

CASE STUDIES ON SEXUAL MISCONDUCT IN THE EDUCATION CONTEXT

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CASE STUDY - #1

Roberto is a 14 year old high school student at Burgundy Collegiate. He is an accomplished musician. His classmate, Sheila, has come to see a Guidance Counselor. Roberto has told Sheila that Mr. Brady, the Music teacher, has been putting his hand on Roberto*s genitals when they*re alone together.

Without any further discussion with Sheila or Roberto, the police should be contacted to investigate. The Children's Aid Society (or the equivalent provincial body) should also be contacted because Roberto is under the age of 16 usually specified for protection by legislation. Attempting to investigate the allegations before contacting the authorities can result in the destruction of evidence and tainting witness testimony.

Mr. Brady should be placed on home assignment with pay pending the outcome of the investigation. If the allegations are true, he may be guilty of the *Criminal Code* offences of sexual exploitation (if Roberto consented to the touching) and sexual assault (if Roberto did not consent). Removing Mr. Brady from the school protects the alleged victim from further abuse and protects Mr. Brady from inadvertently or intentionally interfering with the investigation.

There may also be an obligation to report to the applicable teachers' regulatory body, which requirements vary from province to province.

CASE STUDY - #2

A young attractive teacher joins the staff at Blackstone Collegiate. The students are “agog” and there is much discussion about the “cute” teacher. One of the students said the teacher was “sexy”. The teacher responded by saying the student was sexy too.

The Principal should provide the teacher with an informal, verbal warning that the teacher’s response to the student was inappropriate and should not be repeated. The teacher, who may be only a few years older than the students, is responding without thought to the propriety required by the new teacher’s role. The Principal could take this opportunity to provide some positive suggestions as to how to navigate these new waters.

CASE STUDY - #3

A high school teacher at Navy Blue Junior Public School has been charged with sexual assault for fondling the breasts of a 13-year-old student in his drama club. The police are not going to issue a press release.

As always, the alleged victim should be offered support. The teacher should be placed on home assignment with pay pending the outcome of the criminal proceedings and any necessary internal board investigation.

Even though the police are not issuing a press release, rumours will abound. The school should be proactive by holding age-appropriate meetings for its students, and for its staff and parents/community. The media should not be allowed to attend. Participation by a representative of the police, the Superintendent, the Principal and support workers is recommended.

The information conveyed should be restricted to facts that are publicly available and should be conveyed in a non-judgmental, neutral fashion. School boards must take care to inform the community without inviting allegations of defamation.

CASE STUDY - #4

A teacher at Pink Bird High School is discovered accessing sexually explicit images of adults on the Internet using a school computer after school hours. The computer is located in the English staff office.

Viewing sexually explicit images of adults – “pornography” – is not activity prohibited by the *Criminal Code*. Viewing sexually explicit images of children – “child pornography” – is prohibited. An investigation should be undertaken to ensure that the teacher has not been viewing child pornography. The investigation should also determine whether there has been an ongoing pattern of illicit use, including during school hours. This will require immediate removal of the suspect hard drives for analysis and “preserving the chain of evidence”.

Assuming only adult images were viewed after school in a location not frequented by students, the teacher is still likely in breach of the school board’s Internet policy, which ought to prohibit viewing illicit material as well as using school property for personal use. The misuse of the computer would likely also qualify as professional misconduct.

For a first time offence, we recommend a discipline letter be placed in the teacher’s file. There may also be reporting obligations to the teachers’ disciplinary body.

CASE STUDY #5

Lily is a 17-year old student at Olive Green Commercial High School. Her attendance and marks are poor, and she has family problems. Lily has revealed to the Vice-Principal that she has been “going out” with Mr. Cooper, a Physical Education teacher. She doesn’t feel right about it, but says he’s a nice guy and she doesn’t want to get him in trouble.

Lily’s description of the relationship with Mr. Cooper should ring alarm bells. The fact that Lily doesn’t feel right about the relationship and her concern that she is going to get him in trouble may reflect Mr. Cooper having urged her to keep the relationship secret. This is a common tactic of sexual abusers to retain their victims’ cooperation.

If Mr. Cooper is using his position of authority to influence Lily into sexual relations, he may be guilty of sexual exploitation. Accordingly, without further discussion with Lily or Mr. Cooper, the police should be contacted to investigate.

Whether or not Lily is a “good” student is irrelevant to the school’s obligations. All such allegations must be treated seriously and consistently. In fact, academic and attendance problems can be related to sexual abuse.

CASE STUDY #6

A 35-year-old man has come to see the Principal of Emerald Green Elementary School. He reveals that 25 years ago he was sexually abused by Mr. Smith, who is now retired from teaching.

Mr. Smith may be abusing children now, perhaps as a Boy Scout leader or as a grandfather and, if so, must be stopped. If Mr. Smith is not abusing children, but did so in the past, he should be prosecuted criminally. The school board may also be obliged to report to the teachers' disciplinary body in the event Mr. Smith decides to teach again. Finally, if the allegations are untrue, Mr. Smith may wish to clear his name.

Ideally, the matter should be turned over to the police for investigation. However, if the man will not cooperate, the school board may have to begin by conducting its own internal investigation. If the whereabouts of Mr. Smith are unknown, an independent investigator may be able to assist. There may be other victims and there may be relevant records. Support should be provided to the alleged victims.

In cases of historical sexual misconduct, potential insurers may not be immediately known. Efforts should be made to identify and notify insurers as soon as possible.

Vicki Kelman

Vicki Kelman is the Investigations Advisor, Legal Services with the Toronto District School Board (“TDSB”). She received her B.A. (Honours) from York University in 1974 and her Masters in Social Work from Carleton University in 1979. Vicki participated in the development of the TDSB’s policies and procedures in relation to sexual abuse. In 2000, these policies and procedures were identified in the “Robins Report” - a provincial review of sexual misconduct in Ontario schools conducted by The Honourable Sydney L. Robins - as a leading example of institutional abuse prevention and risk management.

Vicki is responsible for TDSB staff-to-student sexual misconduct investigations, interventions, discipline recommendations and civil suits. In addition, in relation to recent allegations of sexual misconduct, Vicki is a consultant to Upper Canada College regarding recent criminal charges and civil suits alleging sexual abuse of students.

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