

**Recommendations of the
Board of Education Focus Group
to Address the Problem of
Teacher Misconduct Toward Students**

December 2000

*Improving the safety of school children:
Improving teacher conduct toward students*



**Recommendations of the
Board of Education Focus Group
to Address the Problem of
Teacher Misconduct Toward Students**

A Report
Prepared for the
State of Arizona
Board of Education

December 2000

**Teacher
Screening**

**Teacher
Training**

**Teacher
Accountability**

***Dedicated to the children of Arizona...
with thoughts of all children everywhere.***

Foreword

The Arizona Board of Education has identified the sexual misconduct of teachers with students as a significant threat to the safety of Arizona's school children. Although the vast majority of teachers obviously are trustworthy, there have been others whose licentious conduct with young students has violated the trust and honor of their positions.

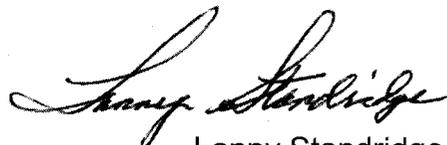
The Board's Investigative Unit explored the problem in enlightening detail. The Unit's findings shocked the sensitivities and served as a catalyst for the appointment of a Special Focus Group to examine the issue and present recommended solutions to the Board. In its efforts, the Group necessarily trudged through data replete with sordid examples of repulsive behavior. Throughout the difficult discussions, however, there remained an unforgettable and stirring realization that the numbers on the charts represented children – young boys and girls who were tragic victims of the self-centered and self-indulgent excesses of predatory teachers.

*A catalyst for
convening the
focus group.*

This report, with its outline of discreet improvements in current policies and practices, can serve as a useful blueprint for initial actions designed to halt the incipient growth of sexual misconduct cases and, coactively, reduce the number of child victims. The initiative now resides with the Board, administrators and teachers, and other governmental departments acting as cohorts in a continuous and collaborative effort.

Working with the Board staff – the Office of the Executive Director and the Investigative Unit – has provided a stimulating association with consummate professionals in a governmental organization moving on its own volition with remarkable resolve, focus and commitment. Action now can make a difference for Arizona's children – a difference in treatment by teachers and a difference in the safety and wholesomeness of their educational experience.

*Professionals
pursuing the
initiative.*


Lanny Standridge
CONSULTANT

The issue of teacher misconduct: The opportunity for collaborative action.

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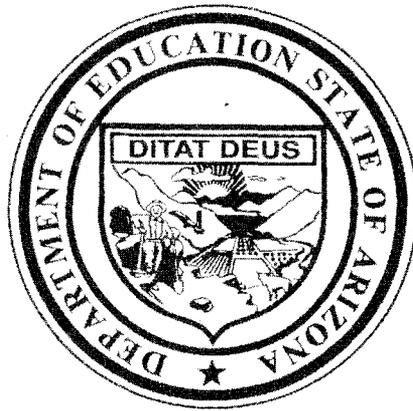
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Recommendations of the
Board of Education Focus Group
to address the Problem of
Teacher Misconduct Toward Students

*Improving the safety of school children:
Improving teacher conduct toward students*

**A Report on
Recommendations of the Board of Education Special Focus Group
to Address the Problem of Teacher Misconduct Toward Students**

December 2000

EXECUTIVE SUMMARY

Introduction. Since its establishment in 1995, the Investigative Unit of the Arizona State Board of Education has identified teacher misconduct as an ascendant threat to the educational environment and to the safety and well-being of Arizona's school children. To fulfill its responsibilities in this regard, the Board convened a Special Focus Group in late October 2000 to examine the problem and assist in efforts to improve conditions for all students in the State. This summary focuses primarily on the sexual victimization of students, and outlines the most significant and central recommendations the Focus Group presented to the Board to address the problem.

A Perspective. The criminal on the street seeks to exploit a situation and take advantage of the unwary. The teacher or staff employee who abuses children is also exploitative and predatory. The difference between the situation on the street and students in school is the naiveté and vulnerability of children. Further, even in prisons housing violent and morally bankrupt inmates, the incarcerated child molester is often targeted for reprisals by other prisoners. This reaction on the part of convicted criminals shows a surprising rejection of those who prey upon the young.

The Board's position is unequivocal: One child victim is too many. One predatory teacher also is too many, and like the growing number of unwary children who have been victims, the number of predatory teachers also is increasing. The sad but harsh reality is that there are too many children who have been hapless victims, and there are too many teachers who are morally unsuitable for the trust and honor of their position.

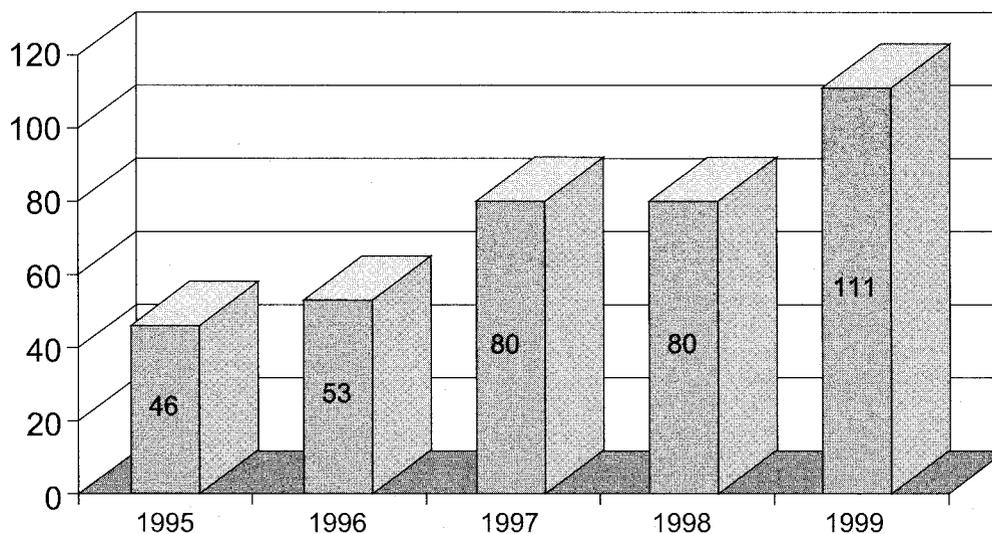
*One child victim
is one child
victim too many.*

The Board has fixed its resolve to address the issues of child sexual abuse at the hands of perverted teachers, and to raise the level of security for over

960,000 Arizona school children, K-12. The desired goal is to reach a level of "zero" victimized children. Whether that can be achieved is open to debate, but the philosophy and resolve of the Board is not. All children deserve a quality of life free of sexual molestation, and not one child is to be willingly forfeited as an unavoidable statistic.

The Problem. The Investigative Unit (IU) reviewed 370 cases on file with the Board in an effort to identify the scope and character of the problem, and to ascertain trends that might suggest a priority for solutions. The chart below reflects the total number of cases opened by the IU for each of the last five years:

Chart 1
Cases Opened by the Investigative Unit
1995 - 1999



When combined with a historical note, Chart 1 presents a telling statistic. In 1994, the year before the Investigative Unit was established with one investigator, the best estimate presented to the State Legislature predicted that by the year 2000, there might be a total of 30 cases on file with the Board. As the chart reflects for 1995 alone, there were already

*Thirty cases
estimated; 370
cases reported.*

46 cases — 53 percent more than the number originally estimated for the entire 5-year period. Further, as the data indicate, the number of cases increased by slightly over 240 percent during the succeeding four years.

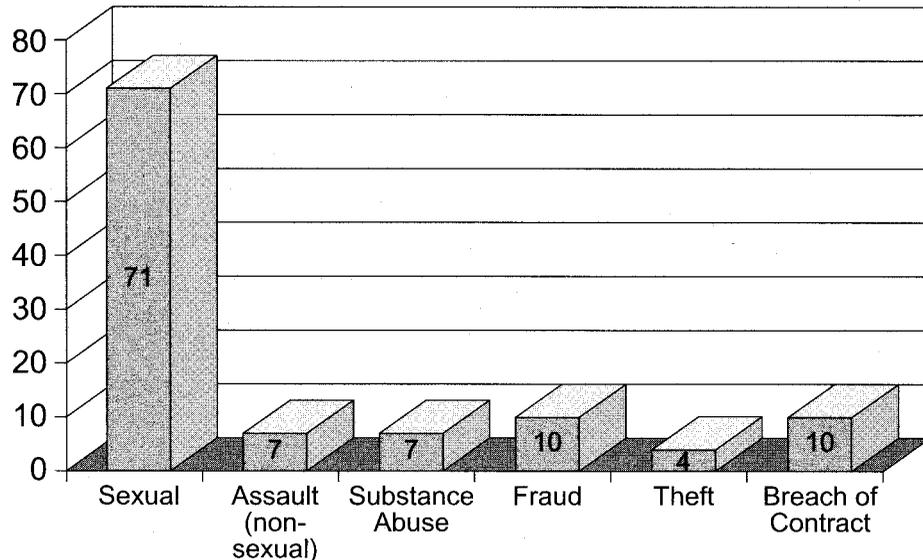
To better glean the scope of the problem in Arizona, the Investigative Unit conducted a special analysis of cases between 1995 and 1999 involving sexual misconduct of teachers with students. Two results, in particular, were startling. First, of a total of 50 cases examined, only 15 (30 percent) had been reported to the Board. More analysis of the unreported cases will be presented later in this summary. Second, teachers were discovered to have victimized at least 2.5 to four children.

Seventy percent of cases were previously unreported.

Forty-six percent of cases occurred away from school.

On this basis, the Investigations Unit estimated conservatively that instead of 50 victims, as the number of cases might imply, teachers had sexually abused at least between 125 and 200 children total, a stunning and substantially larger number than the raw data first indicated.

Chart 2
Disciplinary Actions by the Board
By Types of Offenses
1995 - 1999



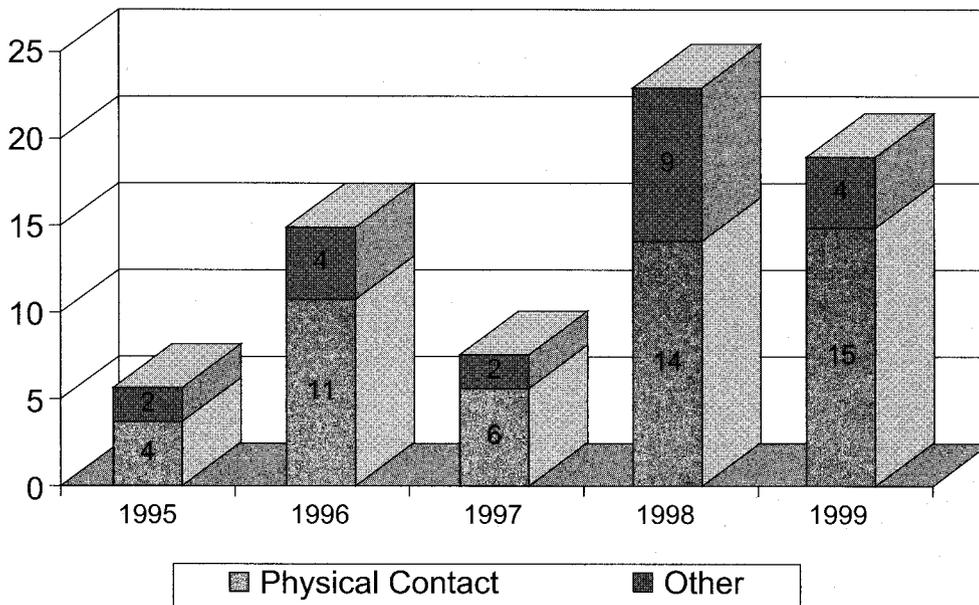
Cases referred to the Board reflected a variety of teacher misconduct ranging from theft of property to sexual offenses involving children. Chart 2 (above) indicates the record of disciplinary actions taken by the Board.

Although there has been a significant number of non-sexual cases of misconduct resulting in Board action (38), the fact that sexual misconduct represented almost two-thirds of the total incidents is both startling and revolting. Of the 71 sexual cases addressed through disciplinary action, there were 50 that involved some type of actual physical contact. The remaining 21 incidents involved, for example, exchange of explicit letters and e-mail, pornography, lewdness, sexual harassment and other types of inappropriate or untoward conduct not involving physical contact.

Almost two out of three sexual misconduct cases involved physical contact.

Since 1995, the number of sexual offenses involving both physical contact and other forms of sexual misconduct has varied somewhat each year. Chart 5 displays the types of cases for each year of the 5-year review.

**Chart 5
Sexual Offenses: Comparison of Cases Involving
Physical Contact and Other Sexual Misconduct
1995 - 1999**



Types of Sexual Offenses —	Touching	Lewdness	Harassment	Pornography	Relationships
	50	10	5	3	3

Although there are fluctuations in the number of cases each year, the data tend to indicate a fairly significant rise in sexual offenses during the last two years of the period. While the Board was unable to identify a cause for the increases, it was reasonable to assume that as the Investigative Unit, newly formed in 1995, began to network with districts and provide information and advice, administrators began to report allegations to the Board. There is no basis to conclude that the growth in cases recorded for 1998 and 1999 represents an increase in the actual number of instances involving sexual misconduct with children.

Fourteen percent of sex offenders were female.

Discussion of the Problem. A review of cases revealed that the most obvious problems related to the sexual misconduct of teachers generally could be traced to shortcomings in three broad areas pertaining to professional processes, policies or practices. They are: 1) Teacher screening, 2) Teacher training, and 3) Teacher accountability.

Teacher Screening. Teacher screening at the time of initial hiring or recertification represents the first step in preventing teacher misconduct. In this regard, a distinction must be made between the determination of suitability and the verification of qualifications. For purposes of this report, qualifications refer to various professional credentials such as academic degrees and disciplines, grade point averages, special training and professional certifications and licenses, or other skills and experience that are prerequisites for the position.

Suitability, in contrast, relates to issues of character and background, and in particular, those elements in the individual's personal and professional record that point to honesty, ethics, good judgment, temperament, social skills, morality, wholesomeness, personal responsibility, level and an ability to interact appropriately with others of all ages and under all circumstances. The background investigation, a deceptively important element in the screening of applicants, offers the key to successful selection of those who would be role models for impressionable children entrusted to their care and education.

Moral suitability is a must.

The challenge related to adequate screening of prospective teachers resides with the conduct of adequate background investigations. The large number of teachers — regular, part-time, substitute and emergency substitute — and their ease of mobility presents administrators with a special responsibility to insure against the likelihood of professional misconduct in the future.

A thorough background check is fundamentally important.

Since 1990, the State Board of Education has conducted limited screening of individuals applying for State certification. The large number of applicants and the inherent constraints to conducting thorough reference checks have limited the depth of background investigations that have been routinely conducted. Further, throughout the State, there are non-standard hiring processes, background investigations, and related forms and records. Many other states also experience the same challenges in conducting thorough background checks and, as a result, the practice of reciprocity here in Arizona could subject schools to the possibility of infusing another state's unsuitable teachers into its classrooms.

Teacher Training. The function of training is of primary importance to the development of a corps of professional teachers and is the cornerstone of a system of personal accountability. For purposes of this report, training refers to teaching or instruction designed to assure knowledge of, and compliance with, applicable laws, policies and procedures, and the standards of conduct for teachers. While considerable attention is given to the education of teachers, particularly in the area of academic development, the unfolding problem with teacher misconduct toward students signifies a need to reinforce the importance and standards of decorum with children.

Research suggests the need to reinforce or implement instruction in ethics; professionalism; proper conduct with, and around, students; positive image and functions as a role model; civil rights; personal and institutional liability issues; code of conduct; and possible sanctions for misconduct. The cases on file with the Investigative Unit show that, in too many cases, teachers and administrators apparently are ignorant of standards related to personal conduct with students, and of the appropriate actions necessary in response to an allegation of misconduct.

Train to the standards.

Teacher Accountability. For some, the prospect of being held accountable is necessary to bind the individual to a moral obligation and to encourage, or even force, compliance with rules. For others, self-discipline combined with a high moral code and lofty personal standards are all that are needed. With regard to teacher conduct, a system of accountability applied equally to all is necessary to protect the standards of the profession from becoming ineffective and to maintain the trust and confidence not only of students but also parents who rely on teachers to protect their children while at school.

Ultimately, personal conduct — good or bad — is the responsibility of the individual.

The fact is that in 70 percent of the sexual misconduct cases examined, teachers had not

been held accountable and the question had not been resolved by school administrators. These teachers, even though under a cloud of dark suspicion, resigned without evidence of having been investigated and were subsequently hired by other schools that were unaware of the allegations. Without having been held accountable — at a minimum, to resolve the question of misconduct — the opportunistic teachers were able to migrate to other venues where they could resume sexual misconduct with children. This ease with which they were able to move within the Arizona school system is frightening for it means that statistically these 35 teachers had molested between 87 and 140 children.

Summary of Key Recommendations. All recommendations of the Focus Group reflect an incisive grasp of the problem. They also possess the potential to assist in reducing teacher misconduct toward students. All are important. However, since there are practical constraints to implementing all proposals at once, some carry particular relevance for present or near-term applicability because of short lead-time, low cost, and relative simplicity in implementation, or the likelihood of strong, immediate impact on the problem. The recommendations listed below, in addition to those that are supplementary in nature, are categorized by their applicability to teacher screening, training or accountability.

Teacher Screening.

- Safety Certificate. Issue to all public school teachers a safety certificate based upon a limited background investigation consisting of a fingerprint card check and a favorable report from NASDTEC.
- Specialty Status for the Board's Investigative Unit (IU). Designate the IU as a specialty law enforcement agency with limited powers of arrest and the ability to network with other police agencies for information and cooperation.
- Background Investigation of All Applicants for Certification. Conduct thorough background checks of applicants using standardized forms and procedures.
- Screen Teacher Applicants. Identify and evaluate background elements that indicate suitability in terms of moral conduct and trustworthiness.
- Allow Applicants to Disqualify Themselves. Modify application and background forms to include language to inform applicants of automatic disqualifiers and to provide

In 1995, Malcolm McKerry escorted a 15-year old intoxicated girl to a house where she slept the night. In 1998, while working at a different school, he served alcohol to another girl until she passed out. She later awoke to discover that he was performing oral sex. The Board filed a complaint against him in 1999. McKerry held an Emergency Substitute Certificate.

information pertaining to the thoroughness of impending background checks.

- **Revise Application Forms.** Require full disclosure of all civil or criminal citations or arrests, and the status of cases regardless of disposition, i.e. dismissal, plea agreement, reduced charge, negotiated settlement or diversion.
- **Incorporate Full Use of NASDTEC.** Complete a successful query of the database prior to approving a request for certification.
- **Screen Teachers Involved with the AIA.** Require each certified teacher, coach, official, staff member or manager involved with students through the AIA to obtain, as a minimum, a Safety Certificate.

Teacher Training.

- **Include Ethics as Part of In-Service Training.** Require a minimum amount of training periodically in ethics and the code of conduct.
- **Prepare a Tri-Fold Brochure for Distribution.** Use the medium of print to distribute training notices and subject-matter information.
- **Use Training Videos.** Provide useful instructional modules in video format to assure standardized instruction and achievement of important training objectives.
- **Provide Awareness Training.** Specify topics to be included in the professional curriculum at teacher training institutions. Subjects most applicable to the problem include code of conduct, the trust contract with children, reporting responsibilities, policies and laws related to breaches of good conduct.

Walter Talley traveled to California with two 13-year old students. The circumstances were inappropriate, at a minimum, and he was discovered to have used a school computer to access pornography. Talley surrendered his Elementary Education Certificate.

Teacher Accountability.

- **Expand the Scope of Mandatory Reporting Requirements.** In addition to the reportable crimes already listed in statute, require schools to report to the board all allegations and suspicions of misconduct as contained in an expanded list of infractions to be developed.
- **Report All Allegations Based on Reasonable Suspicion.** Require the early reporting to the Board of all allegations that meet the criteria of "reasonable suspicion," to be defined in the rules changes upon adoption of the recommendation.

Kevin Steward, who held an Elementary Teaching Certificate, was convicted of four counts of Sexual Conduct with a Minor, one count of Attempted Molestation of a Child, and one count of Sexual Conduct with a Minor.

- **Impose Penalties for Failure to Report Misconduct.** Develop sanctions to be applied in those cases where responsible professionals fail to report teacher misconduct toward students.
- **Develop a Code of Conduct.** Implement a stringent code that clearly articulates a high standard for teachers with regard to their interaction with students.
- **Organize a State-Wide Inter-District Agreement to Refrain from "Passing the Trash."** Galvanize Arizona school districts to participate in a coalition to eliminate the practice of allowing teachers, guilty or suspected of misconduct, to resign or transfer without notifying the Board.

Adjunct Recommendations. Although the majority of the recommendations pertained to policy or process shortcomings in the areas of teacher screening, training or accountability, the Focus Group also proposed other actions that either were closely related to these core issues or would enable the Board to provide a higher level of service to Arizona schools, children and parents. Those with the greatest potential for rapid implementation are presented below:

- **Make Information Available to Parents On Line.** Expand the current Board web site to include a link to information resources that would be especially useful to parents.
- **Develop a Public Information Plan.** Prepare an information strategy designed to minimize the tendency for some media to sensationalize or exaggerate the problem of teacher misconduct and to build understanding and support for the Board's efforts.
- **Review Funding Requirements.** Identify requirements for immediate and long-term resourcing of the Board's overall plan to address the problem.

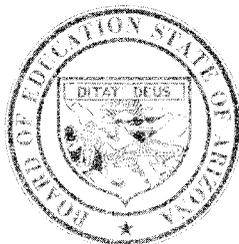
Closing. Obviously, inaction or inadequate action is not a viable option. Continuing with the status quo would leave in place essentially the same circumstances that allowed the problem to develop in the first place. The resolve to act involves an acceptance of change — a change in policies, procedures and practices. There will be a cost also to making necessary changes — a cost in terms of time, effort and funding. However, without change, there will be a higher cost than time and dollars. That cost will be borne by children.

An issue of teacher misconduct toward children at school: A call to action.



The Report Proper

*Improving the safety of school children:
Improving teacher conduct toward students*



Recommendations of the Board of Education Special Focus Group to Address the Problem of Teacher Misconduct Toward Students

*A report on the first fundamental steps to address teachers' sexual misconduct
toward students and improve the safety of Arizona children.*

Report Preview

This document provides an overview of the problem associated with teacher sexual misconduct toward students. It includes data, analysis, perspective and professional commentary. The history of the problem is chronicled for the past five years and includes disturbing revelations of some teachers with no moral bearing whatsoever.

The report presents an overview of a relatively large number of cases involving contemptible teachers who had violated their students, and the trust of parents, not to mention the disrepute brought to the profession itself. As reflected in these pages, there has been a steady growth in reported incidents the last few years, a statistic that is both appalling and alarming to the Board. As this report will connote, the increase is alarming because the number of child-victims is disproportionately larger than the number of cases; it is also appalling because of the moral and intellectual degradation of children at the hands of teachers — an almost incomprehensible concept for the moral person who views teaching as an honor and teachers as honorable.

*The number of
child-victims
exceeds the
number of
cases.*

This document frames the problem and illustrates the depth of thought already brought to the issues. It also traces the evolution of the Board's attempts to coalesce efforts designed to improve the safety of

*Evolution of
the problem.*

Arizona's school children. The most recent and significant action involved convening the Special Focus Group to examine the patterns of educator misconduct and present recommendations to the State Board of Education.

This report is designed to present an accurate picture of the problem as it is unfolding today, and to move collaborative effort from the discourse of yesterday to the action of tomorrow.

To move from discussion to action.

Introduction.

During the mid-1990s, the Board of Education discovered a developing problem related to teacher misconduct with students. Although there had been relatively few allegations reported in 1995, the Board found later that the problem had been in its incipient stage at the time. By the year 2000, with five year's data available to examine, it was apparent that the problem was more extensive than originally perceived. The Board's Investigative Unit (IU), established in 1995 when the issue first raised concerns, recently examined reported cases and determined that there were far more teachers involved in sexual misconduct with students than anyone would have anticipated. In addition, the IU's analysis also revealed that more students had been the victims of unscrupulous and predatory teachers than case files would indicate.

A far-reaching undertaking to improve the safety of children by improving teacher conduct with students.

The issue strikes sharply and deeply at the very heart of the teaching profession. Such serious misconduct by one teacher casts a dark reflection on all other honorable teachers who represent the epitome of decency and trustworthiness. The haunting images of students victimized by their teachers elevate the senses and raise questions about the standing of the profession in terms of duty, honor, and, perhaps most important, adherence to the moral obligation to safeguard the children left in a teacher's care. For these reasons, the State Board of Education has begun an ambitious course of action to address the problem and improve the safety of children in Arizona schools.

Since the establishment of the Board's Investigative Unit in 1995, evidence of the victimization of children has continued to mount until it is now considered a significant threat to the school environment as well as to the safety of Arizona's school children. In recognition of its statutory responsibilities, the Board convened a special focus group in late October 2000 to examine the problem and assist in efforts to improve conditions for all students in the State. The theme established for this initiative alludes to both the purpose of the focus group and to the specific problem under consideration. Simply, it was: *Improving the Safety of School Children: Improving Teacher Conduct Toward Students.*

As the magnitude of the problem unfolded, the Board identified a number of possible remedial steps. However, the data resulting from further study suggested that the problem was more imbedded and significant than first appeared on the surface. Therefore, since several areas of our educational system were involved, it became obvious that steps to identify solutions must involve a coalition of responsible and informed leaders, and include recommended actions that represented the best thinking on the subject.

A coalition of the best thinkers on the subject.

The focus group consisted of 12 distinguished and knowledgeable professionals representing the Department of Education, academe, State government, law enforcement and the judiciary. Members of the Board staff were available to collaborate with the group and to discuss jointly both the problem and possible solutions. The extraordinary work of the focus group, its intellectual reach and its ability to grasp the problem in its deeper significance yielded a list of incisive recommendations to the Board for consideration in its action plan to engage the issue.

Purposes of the Report

The primary purpose of this report is to outline the recommendations of the Special Focus Group convened by the Arizona State Board of Education to address the problem of teacher misconduct toward students. While there are other administrative challenges associated with employee breaches of law and policy — for example, theft, fraud, and breach of contract — this report will present the history and nature of the problem, and focus on the work of the Focus Group as they pertain to the sexual misconduct of teachers.

Outline recommendations.

Recommend improvements in screening, training and accountability.

The report examines the Group's recommendations for improvements in current policies, procedures and practices. It also includes the results of an examination of case files, and dialogue with district and school administrators. These efforts revealed shortcomings in three functional areas: 1) Teacher screening — the procedures employed to determine the moral suitability of candidates to hold a position of such great trust and confidence, 2) Teacher training — steps in place to acquaint certified teachers and teachers-in-training with the responsibilities and standards applicable to the profession in Arizona; and 3) Teacher accountability — procedures and practices to resolve questions of propriety and to hold teachers accountable for acts of misconduct. The recommendations of the Focus Group generally relate to these categories.

Another purpose of this report is to serve as a catalyst for meaningful future action by combining the history and description of the problem with appropriate analysis. Although the misconduct of teachers has been an insidious problem for some time, the data developed recently indicate that abuse of school children is surprisingly pervasive. When made aware of the nature and extent of the problem, members of the Focus Group and the Board were understandably moved by the impact on school children. The need now is to capitalize upon the work accomplished so far, and build an inexorable momentum for changes in the educational environment that will make a substantive difference in the lives of Arizona's children. Hopefully, this report will be a stimulus for the process.

*Galvanize
collaborative
actions.*

Scope of the Report

This report pertains only to the problem of teacher sexual misconduct with school children on and off the institution's premises. It includes recommendations of a Special Focus Group convened by the Arizona Board of Education to examine the problem, engage in collaborative discussions, and develop recommended actions to address the issues.

*History,
analysis,
and
perspective.*

While there are other significant dangers to the safety of students in school, this document reports on the status of efforts, begun modestly in 1995, to address what was then a relatively small number of reports alleging teacher sexual misconduct with students. In addition to providing a framework for mapping a course of action for the future, this report also includes a review of the scope and nature of the problem, and its history; various analyses; discussions of significant topics; tentative answers to implicit questions; views from a management perspective, and general information to promote an understanding of the issues.

Background

In reviewing the record of reported teacher misconduct toward students in public schools, the Investigative Unit of the State Board of Education discovered a sizeable and growing number of cases involving sexual misconduct of teachers with students. Even though there had been instances when the media publicized individual cases, the problem apparently was not considered endemic, nor did it remain for long in the forefront of public thinking. Except for a relatively

*An increase in
incidents or a
growth in reports?*

few individuals, exposure to the statistics presented something of a surprise and, invariably, a question arose with regard to the underlying significance of the data. "Did the increase in reported cases of child abuse each year indicate actual growth in the number of victims or is the phenomenon merely a reflection of recent records keeping?"

Whether the data relates to an actual increase in victimization of children during the last five years or is simply a matter of uncovering a concealed and on-going problem is indeterminate. From a practical standpoint, the question is moot. The facts are that children have been the victims of teachers' predatory sexual misconduct, the reporting of abuses has increased, and the Board now is acutely aware of the problem. It would be safe to assume also that more cases will become apparent as reporting improves and the Investigative Unit continues its proactive efforts. In reality, teacher misconduct is a pernicious and pervasive problem, and the Board has committed its resources to confront the issues directly not only because of its statutory responsibility but also because of its moral obligation to the children of this state.

The Problem

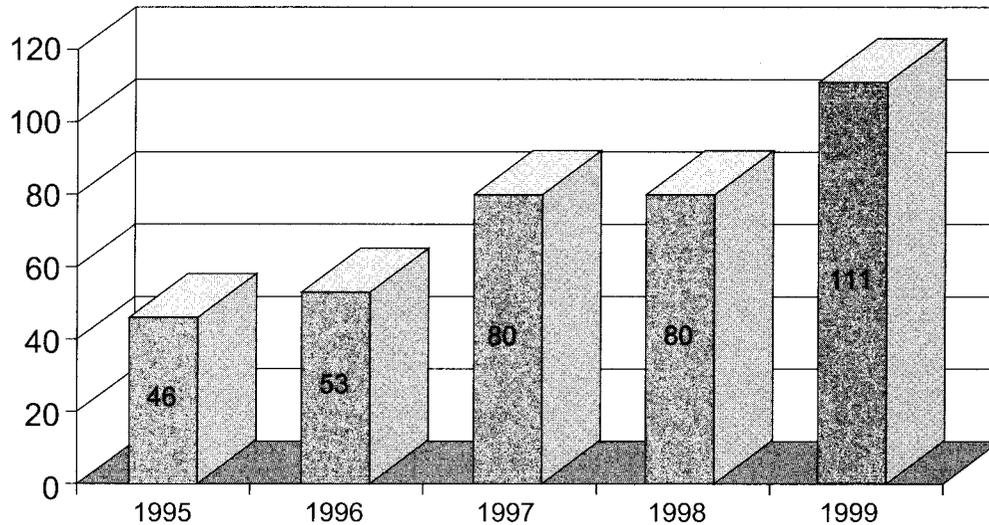
The Investigative Unit (IU) reviewed 370 cases on file with the Board in an effort to identify the scope and character of the problem, and to ascertain trends that might point to solutions. The chart on the next page reflects the total number of cases opened by the IU for each of the last five years.

Pernicious and pervasive.

From an early estimate of 30 cases to an actual count of at least 370.

History, with the hindsight that it offers, presents a perspective that otherwise might be lost. In 1994, the year before the IU was established with one investigator, the best estimate presented in testimony before the State Legislature suggested that by the year 2000, there might be a total of perhaps 30 cases of all types referred to the Board. However, during the first year of the IU's existence, there were 46 active cases, and as the data on the next page indicates, the number has increased by slightly over 240 percent during the succeeding four years.

Chart 1
Cases Opened by the Investigative Unit
1995 - 1999



Analysis

The raw data presented in Chart 1, above, does not reflect the full scope of the problem. There is a hidden element in criminal statistics, related to many types of crimes, that pertains essentially to a ratio between the reported number of incidents and the actual number committed by the same person. This will be referred to in this report as an incident multiplier factor (IMF). (For example, study results suggest that for each DUI arrest, there were at least 20 other times on average when the same driver drove under the influence but was not arrested.)

One reported act signified that others have occurred.

There is an IMF that applies also to cases of sexual misconduct with children. Simply stated, the existence of one act of sexual misconduct by a teacher indicates with virtual certainty that the incident is not isolated and that the individual has preyed upon other children on previous occasions. Use of the IMF, therefore, is crucial to determining the extent of the problem and

A difference between reported and actual victims.

preventing an underestimation of the impact on children and young students in Arizona classrooms.

The Board sought unsuccessfully to find study data that identified an IMF applicable to pedophilia, sexual abuse of children, or sexual misconduct with minors. The problem is largely due to the lack of sufficient information from victims. This can be attributed in part to the wide variance in victims' ages (5-17 generally), different levels of maturity and judgment, and youthful reluctance to complain or to accuse a teacher openly. There is also an

Pedophiles rarely prey upon only one victim.

inherent disinclination for many children to report being a victim because of embarrassment, guilt, shame or fear in many forms to include fear of the teacher, a recognized and sometimes imposing authority figure. What is known, however, is that pedophiles rarely, if ever, prey upon only one victim in a lifetime.

To better glean the scope of the problem in Arizona, the Investigative Unit conducted a special analysis of case reports opened between 1995 and 1999 involving sexual misconduct of teachers with students. The results were startling. Of a total of 50 cases were reported to the Board. cases revealed that teachers 2.5 to four children. (Note: each case of sexual at least 2.5 to four victims.) reviewed, only 15 (30 percent) Further, examination of all actually had victimized at least The Incident Multiplier for misconduct with students was After factoring this data into its analysis, the Investigations Unit estimated conservatively that instead of just 15 victims, teachers actually had sexually abused at least 37 to 60 children total, a substantially larger number than the 15 reported cases suggested on the surface.

Each teacher had victimized at least 2.5 to four students.

During its examination of 50 sexual misconduct cases in its files, the Investigative Unit discovered that 35 (70 percent) of the alleged sexual offenders had not been reported but had been allowed to resign from employment at previous school districts with at least the suspicion of either sexual misconduct or more serious criminal acts. Using the IMF of 2.5 to four, the IU determined that these teachers had victimized a total of between 87 and 140 children during their employment history, a staggering toll on school children. In addition, the blithe disregard of suspicions and the acceptance of resignations without resolving the question of misconduct cast a dark shadow on the professionalism and ethics in effect at the time.

Thirty-five cases involved 87 to 140 victims.

Forty-six percent of incidents occurred away from school.

The human dimension associated with failed reporting, that is, "passing the trash," produced painful human suffering. In counting the victims prior to discovery of the teachers' disreputable past, the fact is there might have been

between 52 and 105 fewer children molested in Arizona if reports had been made in each case at the first sign of suspicions. These 35 teachers collectively had a history of alleged sexual offenses involving dozens of children, all the while secure in their employment even though they were suspected of sexual misconduct with students. The price paid by these children was unarguably tragic and most likely avoidable.

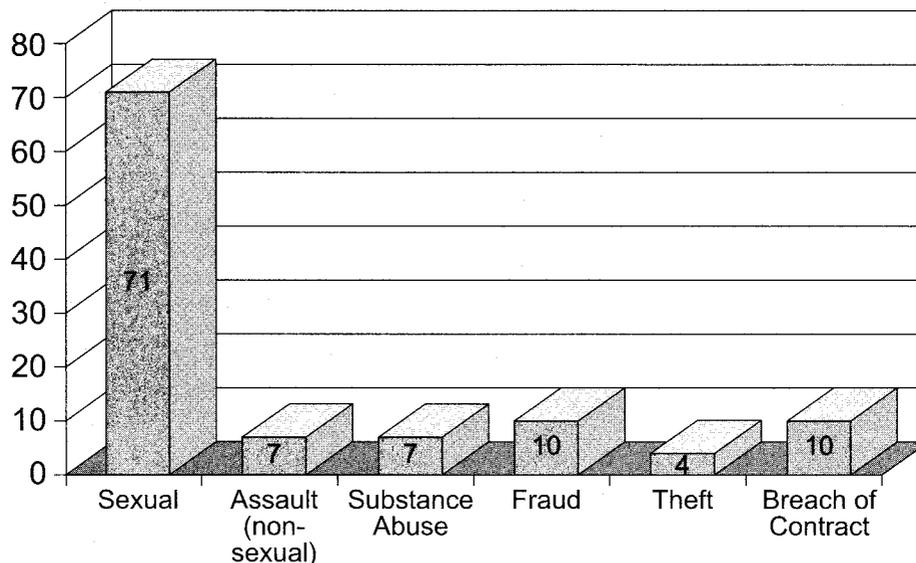
*All 50 cases represented
between 125 and 200 child
victims.*

*All 125 to 200
children incurred a
tragic price.*

On the surface, the numbers tarnish education's record of teacher accountability. From a management perspective, they point to a patent lack of ethics and a disturbing failure in responsible administration. In human terms, where the impact clearly is most poignant, they represent lives that have been scared and may take years to heal, if ever. This is the real impact of "passing the trash," of allowing human rubbish to remain in the classrooms.

Chart 2, below, categorizes 109 disciplinary actions taken by the Board between 1995 and 1999.

Chart 2
Disciplinary Actions by the Board
By Types of Offenses
1995 - 1999



Over two out of three sexual cases involved touching.

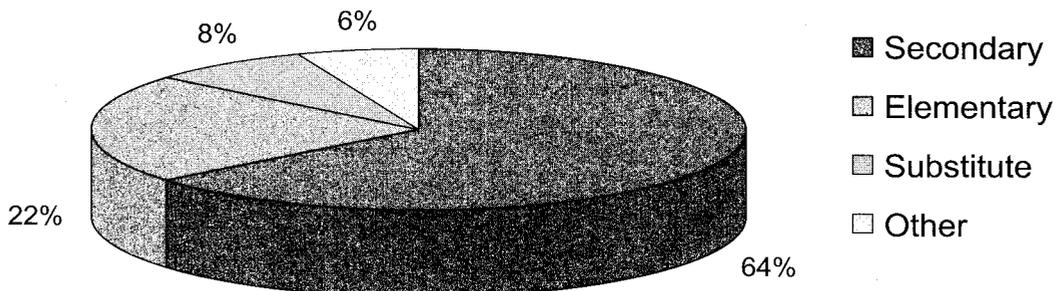
Although there have been a significant number of non-sexual cases of misconduct resulting in Board action (38), the fact that sexual misconduct represented almost two-thirds of the total incidents is both startling and revolting. Of the 71 sexual cases addressed through Board disciplinary action, there were 50 that involved some type of actual physical contact. The remaining 21 incidents involved exchange of explicit letters, notes, e-mail, pornography and other types of inappropriate or untoward conduct not involving physical contact. The fact that 30 percent of the sexual cases did not involve touching provides little relief from concern for the welfare of students, or from the revulsion that attaches to an adult's aberrant behavior with children.

There is no way to classify as harmless the effects of a teacher's propositions or suggestive remarks to children. While the sexual escapades of some pedophiles might never become more intense than letters or comments, the exchanges with children could signify an escalation toward more serious forms of perversion.

<i>Sexual Offenses Without Touching</i>	
<i>Lewdness</i>	10
<i>Harassment</i>	5
<i>Pornography</i>	3
<i>Relationship</i>	3

When noting the 21 cases of sexual misconduct not involving touching, there is the lingering concern that the teachers involved might be somewhere on a continuum evolving toward more serious and harmful criminal acts. Regardless of whether misconduct was more or less aggressive, more or less obnoxious, or more or less perverted, all the children nonetheless were victims as were all teachers who held the line on a high moral code.

**Chart 3
Sex Offenders
by Type Certification**

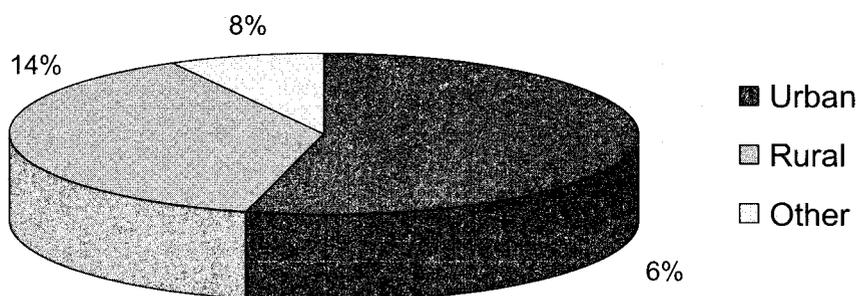


The breakout of sexual offenders by type certification presented little surprise to the Focus Group. Almost two out of three educators targeted older and more physically mature students with more advanced social skills. One out of five, however, targeted the very young, those who were least equipped to recognize and defend against their teachers' monstrous perversity. As noted in Chart 3, previous page, six percent of the sexual offenders, the lowest percentage group indicated, were categorized as "other," referring to counselors and administrators. On the surface, this relatively small statistic seems almost innocuous. However, the true significance of this smallest group is gleaned from the realization that counselors and administrators should embody the epitome of principled conduct and function as the vanguard of protection for students of all ages.

Administrators should be an example of principled conduct: a vanguard of protection for students.

Chart 4, below, indicates the locations of sexual offenders at the time the incident was reported to the Investigations Unit.

Chart 4
Distribution of Sexual Offenses by Area



The distribution of sexual offenders between urban and rural areas is generally consistent with the population distribution and geographic areas involved. The most significant statistic involves the third component of the chart – the category labeled as "other." This refers to those teachers who were Arizona-certified but were out of the State at the time the offense was reported. While there is some

uncertainty in the interpretation, there is some likelihood that the teachers identified with this group were part of the mobile mix of sex offenders who migrated from area to area and from school to school.

Although the possibility of violence involving weapons or explosives presents a serious risk to students, it is the sexual misconduct of teachers – the insidious predator from within – that threat to the safety and well- This is based on important evidence; the volume and misconduct, in comparison materialized; the fact that students historically has been under-reported; and in each case of sexual misconduct studied, there has been more than one victim. For these reasons, the Focus Group engaged in collaborative discussions with the issue of a teacher's sexual misconduct foremost in mind as it prepared recommendations for the Board's consideration.

Sexual misconduct of teachers is the most likely threat to the safety of school children.

One child victim is too many.

Throughout discussions of sexual misconduct with students, there was unanimous agreement on two points in particular: One child victim is too many, and one predatory teacher is too many. The Focus Group was appalled at reports of victimized children whose safety while in the presence of teachers should have been a given.

Invariably, the question arose, "Why did schools fail to report and investigate allegations?" The reasons no doubt varied, but there are a number of factors that could have contributed to the lack of reporting. Some of those outlined below are based upon indications gleaned during the IU's review of sexual misconduct cases. A partial list includes:

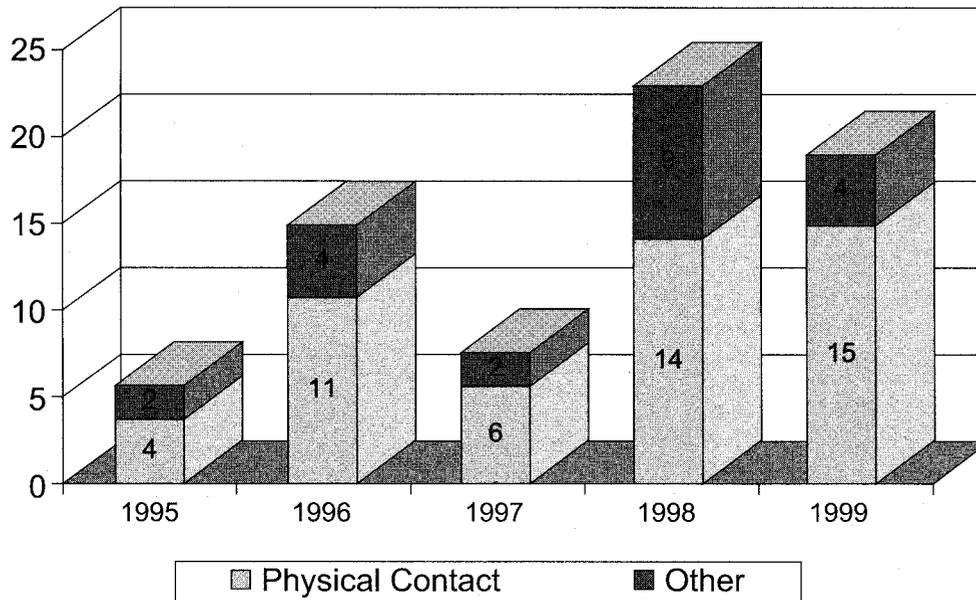
- Hesitation based upon the realization that a reported allegation might linger to tarnish the individual's reputation, even if later proven to be unfounded;
- Outright disbelief in the claim;
- Lack of objectivity when discussing the matter with the teacher;
- Apathy;
- Ignorance of requirement to report the allegation;
- Lack of evidence accompanying the claim to prove misconduct;
- Tendency to protect employees especially those with otherwise exemplary records;
- Lack of knowledge in conducting a thorough and objective investigation;
- No perceived need to report the allegation following a perfunctory investigation that failed to corroborate the claim;

Some causes of failures to report allegations or incidents.

- Concern over the employee's reaction to being confronted or reported; and
- A presumption, based upon the scarcity of facts at the time, that the case was of less urgency than other issues dominating the daily agenda.

Since 1995, the number of sexual offenses involving both physical contact and other forms of sexual misconduct has varied somewhat each year. Chart 5, below, displays the types of cases for each year of the 5-year review.

Chart 5
Sexual Offenses: Comparison of Cases Involving
Physical Contact and Other Sexual Misconduct
1995 - 1999



Although there were fluctuations in the number of cases each year, the data indicate a fairly significant rise in sexual offenses during the last two years of the period. While the Board was unable to identify a cause for the increases, it seemed reasonable to assume that as the Investigative Unit, newly formed in 1995, networked with districts and provided information and advice, administrators began to report allegations to the Board.

Eighty-six percent of sex offenders were male.

There was no basis to conclude that the increase in cases recorded for the 2-year period between 1998 and 1999 represented a rise in the actual number of sexual crimes against children. Instead, the data most likely reflects increased awareness and reporting of incidents. It should be expected, however, that as administrators become more sensitive to the problem through increased communication and training, and as awareness improves through the proactive initiatives of the Board, the number of reported sexual misconduct cases – with a disproportionately larger number of child victims – will continue to increase.

Other developments in the State also could have contributed to the increased reporting. These are: Increased educator attention to the problem as the result of widespread publicity of sensational cases; media discovery and reporting of cases through its own sources; parents who apparently were not inclined to contact districts or schools and, instead, contacted the Board directly; growth in educators' and parents' knowledge of procedures for notification; coincidental notifications from police who were investigating complaints; and increased compliance with legislation passed in 1994 that mandated the reporting of cases to the Board beginning in 1995.

Possible reasons for increased reporting in 1998–1999.

**Chart 6
Sources of Reports to the Board**

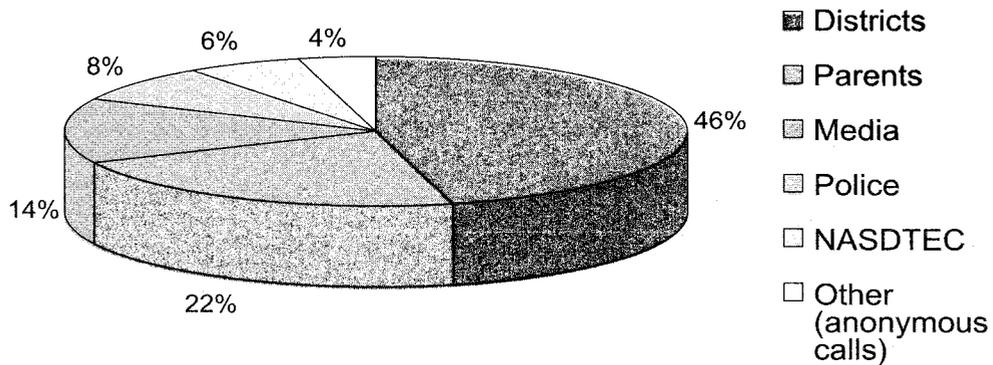


Chart 6, above, outlines several sources of reports to the Board that are of particular interest and generate several key questions. First, the percentage of

reports from NASDTEC and "other" sources appeared to be reasonable and, therefore, did not generate particular discussion. Next, although districts accounted for the largest percentage of reports (46%), the number was less than half the total and raised a question pertaining to information sources bypassing local administrators. Almost one of every five reports was made to the Board by parents. In noting this, some Focus Group members asked rhetorically why so many parents, relatively speaking, were reporting to the Board direct rather than communicating first with the local schools and districts.

Less than half of the reports came from the districts.

As a source of reports, media inquiries provided the first information to the Board in 14 percent of the cases. The Focus Group acknowledged that highly competitive media often operate with an intricate network of information sources that reach deep into community, government and education. Under these circumstances, with their incessant search for the news, journalists can be expected occasionally to scoop a story. However, the percentage seemed high to the Focus Group.

Almost one in four reports came from the media and police.

Even the relatively large percentage of combined reports from the police and "other" sources (12%) raised questions as to why local schools and districts were not the first to notify the Board with initial information. Some Focus Group members speculated that local administrators had not been aware of the allegations and, therefore, were not in a position to inform the Board. However, both the police and the media customarily begin investigations first by contacting authoritative sources closest to the incident.

In most cases, there should seldom be an occasion for sources outside the school system to communicate directly with the Board because of its distance organizationally and geographically from the incident. Although law enforcement or media include schools and contacts, the omission rarity. The fact remains almost always have the greatest knowledge of the case and, therefore, would be in the best position to comment officially and carry the message. More likely than not, local media and police representatives are aware of this and generally act accordingly.

Reports from districts are the most helpful.

Speculative answers to specific questions aside, there is no question that improvements are needed in district reporting to the Board. With the noted exceptions of NASDTEC and perhaps "other" sources, the Focus Group agreed that open and effective lines of communication between parents and administrators would facilitate earlier reports to the

Communication between parents and administrators is crucial.

Board. By virtue of the relationship with their children, parents are potentially the most critical and effective conduits, directly or indirectly, in the reporting system regardless of whether the media or police are involved. This parent-school channel of communication should be enhanced through an active and open two-way dialogue and a consistent school response to the legitimate needs of both students and parents.

Sources of the Problem

An analysis of cases revealed that the most obvious problems related to the sexual misconduct of teachers generally could be traced to shortcomings in three broad areas pertaining to professional processes, policies or practices. They are: 1) Teacher screening, 2) Teacher training, and 3) Teacher accountability.

Teacher Screening. Careful screening of candidates at the time of initial hiring or, in the case of employed teachers at time of recertification, constitutes a crucial step in forestalling teacher misconduct. With regard to the process of evaluating applicants for a teaching position, a distinction must be made between the determination of suitability and the verification of qualifications. For purposes of this report, qualifications refer to various professional credentials such as academic degrees and disciplines, grade point averages, special training and professional certifications and licenses, or other skills and experience that are prerequisites for the position.

*Screening
is an
essential
step in
preventing
misconduct.*

Suitability, in contrast, relates to issues of character and background, and in particular, those elements in the individual's personal and professional records that point to honesty, morality, wholesomeness, ethics, good judgment, personal responsibility, level temperament, social skills and other qualities that connote an ability to interact appropriately with others of all ages and under all circumstances. The background investigation, a deceptively important element in the screening of applicants, offers the key to successful selection of those applicants who will act appropriately and dependably as role models for impressionable children entrusted to their care and education.

*Moral suitability — an
absolute essential.*

The challenge to adequate screening of prospective teachers is in the conduct of adequate background investigations. The large number of teachers — regular, part-time, substitute and emergency substitute — and their ease of mobility present administrators with a uniquely special responsibility to identify risk factors related to character and conduct. A favorable background should be the litmus test for

*Background
checks —
litmus tests
for
suitability.*

suitability, and should be sufficiently thorough to uncover obvious deficiencies that might indicate a proclivity toward misconduct.

Unrestricted reciprocity involves calculated risks.

Since 1990, the State Board of Education has conducted limited screening of individuals applying for State certification. The large number of applicants and the inherent constraints to conducting thorough reference checks have limited the depth of background investigations that have been routinely conducted. Further, throughout the State, there are non-standard hiring processes, background investigations, and related forms and records. Many other states also experience the same challenges in conducting thorough background checks and, as a result, the practice of reciprocity here could subject Arizona schools to the possibility of infusing another state's unsuitable teachers into its classrooms.

Records reflect that since the policy of reciprocity was implemented in July 2000, there have been 25 teachers transferred from out of state who are now teaching in classrooms without a local background check. Therefore, in effect, this suggests that what we know about the suitability of these teachers, who have been granted State certification, is limited to what another state has inferred that it knows. This proposition is not presented to impugn the character of these teachers, but to point to the fact that carte blanche reciprocity could raise questions regarding the acceptance of another state's assumed standards without independent local background checks to verify the individual's suitability.

While there are approximately 50,000 individuals teaching in Arizona's 1,607 public schools or school sites, there are an additional 134,000 teachers certified but not teaching at present. Among the estimated 184,000 teachers from both groups combined, those who have undergone an adequate background investigation are unknown. While there might be a degree of discomfort with an inability to confirm the adequacy of background checks of all teachers currently employed, it could become an inflamed issue with parents and the public if a child was harmed and the teacher had not been properly screened before hiring.

The number of teachers with adequate background checks is unknown.

At best, current staff may be able to keep pace with present needs for background checks.

From a practical point of view, it would not be realistic to expect now, with staffing currently authorized, to verify the screening of all 184,000 State-certified teachers. There are

There are 10,000-20,000 new applicants for certificates each year.

approximately 10,000-20,000 new applicants applying annually for State certification. Efforts needed to assure thorough background checks to determine suitability of these new applicants likely would prevent current staff from conducting checks on current certificate holders except in emergency circumstances.

In addition to the need for positive changes in procedures and standards related to background investigations, the Board's Investigative Unit determined other specific areas where improvements are needed to identify, or remove from classrooms, those individuals whose presence raises concern for the safety of children. The Focus Group addressed some, but not all, of these issues in its recommendations to the Board. They are:

- Assure timely distribution of information related to known sex offenders either employed by schools or living in nearby neighborhoods.
- Improve the means for information sharing between schools, districts and states to alert prospective hiring officials to questionable professional and moral conduct of applicants.
- Improve access by the Board's Investigation Unit to information, available from law enforcement agencies, that would contribute to investigations.
- Obtain reports from courts regarding disposition of adjudicated cases involving teachers, staff and other school employees.
- Develop procedures to adequately screen individuals undergoing emergency certifications.
- Improve background investigations of foreign applicants.
- Establish guidelines for the conduct of background investigations of both in-state and out-of-state applicants.
- Require both non-teaching and contract staff to undergo a background investigation appropriate for the position, level of supervision and access to students.
- Establish the Investigative Unit as a specialty law enforcement agency.
- Staff and fund the Board at a level consistent with current and future demands.
- Develop a list of automatic disqualifiers.
- Phase out reciprocity.
- Conduct modified screening of teachers applying for re-certification.
- Provide training as needed in the conduct of background investigations.

In January 1997, Richard Catt was accused of sexual misconduct with several students. He subsequently resigned his Basic Secondary Certificate and was arrested for child molestation. In a plea agreement, the charges were reduced to four counts of Sexual Abuse and one count of Sexual Conduct with a Minor.

Teacher Training. The function of training is of primary importance to the development of a corps of professional teachers and is the cornerstone of a system of personal accountability. For purposes of this report, training refers to instruction designed to assure knowledge of, and compliance, with the standards in effect for teacher conduct. While considerable attention is given to the education of teachers, particularly in the area of academic development, the unfolding problem with teacher misconduct toward students signifies a need for effective training to define and reinforce the importance and standards of proper decorum and conduct with children in the classrooms.

*Training —
a cornerstone
of the profession.*

An analysis of the problem points to the need to either implement or reinforce instruction in ethics; professional decorum and conduct with, and around, students; positive image and functions as a role model; personal and institutional liability issues; code of conduct; and possible sanctions for misconduct. The cases on file with the Investigative Unit show that, in too many cases, teachers and administrators apparently are ignorant of standards related to personal conduct with students, and of the appropriate actions necessary in response to an allegation of misconduct.

While morality and ethics in individual character are the foundation of a high standard of professional conduct, the existence of a clearly defined code of conduct will reinforce the expectation of highly principled day-to-day interaction with students. Policies to train employees in the code and to hold them accountable for personal misconduct toward students are important components in improving the safety of school children. Once implemented, a consistent and comprehensive training regimen should undermine a defense of misconduct based upon ignorance of standards, and present a clear record of the position of the Board, districts and schools regarding a high code of conduct for teachers.

*A rigorous code of
conduct should
underpin
policies governing
interaction with
students.*

Although additional training requirements can challenge the academic curricula or exceed available on-the-job training hours, the function is essential to the professionalization of teaching and the elevation of conduct with students. It is clearly insurance against teacher ignorance of the expectations, and a precaution against misconduct and abused children. Rather than requiring additional hours in the classroom, training might be accomplished effectively with innovative methods of instruction or integration into existing instructional modules. With this in mind, the State Board of Education has identified a number of actions to improve the training of all teachers, interns or

*Improved precertification and
in-service training are needed.*

student teachers. Some of these were recommended by the Focus Group and are included in the list below:

- Implement a formal Code of Conduct that unequivocally outlines the standard of conduct to which teachers will be held.
- Assure that Arizona teacher training institutions include meaningful and mandatory instruction in ethics, civil rights and case laws, personal and institutional liability, the Code of Conduct (once adopted), and State personnel codes pertaining to misconduct.
- Conduct in-service refresher training to acquaint teachers and administrators with policy and statutory changes, and to review obligations regarding conduct toward students.
- Include training for out-of-state applicants seeking Arizona teacher certification prior to assuming classroom responsibilities.
- Develop appropriate training for employees who might change positions and incur responsibilities that differ significantly from those previously fulfilled.
- Standardize training records to assure completion of required instruction and to facilitate audits or inspections as necessary.
- Initiate a dialogue with teacher training institutions to implement standardized training objectives for core topics.
- Develop a complementary program and identify training objectives for non-teaching staff.

Shari Boulanger allegedly had a sexual relationship with a student in 1998. The reported liaison involved a trip out of town without parental consent.

Teacher Accountability. For some, the prospect of being held accountable is necessary to bind the individual to a moral obligation and to encourage, or even force, compliance with rules. For others, self-discipline combined with a high moral code and lofty personal standards are all that are needed. With regard to teacher conduct, a system of accountability applied equally to all is necessary to protect the published standards from unwarranted criticism and from becoming ineffective, and to maintain the trust and confidence not only of students but also parents who rely on teachers to protect their children while at school.

A system of accountability protects both students, teachers and the profession.

The fact is that in 70 percent of the sexual misconduct cases examined, teachers had not been held accountable and the question had not been resolved by school administrators. These teachers, even though under a cloud of dark suspicion, resigned without evidence of having been investigated and were subsequently hired by other schools that were unaware of the allegations. Without having been held accountable — and without resolving the question of

Seven out of 10 teachers had not been held accountable.

misconduct — the opportunistic teachers were able to migrate, sometimes multiple times, to other venues where new freedoms existed to abuse children, and unsurprisingly where new suspicions arose each time.

These examples call into question not only the ethics of some administrators but also the effectiveness of policies and procedures designed to assure a teacher's accountability. The practice of holding teachers accountable for sexual misconduct toward students is varied and generally fixed at local levels. While some offenses result in automatic decertification, there is a wide range of other misconduct that is addressed at local levels, a situation that results in a variety of sanctions applied to similar cases.

With 1,607 public schools and school sites, accountability is a challenge.

There are 1,205 traditional public schools in Arizona that are the responsibility of the State Board of Education. In addition, there are 277 charter institutions (non-traditional public schools) licensed to operate at 402 separate sites. Policies governing both types of public institutions generally allow each school or district to address many problems of teacher misconduct independent of State Board involvement. At present, no information is available with regard to the number, type and severity of disciplinary cases that have been handled at local levels in the past.

Since 1995, with the enactment of new legislation the previous year, local schools and districts have begun to report allegations and substantiated cases in larger numbers. For this reason, the Board has concluded that a previous trend to under-report cases is changing as local officials become familiar with the law, interact with the Investigative Unit, and are able to use on-line reporting of complaints.

The Board has identified a number of actions, some of which were included in Focus Group Recommendations, that would improve the system of

The congruity of the recommendations results in multiple benefits.

accountability within the State's public school system. Some actions, intended to reinforce the practice of holding teachers accountable for misconduct, also contribute to alleviating shortcomings in other areas of policies, procedures or practices. For example, a code of conduct that is included in pre-certification and in-service training also can be used as a basis for holding individuals accountable for breaches of good conduct. Some of the actions listed below, therefore, may repeat recommendations previously intended to address shortcomings in teacher screening or training.

The following actions should serve to strengthen the State's system of teacher accountability:

- Investigate all allegations and complaints pertaining to alleged misconduct.
- Define and publish in appropriate administrative codes various terms, such as "immoral behavior," "unfit," "unsuitable," "unprofessional," "inappropriate conduct," "unethical," and "grave serious offense," the latter intended to serve as grounds for involuntary dismissal.
- Require teacher-applicants to acknowledge and sign a code of conduct with the understanding that a violation could result in grounds for termination of employment.
- Eliminate the practice of reciprocity.
- Initiate steps to require courts to report disposition of cases involving teachers.
- Define the level of proof needed to substantiate findings in an investigation of alleged teacher misconduct.
- Require teacher-applicants and certified teachers applying for re-certification to declare all arrests, not just convictions, and to disclose all civil citations, reports of dismissals, plea bargaining, reduced charges, adjudications pending, participation in diversion programs, and other dispositions that would help determine suitability and broaden the perspective of a background investigation.
- Include with applications for employment a signed release of personal information by the teacher-applicant granting permission for previous employers to release file information to background investigators.
- Screen teachers involved with the AIA.

For almost 18 years, Joseph Insera was suspected of unprofessional and immoral conduct at various schools in the State. In addition to inappropriate relationships with girls, he was reported to have written suggestive letters. He faced two counts of assaulting minor children. Recently, he was to be hired at one school on the same day that his resignation from another district – the fifth in his career – was to be effective.

Adjunct Recommendations.

Although the majority of the recommendations pertained to policy or process shortcomings in the areas of teacher screening, training or accountability, the Focus Group also proposed other actions that would enable the Board to provide a higher level of service to Arizona schools, children and parents. Those with the greatest potential for rapid implementation are presented below:

- Make information available to parents online.

- Develop a public information plan.
- Review funding requirements and prepare necessary budgetary requests.

In addition to the specific recommendations of the Focus Group, the Board's development of its own list of actions reflects its grasp of the problem and the breadth of its thinking on the subject. Although the number of recommendations contained in the two lists combined may require phasing for implementation, or in some cases further study, the Board's intent is to establish a priority order for actions. This will involve identifying recommendations with the potential for immediate implementation, and incorporating the remainder into the Strategic Plan for action later.

Improving the conduct of teachers toward children: A need for action.

Focus Group Recommendations

Improving the safety of school children: Improving teacher conduct towards students

The focus group. The focus group approached its purpose with particular dedication and diligence. Comprised of a cross-section of career professionals in government, education, law enforcement and the judiciary, members engaged in a collaborative effort with State Board staff to develop recommendations to address the problem of teacher misconduct toward students. As this section of the report will reflect, the results were impressive.

Steps Toward Safer Classrooms: Examination of Proposed Solutions

The approach. The Focus Group's examination of the problem of teacher misconduct with students revealed a logical grouping of causes related to the issue. At the risk of over-simplification, the vast majority of cases involving victimization of children could be traced to one or more of the following process or policy shortcomings within the educational system: Teacher screening, teacher training or teacher accountability. Having identified the areas of weakness, the Focus Group examined the problem in considerable detail and then prepared recommendations for action by the Board.

Staff response. The Arizona State Board of Education staff has reviewed each recommendation carefully. Without exception, each proposal offers exceptional possibilities for alleviating the problem and improving the safety of children in Arizona schools. For this reason, the staff already has begun action to examine each recommendation to determine the appropriate timing and steps necessary for implementation. Those steps that can be taken in the most expeditious manner and with the least expenditure of resources will be incorporated into an action plan for immediate attention. Those that require longer lead times or a coordinated effort involving multiple departments or complex phasing will be incorporated into the Board's Strategic Plan for action at the earliest opportunity.

Teacher Screening – Discussion

The problem.

The large number of teachers – regular, part-time, substitute and emergency substitute – presents challenges to screening personnel records and background information in an effort to reasonably insure against the likelihood of professional misconduct.

Suitability vs qualifications.

The problem condenses succinctly into two descriptive contrasts: Suitability vs qualifications. The latter generally are readily identifiable during a hiring process while the determination of suitability in terms of character, morality and ethics – qualities that are essential for those entrusted with the care and education of children – requires greater effort and watchfulness.

Non-standard backgrounds.

Since 1990, the State Board of Education has conducted limited screening of individuals applying for State certification. However, the large number of applicants and the inherent constraints to conducting an in-depth check have limited the depth of background investigations initiated throughout the State. Further, throughout the State, there are non-standard hiring processes, background investigations and related forms and records.

Inadequate backgrounds.

Of 370 cases opened by the Investigations Unit during the period 1995-1999, the teachers named in each case were discovered to have either a deficient background check, no record of a check at all, or were granted a certificate under the rules of reciprocity.

Recommended Actions

❖ Early Fingerprinting

Require prospective teachers to submit a fingerprint card at the time of enrollment in the professional program or at the time the prospective teacher declares an educational major, whichever occurs first. Further, submission of a fingerprint card should be a prerequisite for student teaching.

Timely clearances.

Staff Comments. Early submission of fingerprint cards potentially will enable hiring officials to identify disqualifiers for a teaching certificate and forestall the applicant's ire after having invested considerable time, effort and funds with the expectation of being qualified for a teaching certificate.

Actions Required: Intra-staff and inter-departmental review and coordination; dialogue with teacher training institutions; and changes/additions to Board rules and State law.

❖ **Issue a Safety Certificate**

Conduct a limited examination of a teacher-applicant's background to identify obvious deficiencies that would indicate a potential risk to the safety of children. Teacher's Aides also would be included. A certificate would be granted following issuance of an appropriate fingerprint card and a favorable report from the NASDTEC database. Include all charter school teachers as a requirement, and afford the same opportunity to private and parochial schools on a voluntary basis.

Note: NASDTEC refers to the National Association of State Directors of Teacher Education and Certification.

Early screening.

Staff Comments. As an added step in the process of determining the suitability of applicants, the issuing of Safety Certificates will complement the process of in-depth, standardized background investigations that will have been initiated.

Actions Required: Intra-staff coordination and changes in Board rules and policies governing charter schools; coordination as necessary to include private and parochial schools volunteering for the program.

❖ **Conduct Reference Checks**

Implement procedures to assure adequate reference checks, and to standardize forms used in background investigations of which reference checks are an integral part. Effective checks should include input not only from character references but also from former employers, and from other sources developed by the investigator when questions arise that require clarification. (Other contacts might include neighbors, professional associates or second-party referrals obtained from those initially interviewed.) The operative question of previous employers would be, "Would you rehire this individual?"

In-depth reference checks.

Staff Comments. Broadening the scope of reference checks will provide a more substantial basis for hiring decisions, will reduce the opportunity for applicants to escape discovery of previous disqualifying conduct, and will offer greater assurance of certifying suitable candidates.

Actions Required: Intra-staff coordination; development of standardized forms and implementing policies; coordination with districts.

❖ Operate as a Specialty Law Enforcement Agency

Initiate legislative action to elevate the Board's Investigative Unit from the role of an administrative unit to the status of a specialty law enforcement agency.

Ready access to important information.

Staff Comments. In far too many cases, information essential to an adequate background investigation or an examination of allegations is highly limited except when shared among police organizations. Designation as a specialty law enforcement agency would enable the unit to operate with sworn peace officers and other police agencies as an equal participant in the protection of citizens and the enforcement of applicable laws related to the Board's authority.

As a specialty agency, the Investigative Unit would experience a relative ease of access to national and locally-available criminal history information and could operate within a responsive network of police professionals where prompt sharing of essential information and open communications are standard. Operating ethically and within the parameters governing handling and disposing of sensitive information from police files, the Investigative Unit could greatly accelerate the processing of background checks and clarify questions regarding an individual's record of conduct and character.

Required Actions. Intra-staff and inter-department coordination; review of Board policies to incorporate the expanded role and increased authority into new or existing procedures; legislation.

❖ Quicker Return of Fingerprint Cards

Take steps to reduce turn-around time between submission of cards and receipt of file information.

Practical considerations.

Staff Comments. Review of fingerprint cards involves both the FBI and Arizona Department of Public Safety and is predicated upon the relative priority given to the card under review. In practical terms, the processing of fingerprint cards related to national security or impelling State interests, such as active criminal cases, likely would take precedent over a files review of teacher-applicants.

Periodically confirm suitability.

Current fingerprint clearance cards, representing a one-time view of the individual's fingerprint record, expire after 99 years. The practical constraints to expediting State and Federal response to fingerprint records checks can be partially offset by earlier submission of cards, as recommended by the Focus Group. Further, periodic re-checks, perhaps every six years to coincide with the re-certification cycle,

would enable administrators to identify individuals with records of misconduct that occurred during the period since the last certification.

Broaden reporting elements.

Strengthening the language used to specify those crimes for which the fingerprints are screened can enhance the value of using fingerprint data to issue a certificate. Terminology should include not only crimes for which there is a record of a conviction but also attempted and preparatory crimes, and a requirement for a report if the card is identified as belonging to a registered sex offender.

Assure prompt access to information.

Classification of the Board's Investigative Unit as a specialty law enforcement agency would allow instant access to National and State automated criminal history information and to other local agency sources as well. These resources would reduce the dependency on information obtained from national and State fingerprint files and facilitate screening teacher applicants to determine suitability for certification and re-certification.

Actions Required. Intra-staff coordination; Board policy change; and legislation to grant to the Investigative Unit status as a specialty law enforcement agency.

❖ **Require Certification of All Teachers**

Require all teachers, teacher's aides and student teachers – regular, substitute and emergency substitute – to be State Board certified before performing duties as teachers.

Strengthen the certification process.

Staff Comments. With the relatively large number of teachers currently in the classrooms, most notably in private, parochial and specialty schools, a sudden surge in certification applications would impose an investigative burden that likely would exceed present capabilities in terms of funding and staffing. After careful review, the staff determined that the recommendation could be addressed in the long term through the Strategic Plan. For the present, efforts can be concentrated on obtaining designation of the Investigative Unit as a specialty law enforcement agency, implementing use of the Safety Certificate, establishing the requirement for periodic re-issuance of fingerprint certificates, standardizing background investigations, and initiating other actions that likely could be implemented more quickly and possibly might obviate, for the present, the need for State-wide certification of all teachers.

Actions Required. Intra-staff and inter-departmental coordination; changes to State law and Board policies.

❖ Conduct Background Investigations for All Teachers

Conduct thorough, standardized background investigations of all teacher applicants.

Staff Comments. A phased implementation of this requirement, in lieu of immediate full-scale implementation, is needed to avoid overloading existing staff and creating a severe backlog in processing approximately 10,000-20,000 applications for teaching certificates annually. Considerations associated with private, parochial and other schools must be factored into the initiative to assure a smooth transition. In the interim, steps can be taken to institute a Safety Certificate, standardize the depth and quality of current background checks and related records, define key terms, and classify the Investigative Unit as a specialty law enforcement agency. To assure adequate follow-up for implementation, the Board can include this in its Strategic Plan for long-range, phased application.

Phased approach to improving backgrounds.

Actions Required. Intra-staff coordination; dialogue with districts; changes in Board policy; development of objectives for inclusion in the Strategic Plan; and development of a budget decision package to acquire the resources necessary to meet the need.

❖ Screen Teacher Candidates

Assure that all applicants for a teaching certificate have been screened for the requisite reputation and moral qualifications – suitability vs professional qualifications – expected of those who are in a crucial position to protect and proctor children who are vulnerable and impressionable.

Suitable vs qualified: character vs credentials.

Staff Comments. This recommendation is a summary focal point for all other proposals pertaining to teacher screening and reflects the Focus Group's recognition of the need to screen teacher applicants as a singularly important preventive to the abuse of children in classrooms. The operative term that best describes the intent of this recommendation is "suitability" for teaching children – suitability in terms of moral standing and principled conduct – as opposed to professional qualifications such as degree discipline, academic credentials and performance, grades, career accomplishments and similar determinants.

Screening is a continuous process.

Although screening of applicants is fundamental to an effective system of selecting only the most suitable candidates, the action is a continuous process rather than an end product. Accordingly, the Board recognized the nature of the

requirement and will include in its Strategic Plan provisions to review the process of screening applicants and to identify needed improvements.

Actions Required. Intra-staff and inter-department coordination; and changes to law and policies as necessary to correct shortcomings in the system of screening applicants.

❖ **Allow Applicants to Disqualify Themselves**

Enable individuals to abort the application before the process has been completed.

*Voluntary
withdrawal and
early screening.*

Staff Comments. Experience has shown that deception in a candidate's statements, particularly those recorded on forms related to a background investigation, frequently will mask previous conduct that would, or should, be a disqualifier. The initiative to standardize the application and background investigations processes and related forms, and to provide full information regarding character requirements, will improve the screening of applicants.

Actions Required. Intra-staff and inter-department coordination; and changes as necessary in Board policies and State law; development of revised, standardized background forms.

❖ **Incorporate Full Use of NASDTEC**

Assure that a query of the NASDTEC database is completed prior to approving a request for certification.

*Limit reciprocity
with
nonparticipating
members.*

Staff Comments. There are six states and four other non-participating member jurisdictions that have not signed the current NASDTEC Interstate Contract, effective October 1, 2000. The six states that have not signed the Contract are Iowa, Kansas, Minnesota, Missouri, South Dakota and Wisconsin. Other non-participating jurisdictions are British Columbia, the Department of Defense Education Activity, Saipan and Ontario.

Actions Required. Intra-staff coordination; Board policy change to eliminate reciprocal acceptance of background investigations performed by non-participating jurisdictions.

❖ **Revise the Language Used to Solicit Information**

Require applicants for teaching certificates to list, in addition to convictions, all arrests regardless of ultimate disposition, diversions, plea agreements, dismissals, juvenile arrest information, expunged records, negotiated settlements, and all criminal or civil traffic violations. The scope of mandatory self-reporting also should be expanded to include involuntary dismissals, resignations in lieu of termination, and resignations that occurred after an allegation arose or during an investigation of alleged misconduct with students.

Full access to information sources.

Staff Comments. The effectiveness of these changes should be enhanced if standardized application forms are modified to include an authorization by the applicant for former employers and organizations, with which the applicant has been associated, to release to the background investigator any records related to job performance or personal conduct. Substitute teacher applicants also should be included.

Actions Required. Intra-staff and inter-department coordination; changes in Board policy.

Teacher Training – Discussion

The problem.

While current training of teachers, per se, is not considered a factor related directly to the problem of misconduct toward students, little is known about the curricula at teacher training institutions as it pertains to levels of instruction in ethics; professional decorum and conduct with, and around, students; positive image and functions as a teacher-role model; liability issues; code of conduct; or possible sanctions for misconduct. Further, there is no requirement for updated in-service or refresher training to emphasize the need for conduct above reproach, as a matter of strict policy, and to maintain an awareness of established professional standards.

Professional training vs academic education.

Research shows that in too many cases, teachers and administrators apparently are ignorant of individual and institutional standards and responsibilities related to personal conduct with students. This can be traced to the lack of an unequivocal and clearly articulated code of conduct, the absence of a published policy, lax accountability, or to an ignorance of those factors that constitute misconduct and of appropriate actions that should be taken when an allegation arises.

Emphasis on the code of conduct.

Policies to train employees properly and to hold educators accountable for personal misconduct toward students are important components in the scheme to improve the safety

of school children. Once instituted, a policy requiring systematic and repetitive training should defeat any defense of misconduct based, in claim only, upon an ignorance of standards. Further, an integrated training program that forthrightly declares a stringent standard of personal conduct presents a clear record of the Board's position regarding the matter.

Recommended Actions

❖ Include Ethics as Part of In-Service Training

Require periodically a minimum number of hours training in ethics and a code of conduct throughout the duration of a teacher's employment.

Reinforcing earlier professional training.

Staff Comments. Current policy requires a minimum of 180 hours of in-service training prior to recertification of teachers. The Focus Group recognized that contributing to improved teacher conduct toward students through training should involve instruction not only in ethics but also the code of conduct (once implemented) and its practical applications; reporting requirements; duties and responsibilities of employees to safeguard children; case law; liability issues; civil rights; and Board policies applicable to the topic. Periodic review and revision of in-service training requirements to meet changing needs will be necessary and, therefore, will be included in the Strategic Plan.

Actions Required. Intra-staff coordination and further study to determine the most important and effective mix of in-service training hours prior to recertification; possible development of a training bulletin to transmit related information to districts; and changes in Board policy.

❖ Prepare a Tri-fold Brochure for Distribution

Distribute training notices and items of related information to teachers through the mail in the form of a brochure.

Strengthening the training program plan.

Staff Comments. Printed notices – essentially training bulletins – in unique formats offer advantages that other mediums lack. In light of the need to conserve funds, use of whole-page notices mailed to districts for reproduction and further distribution might be an effective substitute for the more costly format of a brochure printed in hundreds of copies that requires postage and special handling. As an extension of efforts to speed service and reduce operating

expenses, an electronic format could further reduce costs for production and facilitate timely distribution.

Actions Required. Intra-staff coordination; determine purposes and scope of the information to be distributed; identify funding and staffing sources; publish an addition to Board policy and include objectives in the Strategic Plan.

❖ **Use Training Videos for Teachers**

Provide useful instruction in popular video format to assure standardized instruction and achievement of important training objectives for teachers throughout the State.

Another tool in the training arsenal.

Staff Comments. The Board staff already has begun efforts to develop a training video related directly to the topic of proper personal conduct toward students. While producing the first video will incur a substantial learning curve, it is expected that subsequent releases will reflect improvements in production techniques, associated costs, and methods of distribution, possibly in the form of CDs or on-line self-paced training tutorials.

Actions Required. Intra-staff and inter-department coordination; collaboration with school districts; development of continuing funding sources; implementation of Board instructions regarding use of the medium; and recording of training when completed.

❖ **Provide Awareness Training**

Specify minimum subjects to be included in the professional curriculum at teacher training institutions. In particular, there should be emphasis on the code of conduct and on subjects related to the moral duties of teachers as they pertain to interaction with students; the trust contract with children; awareness of and sensitivity toward a child's esteem; reporting responsibilities; personal and institutional liability; Board policies; State laws; and possible sanctions for misconduct or breaches of the code of conduct.

Early exposure to standards of personal conduct.

Staff Comments. The Board staff views this training – early in the development of new teachers – as the policy foundation of moral, ethical and professional conduct of teachers throughout the State. It is also companion to in-service training that is designed to reinforce requirements and function as a periodic reminder of individual responsibilities.

The staff also realizes that the degree program in education already is full and the addition of new course requirements presents a risk of lengthening the time needed to graduate. For this reason, requirements should be designed for inclusion in existing courses of instruction as opposed to adding additional credit hours to the degree program. However, the training institutions should be required to provide written confirmation that the prescribed instruction has been successfully completed.

Actions Required. Intra-staff coordination; identification of current training deficiencies and development of an in-service training program; changes to Board policy.

Teacher Accountability – Discussion

The problem.

Teacher accountability for misconduct toward students is varied and generally fixed at local levels, with the exception of offenses that result in criminal charges or otherwise involve the Board in an administrative action against the teacher. Further, there is no State policy or administrative code to mandate certain actions for conduct that would be considered a grave offense.

There are 1,205 traditional public schools in Arizona that are the responsibility of the State Board of Education. In addition, there are 277 charter institutions (non-traditional public schools), licensed to operate at 402 separate sites. Policies governing both types of public schools within the State generally allow each school or district to address the problem of teacher misconduct independent of State Board involvement. This, in effect, relegates the majority of conduct cases to the status of local issues, a fact that results in a wide range of different responses to similar cases of misconduct.

Recommended Actions

❖ Impose Penalties for Failure to Report Misconduct

Assure that a mechanism is in place to hold accountable those teachers and administrators who fail to report teacher misconduct toward students.

Include both civil and criminal penalties.

Staff Comments. ARS 15-514, the operative statute for reporting misconduct, contains no penalty for non-reporting. In its examination of the problem, the Focus Group determined the need to expand the reporting requirement to include allegations of misconduct, and to hold each employee of a public

school responsible to report all alleged or actual illegal, immoral or improper conduct toward students.

Non-certified private and parochial should be encouraged to report voluntarily information that would otherwise be mandatory for a certified school. Regardless of whether public or private schools are involved, State law should grant immunity from prosecution those individuals making a report in good faith and with belief in its veracity.

Actions Required. Intra-staff and inter-department coordination; changes in Board policy and State law.

❖ Report Allegations Based Upon Reasonable Suspicion

Require that districts report to the State Board of Education all allegations that give rise to a "reasonable suspicion."

Protecting students, teachers and schools.

Staff Comments. In some cases, there had been an interminable period between receipt of an allegation and proof of the claim. If "reasonable suspicion" had existed, then schools and districts would have had the duty to notify the Board and to investigate the case expeditiously in order to protect students; maintain the trust of children and parents; and preserve the name and reputation of the teacher, the school and the profession. ("Reasonable suspicion" derives from what appears on the surface to represent an intelligent, orderly and rational account of misconduct.)

The importance of timely and adequate reporting to protect children from possible harm is overreaching. The paramount priority of protecting children gives rise to the necessity of reporting allegations, and possibly investigating all cases involving a reasonable suspicion of misconduct. Further, resignations that occurred following receipt of an allegation, or any conduct that would result in the institution's refusal to rehire the employee, also should be reported.

Required Actions. Intra-staff coordination; changes in Board policy; inclusion in an in-service training bulletin distributed to the field.

❖ Expand the Scope of Mandatory Reporting Requirements

A broad base of reportable misconduct yields multiple benefits.

In addition to the reportable major crimes already contained in applicable statutes, require schools to report to the State Board of Education all allegations related to an expanded list of offenses to be developed.

Staff Comments. The current list of reportable offenses is too narrow. Redefining the scope of conduct that would spoil the educational environment and jeopardize the safety of children would clarify for districts and schools those incidents that must be reported; remove any suspicion, or basis for a claim, of cover-up; and enable the Board to determine the scope of the problem, identify trends, and develop policies and procedures to meet the need.

Actions Required. Intra-staff coordination; and changes in Board policy.

❖ **Develop a Code of Conduct for Teachers**

The code as a contractual commitment.

Implement a stringent Code of Conduct that clearly articulates a high standard for teachers in the course of their personal interaction with students.

Staff Comments. A clear and unequivocal code of conduct embodied in the employment contract with teachers, as a supplement to the National Education Association's *Code of Ethics of the Education Profession*, would give focus and force to the standards to which teachers personally should be held in their conduct with students. Such a code would give evidence of the Board's commitment to the safety of children and its intolerance of breaches of good conduct. A proposed code of conduct can be found on page 56.

Actions Required. Intra-staff coordination; a change in Board policies.

❖ **All Courts Report Convictions to the Board**

Expand the reporting of teacher convictions to the Board by including courts of non-record in the requirement.

Timely access to case dispositions.

Staff Comments. Currently, only courts of record are required by statute to forward a report of convictions to the Board. In addition to cases that are routinely cited into municipal or Justice Courts, plea agreements and defense motions contribute to cases being adjudicated in courts of non record. Implementation of this recommendation will broaden the database of teacher convictions and expose those who otherwise might escape discovery and avoid personal accountability as a teaching professional.

Actions Required. Intra-staff and inter-department coordination; development of Board procedures to assure court reports are forwarded to districts; changes in State law to compel compliance of the courts.

❖ Eliminate “Passing the Trash” Statewide

Galvanize Arizona school districts to participate in an intra-State coalition to eliminate the practice of allowing teachers, guilty or suspected of misconduct, to resign or to transfer without notifying the Board and, in the case of a transfer, also informing the hiring school or district of the individual’s questionable record.

Staff Comments. The Board recognized the deleterious effects of a destructive practice that undermines the foundation of trust that should exist between educational professionals. The widespread practice of “passing the trash” raises the question, “How can parents be expected to trust teachers with the temporary care of their children if the teachers themselves ignore serious misconduct, disregard reasonable suspicion, fail to hold each other accountable, and then with feigned innocence or ignorance pass the trash to a colleague?”

Urgent need to stop “passing the trash.”

An intra-State open-disclosure agreement among the Board, districts and schools – to include private, parochial and specialty institutions – would protect children and prevent a teacher with proven or suspected misconduct from avoiding appropriate consequences and then migrating elsewhere within the State system with renewed freedom possibly to exploit or prey on other students.

Required Actions. Intra-staff coordination; collaboration with school districts.

Adjunct Recommendations – Discussion

Application. While the great majority of the recommendations pertained to principal policy or process shortcomings – teacher screening, teacher training and teacher accountability – the Focus Group proposed other actions that were either closely related to these core issues or would enable the Board to provide a higher level of service to Arizona schools, children and parents. Additionally, in the broadest sense, these recommendations also were pertinent to efforts related to communications, future funding needs, areas requiring further study, and development of a broad base of data for purposes of trends analysis.

Recommended Actions

❖ Require Interstate Reporting of Teacher Decertifications

This proposal was intended to provide a national network for reporting teacher decertifications and sharing of information with states involved in conducting

background investigations of teacher applicants.

Ready access to important information.

Staff Comments. The importance and usefulness of this information would depend largely upon the accuracy and timeliness of data entry. While the concept holds considerable promise, the prospects of prompt passage of Congressional legislation, especially with accompanying funding, is indeterminate. In the interim, NASDTEC, with all but six states participating, provides the State with information that is key to the screening of teacher applicants.

Actions Required. Correspond with NASDTEC and request that the proposal be placed on the agenda as a topic of discussion at the first available business meeting; include in the Strategic Plan.

❖ **Train the Students**

This recommendation is intended to train students to recognize teacher misconduct and to take the appropriate actions should they perceive untoward conduct or become a victim.

Need to study the proposal further.

Staff Comments. The merits of arming students with knowledge as a means of self-defense should be balanced against the possibility of overloading the current curriculum and the risk of miscues and erroneous interpretations on the part of students. Further study of this proposal and its advantages is needed to explore the possibility of developing an educational program with discreet elements tailored to meet this special need. Accordingly, this recommendation can be included in the Board's Strategic Plan for development as a long-term initiative.

Actions Required. Intra-staff coordination; discussion by Board members; inclusion in the Strategic Plan for long-term development; identification of resources for eventual implementation.

❖ **Make Information Available to Parents On-Line**

Expand the current Board web site to include a link to information resources that would be especially useful and helpful to parents.

A method to make information readily available.

Staff Comments. There is a plethora of possibilities associated with this recommendation. Generally, information pertaining to employees would be limited to that contained in the public record. Specifically, reference information could be made available regarding schools in general; specialty

programs available; teacher qualifications and place of employment; curriculum descriptions; results of employee disciplinary actions, if any; school telephone numbers and addresses; parents' rights; points of contact for information; procedures for filing a complaint; and a host of other useful facts.

Actions Required. Intra-staff and inter-department coordination; Board study of the proposal to outline objectives; development of the site and a plan to publicize the information and to acquaint parents with the service.

❖ **Develop a Public Information Plan**

Prepare an information strategy designed to acquaint the public with the current initiative, and to minimize the tendency for some media to sensationalize or exaggerate the problem of teacher misconduct and to build support for the Board's efforts.

Proactive media plan.

Staff Comments. Special steps should be taken to publicize specific initiatives that are already under way to address the problem. This media plan also could be directed toward government officials, school administrators and staff, and parents. The Board staff already has commenced efforts to inform educational organizations. For example, the Investigative Unit has made presentations to the School Administrators Association, the Arizona School Personnel Administrators Association, and the Arizona Small and Rural School Association.

Required Actions. Intra-staff and inter-department coordination; development of a long-range strategy for the release of updated information.

❖ **Revisit Funding Requirements**

Identify requirements for immediate and long-term resourcing of the Board's overall plan to address the problem of teacher misconduct toward students.

An urgent need for resources now and later.

Staff Comments. Although established in 1995, the Investigations Unit of the Board is funded only for one investigator. Two other investigators and one administrative employee have been assigned with temporary funding from other sources. As the magnitude of the problem continues to grow, the need exists for permanent funding of sufficient staff to reduce the serious backlog of cases, to maintain pace with growing investigative requirements, to develop and implement initiatives that are crucial to resolving the problem, and to expand work capacity as the State's population and number of school children continue to grow.

Further study needed.

While a suggested surtax on applications for certification has been proposed, further study of the issue might reveal other new funding sources to fulfill the need for an effective program of prevention.

Required Actions. Intra-staff planning to identify funding for the short term and to develop budget decision packages that are consistent with the Strategic Plan over an initial 3-year planning period and then beyond; inter-department coordination; Board review of the Plan.

❖ **Analyze Trends in Allegations**

Conduct a comparative study of allegations levied against teachers whose certificate was granted on the basis of having met educational qualifications while an undergraduate and those who satisfied educational criteria during postgraduate work.

Knowing the problem is key to effective planning.

Staff Comments. A comprehensive analysis of trends in allegations would be useful as a basis for plans designed to address shortcomings in teacher screening, training or accountability, and to identify other ways to improve the educational system as it relates to teacher conduct with students. In addition to an examination of teachers involved in misconduct, per se, a study would be helpful in identifying circumstances that produce the highest proportion of allegations.

Required Actions. Intra-staff coordination to develop and implement a study plan, and to integrate the task into the overall priorities of the Board staff.

❖ **Screen Teachers Affiliated with AIA**

Require each teacher, coach, official, staff member or manager involved with students through the AIA to obtain, as a minimum, a Safety Certificate. Further, the school or organization with which the individual was involved also would be required to report to the State Board all allegations or reasonable suspicions of misconduct toward students.

A protection for both students and staff.

Staff Comments. Currently, there is no requirement for AIA affiliates to report to the Board misconduct or suspicious actions on the part of volunteers or paid staff. The safety certificate, while not based on a comprehensive background investigation similar to the type desired for all public school educators, nevertheless would serve as a much-needed safety screen to prevent the abuse of students.

The frequent off-campus settings, sometimes without the presence of other staff members, and the unusual times of the day or week create situations that might make students vulnerable to abuse, and staff members exposed to fraudulent accusations. A long-term goal is needed to broaden the background checks for all AIA- affiliated staff personnel.

Actions Required. Intra-staff and inter-department coordination; changes in Board policy; resourcing.

❖ **Establish a Civil Penalty for “Contract Break”**

Incorporate into teacher contracts a cancellation clause that prescribes appropriate penalties in cases without reasonable cause.

Add weight to contracts.

Staff Comments. School administrators historically contract for full-time teaching staff for the duration of the academic year. As a hedge against unexpected temporary absences of regular staff, a number of substitute teachers are identified for reserve call. However, since substitutes often are not available for extended periods, the sudden loss of a full-time teacher creates a serious burden on administrators and potentially affects academic continuity in the classroom.

A penalty for administrators and students.

Students, therefore, incur perhaps the most serious “penalty.” Imposition of appropriate monetary penalties for unjustified failure to fulfill a valid contract should convey to all teachers the importance placed on student education and the seriousness with which the Board views a teacher’s contractual pledge.

Actions Required. Intra-staff and inter-department coordination; changes in statute, personnel policies, language of contracts.

❖ **Include Employment Management Information in SAIS**

Districts will be required to report to the Board full information regarding misconduct or the reasonable suspicion of misconduct involving teachers or other staff toward students.

Real-time management data.

Staff Comments. Implementation of the automated Student Accountability Information System (SAIS) is designed to improve school finance processes and enhance the accuracy and timeliness of student counts required for State and Federal funding. Operating on-line with appropriate security provisions and immunities for legitimate inter-district and department use, SAIS also

Immunity when sharing information.

will facilitate audits through the reporting of student performance, school information, and teacher employment information related to location, educational discipline, resignations with causes, disciplinary actions with reasons, previous resignations with explanations, negotiated settlements, allegations involving reasonable suspicion, arrests, suspensions, pending investigations, surrender of licenses or certifications, and other important management information. Audits to confirm timely reporting, as required by statute, would assure access to accurate and current system information when needed. Key functional features will be the accessibility of important school information by parents making educational choices for children, and the timely availability of data to districts making employment or reemployment decisions.

Actions Required. Intra-staff and inter department coordination; review of program to assure immunity when reporting information in good faith; change to the law.

❖ **Improve Compliance with Reporting Requirements**

Assure that districts and schools are reporting misconduct or suspected misconduct as required and in accordance with the 72-hour period specified in the statute.

Staff Comments. Compliance with reporting requirements, as implied here, relates closely to the Focus Group's proposal for action to "eliminate 'passing the trash.'" However, there exists a number of other items of information, not necessarily associated with resignations or transfers, that should be reported to the Board in the interest of managing carefully and watchfully a State-wide system of schools with literally thousands of teacher-employees. Further study is needed to develop an effective and economical system, in terms of cost and staff, to assure timely compliance with all reporting requirements.

Report vs pass the trash.

Actions Required. Further study; changes in policies and procedures; possible program of audits/inspections; and additional in-service training for administrators and staff.

❖ **Include Teacher Misconduct Under the Topic of Safe Schools**

Proposition 301, passed by Arizona voters in early November 2000, included provisions related to safe schools and would provide a mechanism to link safe schools to the problem of teacher misconduct.

Staff Comments. This recommendation is based upon the rationale that teacher misconduct constitutes a significant threat to students and, therefore, conceptually should be addressed, at least partially, through the provisions of the referendum. At present, the most notable constraint to implementing many of the recommendations of the Focus Groups relates essentially to funding. With passage of the Proposition, the Legislature is in a position to direct funds to the Board of Education for purposes of improving the safety of children as it relates to the issue of teacher misconduct.

*Teacher misconduct
– a safe school
issue.*

Actions Required. Inter-department coordination; Board request for a budget supplement to fund selected actions in the near- and mid-terms.

Conclusion

The Board's timely discovery of an incipient problem of misconduct toward students at school and its proactive approach to solutions reflects its dedication to education and its commitment to the children of this state. An interpretation of each proposal and the actions required for implementation revealed that the effort will require a coalition of responsible professionals and a collaborative and cooperative effort on the part of administrators, teachers and staff throughout the State's educational system.

Obviously, inaction is not an option. Continuing with the status quo would leave in place essentially the identical circumstances that allowed the problem to develop initially. The resolve to act involves a whole-hearted acceptance of change – necessary and effective changes in policies, procedures and practices – and a whole-hearted commitment to the process. There will be a cost of this commitment and these changes – a cost in terms of time, staffing, efforts and funding. However, there also will be a cost of inadequate or ineffective actions. That cost will be borne by children.

The issue of teacher misconduct toward children at school: A time for action.

Arizona State Board of Education

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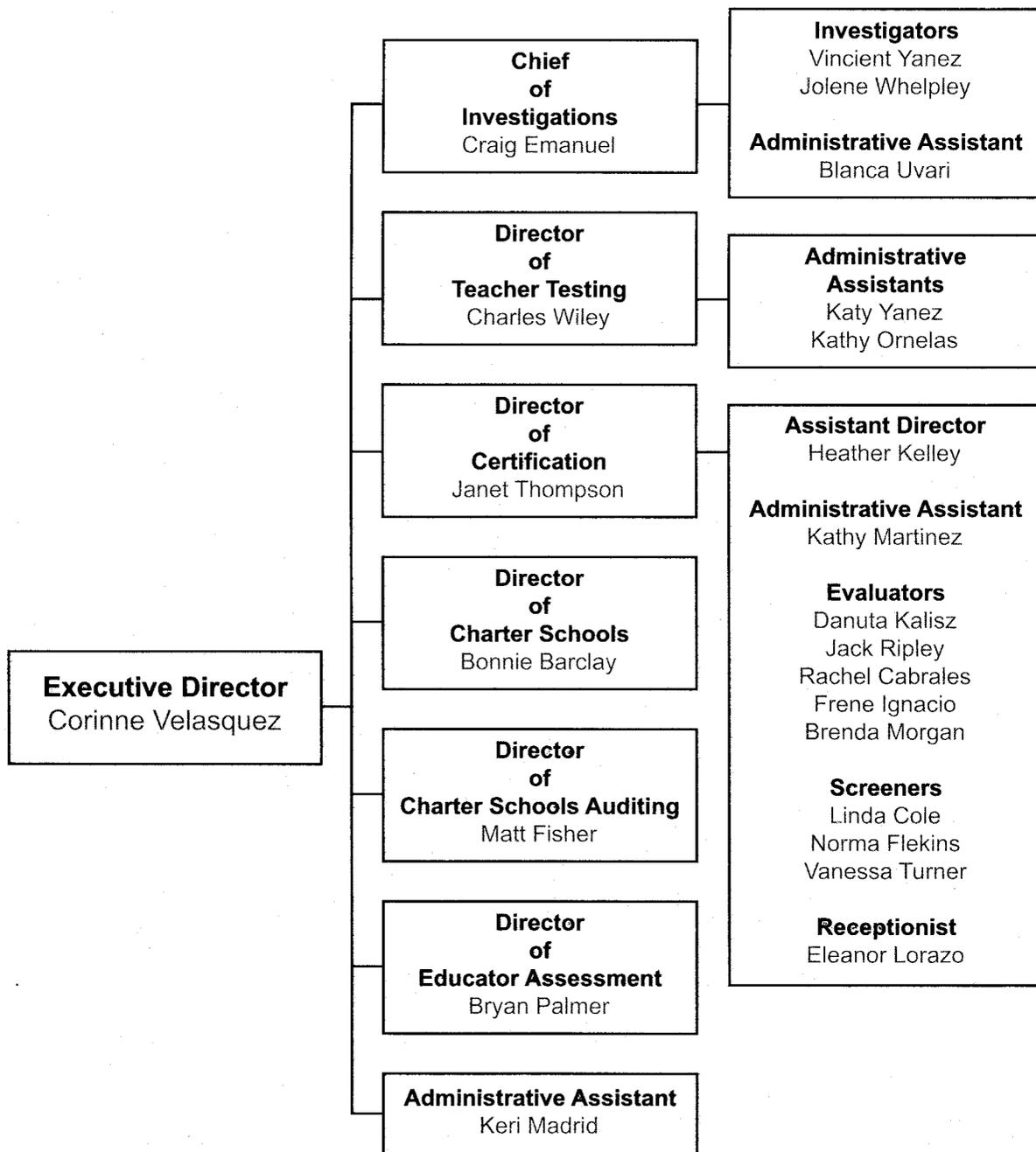
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Arizona State Board of Education Staff Organization



Arizona State
Board of Education

**Teacher's Code of Conduct
(Proposed)**

As a teacher and professional educator in the State of Arizona, my fundamental duty is to serve the students of this state; to strive in every way to assure that each student receives the best possible learning experience; to be a personal example in word and in deed; to safeguard each student entrusted to me and to the institution I represent; and to assure that each individual is treated with complete dignity and respect at all times.

In recognition of my solemn responsibilities as an educator, I pledge to keep my actions, words and relationships untainted; I will be constantly mindful of the influence that I exert over those who inherently look to me in confidence as an example of consistently principled conduct; I will strive to earn and maintain the trust that is essential to the student's growth and learning, and to the building of healthy and universally-accepted teacher-student relationships; I will always exhibit a high moral code in every interaction with students; and I will never betray the trust of a student or a parent by an act that is dishonest, unethical or immoral.

I recognize that the support and confidence of students, parents, guardians, peers and administrators is essential to my worth and effectiveness as an educator. I realize also that my demeanor, my words and actions, and my conduct toward everyone — especially students — is of fundamental importance and can never be compromised except at the risk of destroying the faith and trust vested in me by virtue of my position. Therefore, I will never act untowardly, unethically, disrespectfully, discourteously or dishonestly toward students; and I will not allow my treatment of, or relationships with, students to exceed the boundaries of propriety, decency, wholesomeness or good judgment.

I recognize my role as a professional educator as a symbol of public faith, and I accept it as a public trust to be maintained through personal conduct that is always above reproach.

Signature

Date

Partial Environmental Scan of Arizona Demographics Affecting the Number of School-Age Children Attending State Schools

This environmental scan addresses various data related to Arizona demographics that impact the State school system grades K-12. Information contained in this summary was derived from the U.S Census Bureau, the Arizona Department of Commerce, and the Arizona Department of Economic Security.

Although the research for this scan revealed some differences in statistics, this was attributed to the fact that there were three sources used, the data represent estimates rather than fact, and there may have been some differences in the methodology used to develop the estimates. In either case, the more conservative numbers were used to avoid skewing the data. Nevertheless, all data regardless of source or degree of difference pointed consistently to similar general conclusions — there has been pronounced growth in the State's economy and population during the past years and all projections point to continued increases in school-age children attending Arizona schools for the foreseeable future.

Current Estimates

Arizona population has grown from approximately 3.7 million people in 1990 to 4.9 million in December 1999. This represents a growth rate of slightly over 30 percent, second to Nevada as the largest percentage increase in the Nation. In addition, during the same period, Arizona ranked third nationally in net domestic migration. Only Florida and Georgia exceeded Arizona's rate of net in-migration.

Since 1990, all but three of Arizona's incorporated places have increased in population. Estimates for two of those places — Gila Bend and Guadalupe — reflect a slight decline of 1/10th of one percent and 1.2 percent, respectively. Figures for Winkelman, Arizona indicate a population loss of 34.9 percent; however, the percentage drop is distorted somewhat by the relatively small population in 1990 of just 676 people compared with only 440 in 1999.

For information, of the 87 incorporated places in Arizona, nine currently have estimated populations in excess of 100,000 people. In order, they are Phoenix, Tucson, Mesa, Glendale, Scottsdale, Chandler, Tempe, Peoria, and Gilbert. At the other end of the spectrum, five incorporated places — Patagonia, Hayden, Duncan, Jerome, and Winkelman — have populations of less than 1000 each. Of all the incorporated places in Arizona with populations in excess of 100,000, growth over the last nine years has ranged from 14.1 percent (Tempe) to 246 percent (Gilbert). The population of Phoenix, the State's largest city, expanded by 26 percent.

Other incorporated places, with a population of less than 100,000 people also experienced notable growth. However, because of a smaller population base, the rates of growth appear distorted. On a relative scale, these places also have been challenged by population growth and the need to accommodate additional school-age children as part of that growth. For example, the population of Goodyear grew by 10,827 people during the last nine years, reflecting a growth rate of 173 percent. In comparison, the population of Marana — 2,187 in 1990 — expanded by almost 465 percent during the same period and is now at an estimated 12,350 people.

Oro Valley, which now is estimated to be 2.2 times the size of Marana, grew by 310 percent since 1990. Other towns such as Prescott Valley, San Luis, and Surprise show surprising surges in population growth ranging from approximately 257 percent to slightly over 267 percent. This data suggest that with a smaller overall population base from which to recruit teachers, these cities faced special challenges to meeting the need for educators with the requisite character and qualifications to teach.

Except for a very slight and insignificant decline during 1993, the number of Arizona births has increased steadily each year since 1990. In terms of total births since the start of the last decade, Arizona has added approximately 670,000 to its population. In 1990, there were an estimated 686,000 children between the ages of five and 12 years. That number has increased to almost 965,000 children in 1999.

With a population of 4.2 million people in 1995, Arizona was ranked as the 23rd most populated state in the Nation while over the next three decades, seven states — of which Arizona is one — will account for 58 percent of the net population change in the United States. In terms of largest net gain over the past five years, Arizona ranks sixth nationally.

Present Projections

This year, the State should become the 21st most populous and by 2025, it is projected that Arizona will be the 17th most populous with an estimated minimum of 6.4 million people. If the projection for growth between 2000 and 2025 materializes, the State will continue to rank sixth in net population gain but will experience the fourth largest rate of population change in the Nation (52 percent). Further, during the same timeframe, seven states — of which Arizona is one — will account for 58 percent of the net population change in the United States.

Estimates for Arizona predict an uninterrupted increase in population each year until the middle of the 21st century. By the year 2050, for example, Arizona is expected to have a total population of over 11M people, more than 2.25 times the number of people residing in the State in December 1999.

Until the year 2025, the West is projected to grow at nearly twice the national average. During this period, migration is expected to play a major role in regional differences in population increases. Most of the growth in the West is projected to derive from natural increases and net migration.

Arizona, with an expected gain of over 750,000 people between 1995 and 2025, is expected to rank 7th in the Nation and the District of Columbia in the number of persons gained as the result of domestic (internal) migration. "Domestic migration" refers to the difference between domestic population moves to an area and domestic moves from the area during the period.

International migration also is expected to add to the growth of population in Arizona between 1995 and 2025. During this period, the State is expected to gain approximately 276,000 people through international migration, ranking it 15th nationally for net gain due to this factor. "International migration" is defined as the difference between migration to an area from outside the United States (immigration) and migration from the area to outside the U.S. (emigration).

During the period between 1995 and 2025, Arizona is estimated to have up to 2.5 million births and 1.4 million deaths. The would rank the State 14th largest in births, and 22d largest in deaths. Assuming the accuracy of these projections, Arizona could rank 6th largest nationally in terms of its natural increase (births minus deaths).

All states and the District of Columbia are projected to show a decline in the proportion of youth within the population. "Youth" is defined as those individuals under the age of 20 years old. The percentage of the population in Arizona that is classified as youth is expected to decrease from 31 percent in 1995 to 27.3 percent in 2025. Nevertheless, the State's proportion of youth is expected to move from 10th largest in 1995 to the 11th largest in 2025.

The following chart reflects the projected population of actual or near school-age children (in thousands) in Arizona by age grouping:

<u>Age</u>	<u>2000</u>	<u>2005</u>	<u>2015</u>	<u>2025</u>
0-4	348	371	417	445
5-17	965	1,004	1,015	1,130
Totals	1,313	1,375	1,432	1,575

The U.S. Department of Education produces projected school enrollment statistics for states. See Gerald, Debra, 1996, Projections of Education Statistics to 2006, 25th ed., Government Printing Office, Washington, D.C. These were not available at the time this scan was prepared.

Arizona Department of Economic Security data included in this scan can be accessed at www.de.state.az.us/links/economic/index.html. Links exist at this site to the U.S. Census Bureau. Mr. Chris Hedine, Arizona DES, also provided assistance.

**Annotated Bibliography
of
Suggested Reference-Reading Materials**

“The issue of educator misconduct toward
children attending Arizona public schools”

Alaska State Professional Teaching Practices Commission, Anchorage, Alaska, (1992). Handbook for Alaska Educators, revised. ERIC Doc. #ED367614. This Handbook summarizes procedures for handling complaints, investigations, hearings and appeals. Table of Contents includes:

1. Introduction/history.
2. Summary of complaint, investigation and hearing procedures.
3. Complaint screening guidelines.
4. Complaint, investigation and hearing flowchart of time expectations.
5. Alaska Statutes.
6. Regulations.
7. PTPC policies.
8. PTPC Bylaws.
9. Complaint form.

Alaska State Professional Teaching Practices Commission, Anchorage, Alaska (1997). Annual Report for Fiscal Year 1997. ERIC Doc #ED423231. This is an annual report that cites activities, actions taken, services provided, budget figures, final orders and the history of the PTPC, and its duties and guidelines. There is a graph showing PTPC cases by calendar years 1988-1995.

Edward, L.C. & M.K. Vachon, (1995). How to Handle Misconduct: A Step-By-Step Guide. Thousand Oaks, California: Corwin Press, Inc. This is a guideline (not legal advice) providing a general overview of procedures school administrators might follow in staff misconduct situations. The chapters provide information on general procedures, sexually-related misconduct, controlled substances, theft, misconduct outside the school setting, abusive/insulting/ profane language, corporal punishment, neglect of duty and tardiness. There are examples of standards of acceptable conduct, report forms, major points of a letter of reprimand, progressive discipline log, and charts to determine the disposition based on the school district's past practices. The concepts of “just cause,” “due process,” and “progressive discipline” are very adequately covered.

Fossey, R & Todd DeMitchell (April 1995). "Let the Master Respond: Should Schools Be Strictly Liable When Employees Sexually Abuse Children?" — A paper presented at the annual meeting of the American Educational Research Association. ERIC Doc#386829. There is mounting evidence that educational institutions are not committed to stopping sexual abuse in the school, in spite of laws in all 50 states that require immediate reporting and notification of sexual abuse by school employees. Non-reporting may be due to the perception that liability risk is quite small. The standard of "deliberate indifference" to a child's constitutional right to bodily integrity is reviewed. The authors propose public policy towards a strict liability standard — assessing liability without fault against a school district. There is mounting legal precedence found in law enforcement and health care.

Federal court cases are cited discussing historical trends in education under Title IX outside the establishment of negligence ("vicarious liability") and "foreseeability and power derived from employment status." They warn, "school districts would be wise to prepare for increased exposure to liability, chiefly by increasing their vigilance in protecting children from a school employee's sexual abuse." *Let the master respond* is defined and exemplified. An employer is more likely to be careful when hiring and supervising employees if it knows it may be liable in money damages. District policies in handbooks may not be sufficient in attaching blame to only the employee. Citing two studies that found an adult at school had sexually harassed a high percentage of students in elementary and secondary grades, the authors argue that sexual assaults by school employees are quite foreseeable. An increase in reported cases from 1987 to 1993 indicates that school leaders can reasonably expect this kind of behavior.

Fischer, A. (July 1999). **Immoral Conduct: A Fair Standard for Teachers?** Journal of Law and Education, v.28 (3): Pp477-483. This article examines the terminology used in statutes that are vague, broad, and fail to define "immorality," "good cause" and "unfitness to teach." The author recommends explicit standards for teacher ethics and conduct. Legislatures should draft statutes that clearly inform teachers of the behavior expected of them. Case law is cited and critiqued.

McCarthy, M. (July 1998). **Students as Victims of Sexual Harassment: The Evolving Law.** Journal of Law & Education, v.27 (3): Pp401-432. This article explores the abridgments of students' Federal rights in connection with sexual harassment by school employees and/or classmates. Title IX, 14th Amendment, The Supreme Court case of Franklin v. Gwinnett County Public Schools, and 42USC§1983 are examined. The issue of inaction by school personnel is explored.

Winks, P.L. (October 1982). Legal Implications of Sexual Contact. Journal of Law & Education, v11 (4): Pp437-477. The author traces the history of sexual relations between teacher and student. An extensive review of the literature is presented including author interpretations and intuitions. Of special interest here is the examination of theories of liability (state education codes, actions under Title IX and VII, and state civil rights legislation).

Complaints of sexual pressures are described as barriers to equal educational opportunity and damage attributable to learning in a hostile or offensive environment. "A teacher works in a sensitive area in a schoolroom. There he shapes the attitude of young minds toward the society in which they live. *In this, the state has a vital concern. It must preserve the integrity of the schools.* (Adler v. Board of Education, 342 US. 485,493 (1952)).

The author reviews the teacher's most powerful defense: his constitutional rights. The history of transferring deviant teachers from school to school, and misunderstandings related to tenure laws are examined. EEOC guidelines establishing employer responsibility for immoral actions of agents and supervisors (knowingly or unknowingly) are outlined and clarified. The author reminds us that the existence of a policy does not exonerate an educational institution. Sexual harassment is interpreted as a breach of contract and a failure to enforce Title IX.

