



CATHOLIC LEAGUE

*For Religious
and
Civil Rights*

June 6, 2013

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Dear Members of the California Assembly:

Congratulations on passing AB 349, the bill that was passed unanimously on May 30 to prevent child abuse in the schools.

A related bill was passed in the Senate the day before (SB 131), and it will now come before you for a vote. It, too, deals with child abuse in the schools, but unlike AB 349, it is flagrantly discriminatory: it does not apply to the public schools. Does anyone doubt that a bill that applied only to the public schools, exempting all private ones, would be roundly condemned? So should this bill.

The bill you passed, AB 349, applies to combating future cases of sexual abuse in the public schools. However, the Senate bill applies to abuse that took place in the past, and would only apply to private schools: it would suspend the statute limitations for one year, allowing lawsuits to be filed in cases of sexual abuse that allegedly occurred as far back as a half-century ago.

Now if the abuse took place in a public school, and it allegedly happened before 2009, the victim is out of luck—the bill says it is officially too late to matter. Moreover, no state agency is subject to a lawsuit if a claim for damages isn't made within six months of the alleged abuse.

In other words, no one who was abused in a public school before 2009 can sue the teacher, the school, or the school district, but if someone was abused in a Catholic school when JFK was president, he can sue the teacher (if he is alive), the school, and the diocese. This is indefensible on the face of it.

It is hardly a secret that this bill is targeted at the Catholic Church. If, in fact, Catholic institutions were rife with sexual abuse problems today, it

would suggest that Catholic officials have learned nothing, in which case I would not be writing to you. But the facts are otherwise: the data collected by the John Jay College of Criminal Justice show that the lion's share of clergy sexual abuse took place between the mid-1960s and the mid-1980s.

Today, there is no institution in the nation that has *less of a problem* with the sexual abuse of minors than the Catholic Church. Indeed, in the last six years, the average annual number of credible allegations made against over 40,000 priests is 7.0. So why the need to target the one institution that doesn't tolerate sexual abuse?

The statute of limitations was already suspended in California for private schools in 2003 (as usual, the public schools got a pass), and it resulted in nearly 1,000 claims totaling awards of \$1.2 billion. The big winners were the attorneys: they took at least a third of the money for themselves, and in many cases grabbed more than half. If this bill is enacted, the dioceses will be forced to skim money from parishes and schools, hurting innocent Catholics, many of whom are not wealthy, so they can pay for claims so old that no one can reasonably disprove them.

Approximately 90 percent of California school children attend public schools; outside the home, they account for the lion's share of sexual abuse cases of any institution in the state. According to the Centers for Disease Control and Prevention, every year more than 500,000 cases of child abuse are reported in California. According to the California Commission on Teacher Credentialing, thousands of cases of sexual abuse in the public schools are reviewed annually; action is taken in approximately 800 of those cases.

Only recently has there been any concerted effort to address the scandalous conditions in the California public schools. It took the outrageous cases of sexual abuse at Miramonte Elementary School in a Latino neighborhood in South Los Angeles to finally galvanize officials; as I will show, serious problems remain.

Lots of games were played at Miramonte. The “lollipop game” consisted of second-grade girls being blindfolded while they perform oral sex on their teacher; the “tasting game” was played by a teacher who fed his students his semen on a spoon, or in a cookie. Another game was played by a teacher who masturbated behind his desk. Things were so out of control that the school was closed down for two days while an investigation took place; 128 staff members, including 90 teachers, were temporarily moved to another school.

One of the teachers, Mark Berndt, was arrested in January 2012 and charged with 23 counts of engaging in lewd conduct, over a period of five years, with his third-grade students; he was the author of the “tasting game.” After he was fired by the Los Angeles Unified School District, he appealed. The district did not want to fight him, so they gave him \$40,000 to go away.

What happened at Miramonte wound up costing taxpayers millions of dollars to settle 58 claims. Following what happened at this school, the superintendent of the school district, John Deasy, pushed for a zero tolerance policy; it resulted in more than 100 teachers being dismissed for misconduct; 200 others resigned; another 300 were “housed” (they are called “rubber rooms” in New York City) and placed under investigation.

Worse, after news stories on Miramonte surfaced, an attempt was made to right the wrongs of the law that allowed teachers like Berndt to get away with his sick antics. But it was defeated when the California Teachers Association, the largest teachers union in the state, opposed it. That they have only recently come around on this issue is hardly deserving of commendation.

Perhaps the most dramatic fallout of the Miramonte scandal was the call for an audit of the school district. It issued its findings in November 2012. Here is a list of the highlights, taken verbatim from the report, “Los

Angeles Unified School District: It Could Do More to Improve Its Handling of Child Abuse Allegations” (all italics are in the original):

- *The district often did not properly notify the Commission on Teacher Credentialing (commission) when required to do so. After reviewing past practices, the district reported about 600 cases to the commission in a span of three months.*
- *At least 144 of these cases—including cases involving employee misconduct against students—were submitted a year or more late.*
- *Of the 144 cases, 31 were more than three years late when reported to the commission.*
- *There is no statewide mechanism to communicate among school districts when a classified employee at any school district separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students.*
- *Although it appears the district generally followed state law when reporting suspected child abuse and generally followed its policies, it did not always act in a timely manner on some allegations during the investigation process—one case did not move forward for almost 14 of the more than 18 months the case was open.*
- *The district could not adequately explain some delays in disciplining or dismissing certain employees suspected of child abuse—we noted an eight-month delay in one case between the time the district’s investigation unit issued a report concerning the allegation and when the principal took action.*
- *The district paid \$3 million in salaries to 20 employees whom the district has housed—relocated away from school sites—the longest for allegations of misconduct against students, including one employee who has been housed for 4.5 years.*

Since the report was issued, there is evidence that some school districts are intentionally violating the law by not reporting to the authorities cases of suspected child sexual abuse. For example, we know that teachers who work in San Jose’s Luther Burbank, as well as in the Dublin, Fremont

and San Lorenzo school districts, have been told not to go to the police; they should notify school authorities.

In the Catholic schools, matters are different. Over the past decade, there has been an independent audit of the dioceses, resulting in much progress. Stiff penalties for offenders are the norm and mandated reporting is a must.

Perhaps the biggest gap between the way the Catholic Church handles this problem today, and the way most public school districts do—including those in California—is the mandated staff training programs on the prevention of sexual abuse that takes place in Catholic schools nationwide.

Just last month, the findings of a survey by the Bay Area News Group of 94 local school districts were published. “Fewer than half the districts in Alameda, Contra Costa, San Mateo and Santa Clara counties that responded to the survey said they offer their employees the sort of training that experts encourage and the law suggests: annual instruction in how to recognize signs of sexual or other physical abuse, and clear reminders of the legal requirement to report to the authorities even the suspicion of mistreatment.” It also learned that “only 29 districts said they have provided annual training about abuse and the law to all employees.”

It is important to note that training is not mandated by law in California, as it is in all Catholic schools. Indeed, even non-teachers in Catholic schools must go through a program like Virtus, used in Los Angeles, that addresses such issues as “Good Touch/Bad Touch”; “Establishing Healthy Boundaries”; and “Creating Sacred Spaces.”

The facts speak for themselves. Going after the Catholic schools today for cases of abuse that took place decades ago, while exempting the public schools—at a time when there is a serious problem with the sexual

molestation of minors in the public schools—is irrational, discriminatory and grossly unjust.

If someone authorized the National Guard to police a low-crime neighborhood, leaving all other communities alone, we would wonder what in the world is really going on. Similarly, Catholics in California are wondering what in the world is really going on when lawmakers are giving the public schools a pass when those same schools are the source of most of the problems.

Thank you for your attention to this issue.

Sincerely,

William A. Donohue, Ph.D.
President