Legal Advice

Five ways to guard against accusations of sexual misconduct

By La Rae G. Munk

With last year’s release of Mary Kay LaTourneau from prison, the replay of the news of teachers and sexual misconduct hit the headlines, creating a cloud on the character of teachers all over again. This, and other such cases, has increased the frequency of sexual misconduct accusations against teachers.

All too frequently administrators are accepting the student’s version of events. In too many situations, administrators are not even bothering to properly investigate an allegation before issuing a reprimand or placing a teacher on suspension. This is true whether the allegation is sexual misconduct, physical abuse, or even just using a word that a student doesn’t appreciate. The result is that teachers are experiencing unnecessary discipline and damage to their reputation under a theory of “guilty before proven innocent.”

How should you protect yourself from false accusations? Here are five practical steps you can take to limit the frequency of sexual misconduct accusations.

1. Never be alone in a private area with a student. If a student comes home, insist that a parent be on the phone number. Should it be necessary for you to call a student at home, insist that a parent be on the phone during the conversation.

2. Do not give students your home phone number. Should it be necessary for you to call a student at home, insist that a parent be on the phone during the conversation.

3. If it becomes necessary to give a student a ride in your vehicle, you should do this only if you have another adult to accompany you, and you have notified the parent or an administrator that you are doing so.

4. Keep detailed notes of daily activities in class. This is particularly important for those comments by students that might be open to different interpretations. For example, a student’s question about human anatomy in a science class should be documented. Teachers have faced situations where those “innocent” questions and the subsequent answers resulted in a reprimand because of the different interpretations that were passed along to others.

5. Teachers have learned the hard way that they must keep a professional perspective and style in talking with students. You shouldn’t talk with students in the same manner as a parent.

Should you have any concern regarding your conduct towards students, remember the old adage, “When in doubt, don’t.” Act with caution and seek guidance and approval from administrators before taking unilateral action that might be open to unintended interpretations.

Is teacher certification irrelevant?

A teaching certificate is acquired through a program that emphasizes process, not results, or in the jargon, inputs, not outputs. Certified and qualified are not interchangeable terms. Even the late Al Shanker, longtime president of the American Federation of Teachers, said that at least a quarter of the nation’s teachers are not qualified to be in the classroom. Nationally about 1,200 schools of education prepare teachers. Less than half are accredited, assuming that accreditation has more validity than certification. In addition, if certification is valid, shouldn’t education professors have to be certified? Why should non-certified professors prepare certified teachers? As it is, many, perhaps most, teachers are certified by an educational process presented by uncertified staff in unaccredited institutions.

Beyond that, large numbers of certified teachers in grades 9-12 have neither a major nor a minor in their subject. UCLA education professor Donald Erickson estimates that as many as 1,000,000 of the nation’s teachers have no major or minor in their subject. He adds, “Hundreds of studies show that a certified teacher isn’t more qualified than an uncertified teacher.” Worse yet, in the poorest urban schools, 45 percent of their secondary math teachers lack a relevant major or minor.

A review of 113 studies found no relationship in 85 percent of them between student achievement and a teacher’s educational background. A positive relationship was reported in 7 percent, and a negative one in 5 percent.

What about educational school standards? In 1997 the combined SAT verbal and math score for all college applicants was 1,013 out of a potential maximum of 1,600. The average for education schools was 964, and some students had scores as low as 612. Richard Mitchell, who taught English at a New Jersey teachers college, said the last question in an education course there required drawing letters of the alphabet in both upper and lower case. It counted for 52 percent of the grade.

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New Harvard Study
Charter School Students Outperforming Others in Reading and Math

A new comprehensive, long-term study released by Harvard University found a higher percentage of students in charter schools are more proficient on state math and reading tests than their peers in the nearest traditional public schools.

“Charter schools are keeping the public education system on its toes, providing a dose of accountability and innovation that no government spending hike can ever duplicate.”

John Boehner, U.S. House Education & the Workforce Committee Chairman

The nationwide report, entitled “Achievement in Charter Schools and Regular Public Schools in the United States: Understanding the Difference” shows the gap between schools.

For charter schools that have been open for nine or more years, 10 percent more of the students scored at or above proficient on state reading and math exams in the nearest traditional public school.

For charter schools that have been open from five to eight years, 5 percent more students scored at or above proficient on state reading exams than their public school peers and 4 percent more charter school students performed at or above proficient on state math exams.

For charter school that have been in operation for one to four years, two and a half percent more of the charter school students reached proficiency.

Overall, 5 percent of the students in charter schools are more likely to be proficient on state reading exams and 3 percent are more likely to be proficient on math exams than their counterparts at the nearest traditional public school.

Charter schools overall are more likely to raise the academic achievement of students who are poor or minority, and show a larger effect on reading and math proficiency when they operate in areas that have a high percentage of students who are poor, African American, or Hispanic.

A complete copy of the report is available at www.ksg.harvard.edu/pepg.

One national survey found 73 percent of classroom teachers support expanding alternative certification options. Michigan has discontinued certifying administrators, and a number of states, again including New Jersey, have successfully allowed noncertified administrators, including supervisors, in some instances.

The certification process, while going back to the early 19th century for a precedent, is relatively recent. In 1920 not a single state required even a college degree for elementary teachers, most of whom didn’t have one. Only ten states required one of secondary teachers. As late as 1948, almost 60 percent of the nation’s teachers still lacked a degree. Were teachers less able then? Did students achieve less? Admittedly, the public school dropout rate was higher then, but as one who was educated prior to 1948, of my classmates who dropped out prior to graduation, I can’t recall even one who wasn’t literate.

During a 1976 Kentucky court case, when the state was challenged to produce scholarly research proving that certification equates to teacher competence, or to educational excellence, it could not do so. Defenders of the certification status quo should be required to prove two things: (1) present certification procedures work; and (2) proposed alternatives won’t. They won’t be able to do either.

The trend is away from conventional approaches.

Chester E. Finn, Jr.

Stunning Report on Special Education

After nine months of labor, the President’s Commission on Excellence in Special Education has given birth to a stunning report. The Commission estimates 80 percent of children in special education are there “simply because they haven’t learned to their peers in reading or other core skills.”

“The Commission’s main message: Start to view special ed chiefly in terms of preventing and remedying education problems that schooling can do little about.”

Chester E. Finn, Jr. (president of the Thomas B. Fordham Foundation in Washington, D.C.)
When National Public Radio visited CHIME Charter Elementary School to do a story on inclusion, we marveled at the reporter’s frustration as she tried to get first graders to identify each other by their differences. She tried desperately for a sound byte from students using words related to ability, but the students responded: “She’s the one with glasses,” “He’s the one with red hair,” or “She likes Sponge Bob.” In essence, the kids have responded: “He’s the one with red hair,” or “She likes Sponge Bob.” In essence, the kids have become so acclimated to each other that they don’t even notice them—just as all faculty members have a responsibility to every student. This team brings a variety of strengths to the classroom and addresses curricular adaptations. While no one has all the answers, we remain available to each other. Together we are better. High quality instruction is based on scheduled planning, embedded at the beginning of each day. Teachers meet to share plans in advance of teaching to address curricular extension and modifications. It’s never a surprise that those adaptations lend themselves to all students.

Practices Specific to CHIME

Co-teaching. In a co-teaching model, special and general education teachers are partners in planning, teaching, and assessment. All children have two teachers, just as all faculty members have a responsibility to every student. This team brings a variety of strengths to the classroom and addresses curricular adaptations. While no one has all the answers, we remain available to each other. Together we are better. High quality instruction is based on scheduled planning, embedded at the beginning of each day. Teachers meet to share plans in advance of teaching to address curricular extension and modifications. It’s never a surprise that those adaptations lend themselves to all students.

Related Services. By embedding supports in general education classrooms, related service staff provide targeted support for students with disabilities, which benefits all students. Picture a language and speech pathologist in a heterogeneous reading group, providing therapy in strengthening oral motor skills. What if that same therapist worked on social and pragmatic language during natural turn-taking events like a conversation over lunch or during a handball game? The results are targeted, less artificial, and provided with role models who themselves learn during these processes. These experts train our teachers how to provide customized therapeutic support throughout the school day. Again, the adults keep learning.
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I watched a third grader ask a question of his friend who uses a voice output device to speak. Jose realized when he asked Oliver a question that the device was over on Oli’s desk. He didn’t bat an eye—but simply walked over, retrieved Oli’s “voice,” and put it near him. Off went the conversation. Jose wanted to know what his friend had to say.

On occasion, visitors to our school seem interested in identifying students who have disabilities. This can be difficult. Twenty percent of our students have disabilities ranging from mild to multiple to severe. Most of our students are typically developing, and some are identified as gifted and talented. These demographics are not where CHIME stands apart—many public schools are varied in this way. For CHIME, this diversity in ability acts as the foundation of our philosophy. Our faculty was attracted to this model four years ago because of the commitment to high quality education for all students.

How many educators have thought, “There has got to be a better way.” One of the killers for teaching professionals is the torment of waiting for systems to change. When I walk through the classrooms at our school, the commitment, community, and quality pervade the air. It’s the charter process that has made this possible.

We don’t question who belongs. We only debate how to support belonging. We have worked to remove the “mystery” surrounding disabilities. Children naturally do this much more readily than adults.

At the CHIME Charter Elementary School, 190 students are educated in collaboration with faculty and their families. CHIME stands for Community Honor-
Paraprofessionals. In segmented set-
ing, we too often see that a hovering one-to-one assistant can isolate students from their peers and inadvertently foster a classroom within a classroom. When students are supported daily by different adults, we remove the perception that a peer is so disabled that he needs the same adult at all times. These valuable partners become a component of the team as a whole, and all children see them as a source for help with learning.

Family Partnerships. We look to fam-
ilies to provide leadership as the experts on their children. Families provide love and are the keepers of hopes and dreams. They look to us to provide lead-
ership in instruction, to assess individual student’s learning needs, and to develop students’ long-term educational careers. CHIME families not only trust us with their children’s education, but they also help us make it happen.

Schools Attuned Methodologies. In partnership with the Center for Teach-
ing and Learning at California State Uni-
versity at Northridge (CSUN), and All Kinds of Minds, developed by world-
renowned learning expert Dr. Mel Levine, CHIME teachers have been trained in the Schools Attuned program. Schools Attuned helps struggling stu-
dents measurably improve their perfor-
mance by providing training for teach-
ers that integrates our understanding of variation in learning with a model for promoting student success.

Special education models are not changed overnight. As educational lead-
ers, we need to begin this process with a commitment to all students. We look to our charter colleagues and to models that are equitable for everyone. This discus-
sion about whether children belong in our school communities has gone on long enough. If we are calling ourselves the best available in public education, then we need to be this for all kids, not just a select group.

Administration is critical, and as school leaders, it is up to us to set the tone about who belongs in our schools. Walk through your school, look at the supports in place for all children. Ask yourself: Is special education a place or a service? Isn’t every child’s education supposed to be special? What happens when we educate students separately from peers with whom they are expected to share the community as adults? Do we as educators acknowledge through practice that our population represents diversity in ability?

Often I am asked, “What about dis-
turbances to the classroom from children with behavioral challenges?” I inquire, “Whose learning is expendable: the kids in the special day class where we send those students?” It makes much more sense to simply address behavioral needs in natural environments by identifying what a student’s behavior is communi-
cating. Solve the problem where it’s hap-
pening. Develop a plan to teach more effective ways for students to commu-
nicate. Ask, are we fulfilling our obliga-
tions as teachers to be on top of a lesson design that is meaningful and motivat-
ing? Ask again: Are curricular adaptations implemented consistently to provide ac-
cessibility to content and to state tests and other assessments?

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Stunning Report on Special Education

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The U.S. Department of Education would like you to know that you may be eligible for new loan forgiveness limits recently signed into law by President Bush.

The Taxpayer-Teacher Protection Act (P.L. 108-409) authorizes up to $17,500 in loan forgive-

to “highly qualified” math, science, and special education teachers who have taught for five years in a Title I school.

This Act will provide an incentive for “highly qualified” individuals to enter the teaching field in these high-need subject areas.

If you do not currently meet the “highly qualified” teacher designation in NCLB, earning a Pass-
port to Teaching certification from the American Board for Certification of Teacher Excellence (ABCTE) will grant you this status. (Visit www.abcte.org)

For more information on load forgiveness, call the Department’s Federal Student Aid Customer Service hotline at (800) 433-7327.

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Eligible expenses include books, certain supplies, computer equipment (including related software and services), other equipment, and supplementary materials that the taxpayer uses in the classroom.

Free Tool for Busy Teachers

In your busy schedule, you have a new tool to help manage your day. Grade Connect is easy-
to-use course management system designed by teachers packed with an impressive array of features proven to help teachers manage their courses more easily.

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How should you protect yourself from false accusations? Here are five practical steps you can take to limit the opportunities for false accusations of sexual misconduct.

1. Never be alone in a private area such as the hallway. When a student wants to speak about a confidential matter, you can do this while in a public area by speaking in a quiet voice.

2. Do not give students your home phone number. Should it be necessary for you to call a student at home, insist that a parent be on the phone during the conversation.

3. If it becomes necessary to give a student a ride in your vehicle, you should do this only if you have another adult to accompany you, and you have notified the parent or an administrator that you are doing so.

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Promoting New Standards of Professionalism & Educational Enrichment

Making the Grade

Is teacher certification irrelevant?

By David W. Kirkpatrick

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