



Ohio School Boards Association Capital Conference and Trade Show

November 13 – 16, 2011

Greater Columbus Convention Center
Columbus, Ohio

Recognizing the signs of unbecoming conduct

Human Resources

Tuesday, November 15, 2011

2:00 p.m.

D 230—232

Joe Clark, assistant superintendent, Nordon Hills City

Joelle Magyar, assistant superintendent, Brunswick City

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Ohio School Boards Association

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Conduct Unbecoming to the Profession: Would You Recognize the Signs?

OSBA CAPITAL CONFERENCE
NOVEMBER 15, 2011
2-3:15 P.M.

JOELLE MAGYAR
ASSISTANT SUPERINTENDENT
BRUNSWICK CITY SCHOOLS

JOSEPH CLARK, PH.D.
ASSISTANT SUPERINTENDENT
NORDONIA HILLS CITY SCHOOLS

Presenters' Perspectives

JOELLE'S STORY



JOE'S STORY



What Research Says

DEPTH OF THE PROBLEM

COMMON CHARACTERISTICS OF ABUSERS

COMMON CHARACTERISTICS OF VICTIMS

COMMON SIGNS THAT ABUSE MAY BE
OCCURRING

AFFECT OF ABUSE ON THE VICTIMS

Depth of the Problem

- It is unknown how frequently educators engage in sexual misconduct:
 - few studies have been conducted
 - studies that have been conducted have not used comparable samples and methods
 - most student victims of sexual misconduct do not file formal complaints.
- Congressional Report
- North Carolina study

Depth of the Problem (cont.)

- American Association of University Women (AAUW) study
- What students report
 - Superficial abuse (contact)
 - Invasive abuse (conduct)
- Where abuse most often happens
 - After-school functions
 - Educators' homes
 - Parked cars

Common Characteristics

Abusers	Victims
<ul style="list-style-type: none">• Mostly male• Heterosexual• Teachers, coaches, advisors who have one-on-one access to kids• Respected by community• Pedophiles/hebephiles, romantics, predators• Multiple victims	<ul style="list-style-type: none">• Mostly female (romantic)• Dysfunctional homes• Struggle academically or socially• Rarely report abuse

Common Characteristics (cont.)

Phases of Abuse	For example...
• Trolling for vulnerable victim	• Finding student whose parents are disengaged
• Grooming the situation and student	• Asking for favors, telling dirty jokes, providing pornography/drugs, giving gifts, writing late passes
• Becoming more aggressive in defending behavior and gaining access to student	• Personal outings, bribes, extortion, blaming colleagues for not caring

Common Signs that Abuse May Be Occurring

- Signs of a student being sexually abused in general include the student:
 - having trouble sleeping
 - having advanced knowledge of sexual behavior for the student's age
 - being overly compliant or defiant in class
 - having grades fall
 - not being able to concentrate in class
 - showing suicide
- Signs of sexual misconduct between an employee and a student:
 - working closely together outside regular class hours
 - the employee displaying unusual enjoyment for admiration received from students
 - confiding in each other regarding personal issues
 - exchanging gifts
 - emailing, calling, text messaging, or engaging in social media with each other
 - the employee providing private tutoring for the student
 - filming time together
 - meeting each other privately when peers are not around
 - teachers buying gifts for students
 - teachers having students spend their free time in the teacher's classroom
 - teachers frequently writing late passes for students
 - teachers giving rides to students
 - students babysitting for teachers' children
 - teachers acting differently with students
 - teachers engaging in excessive conversation or laughing with particular students
 - teachers hugging or touching students

Affect of Abuse on the Victims

- Physical damage
- Mental/Emotional damage
- Male victims of female offenders
- Problems later in life
- New schools

Preventing and
Recognizing Abuse

What Law Says

CRIMINAL LAW
ADMINISTRATIVE LAW
FEDERAL STATUTES
CASE LAW

Criminal Law

- **Nationally**
 - 8 states: specific prohibition of teacher-student sexual relationships.
 - 28 states: conditional prohibition against teacher-student sex based on the student's age or the age difference between the teacher and student
 - 14 states: no specific prohibition for teacher-student sex, but there are laws that outlaw sex between adults and minors in general based on the age of the minor or age difference between the parties.
- **Ohio**
 - ORC 2907.03 (A)(7): No teacher, administrator, coach, or other person in authority employed by a school is permitted to engage in sexual conduct with another when the other person is a student of that school.

Administrative Law

- **Nationally**
No state allows teachers to have sexual relationships with students.
Each state permitted to revoke the license of offenders.
- **Ohio**
Conduct unbecoming of a professional educator includes committing any act of sexual abuse of a student or minor, engaging in inappropriate sexual conduct with a student or minor, or soliciting, encouraging, engaging, or consummating an inappropriate relationship with a student or minor.

Federal Law

Title IX

Section 1983

- Signed into law in 1972.
- Generally thought of as athletic law.
- Prohibits quid pro quo and hostile environment sexual harassment.
- Allows for financial relief for victims.
- *Gebser v. Lago Vista (1998)*: School will liable if it had actual notice and failed to take immediate and appropriate corrective action.
- Attachment law, commonly attached to 14th Amendment violations.
- Allows for monetary damages.
- *Doe v. Taylor ISD*: School will be liable if a school official (1) received notice of a pattern of unconstitutional acts committed by an employee, (2) demonstrated deliberate indifference to the acts, and (3) failed to take sufficient remedial action, which (4) caused proximate injury to a student.

Case Law

Employee Claims

Student Claims

- 50 federal cases reviewed
- Preponderance of evidence is most often the standard
This is a lesser standard than criminal court (beyond a reasonable doubt). Thus, employees may be exonerated in criminal court but still terminated by schools.
- Of 50 cases reviewed, teachers won only three.
- Schools are almost always supported if they follow due process.
- 99 cases reviewed
- Of 67 federal cases, students won 17 (11 of which were before *Gebser*).
- Of 32 state cases, students also won 17.
- *Fayette County v. Maner* saw the student win a \$300,000+ award.
One student was abused by six school employees simultaneously

Responding to Allegations

Community Reactions

Questions and Discussion

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