

## **SCHOOL RESPONSIBILITY FOR SEXUAL ASSAULT BY TEACHER AGAINST STUDENT**

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Recently we have seen a rise in sexual assaults of students by teachers. This phenomenon follows the similar path of the priest taking advantage of the parishioner, or the boy scout leader grooming the boy scout for sex, or the police officer having sex with a cadet.

Each of these cases involve a leader, or person in command who is taking advantage of a younger impressionable minor who is often being mentored by the adult. The grooming sex offender works to separate the victim from peer, typically by instilling in the child a sense that they are special. Children with less parental oversight are more desirable prey.

Unfortunately, many of these cases were not addressed by the courts, as the time limitations in which to bring a claim were very short and favored the sexual predator.

The time limitations have now changed giving a longer period of time, in which to bring a civil claim for damages against the teacher and the school district. As a parent, in sending your child to school you are of the belief that the school will keep the child safe and protect the student from harm. This affirmative duty arises in part because of the compulsory duty of education.

In the case of M.W. v. Panama Buena Vista Union School Dist. 110 Cal. App. 4<sup>th</sup> 508 the court stated that a special relationship is formed between a school district and its students resulting in the imposition of an affirmative duty on the school district to take all reasonable steps to protect its students, this affirmative duty arises, in part, based on the compulsory nature of education.

Thus, the school district has an affirmative duty to supervise students on school property. Either a total lack of supervision or ineffective supervision may constitute a lack of ordinary care on the part of those responsible for student supervision. See Dailey v. Los Angeles Unified Sch. Dist. 2 Cal. 3d 741 and Leger v. Stockton Unified School Dist. 202 Cal. App. 3d 1448.

California courts have long recognized that a student may recover for injuries proximately caused by a breach of this duty to supervise. The school district bears a legal duty to exercise reasonable care in supervision of students in its charges and may be held liable for injuries proximately caused by the failure to exercise such care.

The failure of the school district to make an adequate investigation of the teachers' background before hiring him/her and the failure to properly supervise either the campus or the extracurricular program renders the district liable for the injuries as a result of the sexual molestation.

The "ME TOO MOVEMENT" with internationally known names is a movement against sexual harassment and sexual assault. Thus, survivors of sexual misconduct are now empowered through empathy and action to take affirmative action.

School districts have had to pay out millions of dollars as a result of lawsuits brought by students abused by the educators as the schools failed to have in place sufficient policies or training to protect the students. Finally, brave people feel safe enough to speak out after years of silent shame. Hiring an experienced attorney such as Terry M. Goldberg, can help those who were sexually abused obtain proper compensation.