual abusers do not think as we think. They often are compelled to behave abusively toward children by forces we don't experience. They can appear normal to other adults, but cannot behave normally around children.

Most sexual abuse allegations against educators do not result from a single indiscretion in a reckless moment. Almost always there is a continuing course of conduct by an adult who preys on children for sexual gratification. An effective investigator must be attentive to the guilty conscience factor during interviews and put it in perspective for the interviewee.

Beyond Denial

Many of us unwittingly become enablers of abusive behavior in schools. An enabler is a person who overtly or covertly, consciously or unconsciously, acts on a way that allows another to continue in a destructive process. The enabler shields the actor from the ordinary consequences of his or her behavior.

When we say, "Oh, he didn't mean it, he's just that way," we may be enabling behavior that perpetuates sexual abuse of children at school. Trust your sense of boundary violations and act on them. Avoid becoming an enabler.

We must be willing to face the damage caused by educators' sexual behavior toward students. We must have the courage to recognize that this issue harms not only children, but our society as a whole. We also need to be mindful of the powerful forces that lead us to respond in disbelief and reject the reality that includes child sexual abuse in our schools, particularly to the degree it exists today.

As we are confronted with increased allegations of child sexual abuse by educators, we need to open our minds and our hearts to understand its impact on the victim, the grief that abuse instills in the school community, and the need for compassion and understanding in investigating and resolving these matters.

If properly handled, these cases can alter societal attitudes, which will profoundly impact the quality of life. As we take on this issue, we are creating a future that allows for the expansion of freedom and well-being for all of us.

Administrators Face Tougher Legal Liability

School administrator liability for sexual abuse by employees is a rapidly developing area of the law. Courts and administrative agencies are in the process of developing standards as the debate continues. Until the law

is settled, educators and their lawyers will have to deal with a degree of uncertainty about their legal duties to students regarding sexual misconduct by school employees.

State Liabilities

Under the legal doctrine of respondeat superior, a school district is responsible for the unlawful acts of its employees that occur in the "course and scope of employment" but not for actions of employees taken for their own purposes. Sexual abuse of students generally has been held to be outside the "course and scope" of employment, even when committed on school grounds or while engaged in school-related activities.

However, administrators may be legally responsible for their own action or inaction in these cases. The courts generally find that negligent administration is within the "course and scope" of administrators' employment and hold both the school district and the administrator liable.

State courts often award money damages in cases involving various administrators' duties, such as:

- Failure to supervise. An administrator owes a legal duty to the students to provide adequate supervision of school employees. This includes appropriate observation, investigation, correction of improper conduct, adequate documentation, and discipline. The administrator who supervises negligently risks liability both personally and for the school district.
- Failure to investigate. Failure to investigate or a perfunctory or inadequate investigation of rumors, reports, or complaints of sexual misconduct or of suspicious conduct by a school employee may constitute negligence by an administrator.
- Failure to train. Supervisors have a duty to adopt and enforce appropriate policies and to train teachers, guidance counselors, school nurses, and administrators to respond adequately to signs, reports, and complaints of sexual misconduct to protect students.
- Failure to hire carefully.

"Editors' note: This article is general in nature and is not intended to replace professional, legal advice."

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