

S269608

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

LOS ANGELES UNIFIED SCHOOL DISTRICT,
Defendant and Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS
ANGELES,
Respondent,

JANE DOE,
Plaintiff and Real Party in Interest.

AFTER A DECISION BY THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION 3, CASE NO. B307389
HON. SHIRLEY K. WATKINS, TRIAL JUDGE
LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. BC659059

**REAL PARTY IN INTEREST'S REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF OPENING BRIEF ON THE MERITS;
DECLARATION OF HOLLY N. BOYER; [PROPOSED] ORDER**

TAYLOR & RING, LLP
David M. Ring, SBN 151124
Natalie L. Weatherford, SBN 278522
1230 Rosecrans Avenue, Suite 360
Manhattan Beach, California 90266
Telephone: (310) 209-4100
Email: ring@tayloring.com
weatherford@tayloring.com

ESNER, CHANG & BOYER
Holly N. Boyer, SBN 221788
234 East Colorado Boulevard, Suite 975
Pasadena, California 91101
Telephone: (626) 535-9860
Email: hboyer@ecbappeal.com

ATTORNEYS FOR PLAINTIFF AND REAL PARTY IN INTEREST

MOTION FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 459, 451 and 452, and California Rules of Court, rule 8.252(a)(1), Plaintiff and Real Party in Interest Jane Doe requests that this Court take judicial notice of the following matters concerning the legislative history of Assembly Bill 218, amending Code of Civil Procedure section 340.1:

Petitioner’s Writ Exhibits Vol. 2, Exh. 6, pp. 85-152: The eight legislative reports and analyses concerning AB 218 that were judicially noticed by the trial court and the Court of Appeal.

Exhibit 1: Letter dated Sept. 4, 2019, to Members of the California State Senate, re: “AB 218 (Gonzalez) Damages re: childhood sexual assault; statute of limitations – Oppose Unless Amended; Submitted on behalf of the California School Boards Association, California Association of School Business Officials, Association of California School Administrators, California Association of Joint Powers Authorities, SIA For Kids, Schools in Partnership, SELF School Excess Liability Fund,” as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 7.

Exhibit 2: Fact Sheet Re AB 218, From the Office of the Author, Assemblywoman Lorena Gonzalez, 80th Assembly District, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 13.

Exhibit 3: McGreevy, *California Grants More Time for Filing Sexual Abuse Allegations Under New Law*, The Los Angeles Times (Oct. 13, 2019), included within the Legislature History of AB 218, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 18.

Exhibit 4: McGlone, *Women Say Complaints of Unwanted Touching by La Jolla Teacher Went Largely Ignored*, Voice of San Diego

(Nov. 20, 2017),

<https://www.voiceofsandiego.org/topics/education/women-say-complaints-unwanted-touching-la-jolla-teacher-went-largely-ignored/>

Exhibit 5: Huntsberry & Jimenez, *Student Complaints About a Teacher's Behavior Came and Went, Until One Reported a Rape*, Voice of San Diego (Jan. 22, 2019),

<https://www.voiceofsandiego.org/topics/education/student-complaints-about-a-teachers-behavior-came-and-went-until-one-reported-a-rape/>

This Motion for Judicial Notice is based on the attached Memorandum of Points and Authorities and declaration of Holly N. Boyer.

Dated: November 17, 2021

TAYLOR & RING, LLP

ESNER, CHANG & BOYER

By: *s/ Holly N. Boyer*

Holly N. Boyer
Attorneys for Plaintiff and Real Party in Interest

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to California Rules of Court, rule 8.252, Evidence Code sections 459, 451 and 452, Plaintiff and Real Party in Interest Jane Doe requests judicial notice of documents concerning the legislative history of Assembly Bill 218, amending Code of Civil Procedure section 340.1. Section 340.1, subsection (b), providing for treble damages is at the heart of this case and as such these additional legislative materials are instructive in the analysis before the Court.

Included as a part of the Writ Exhibits, Volume 2, Exhibit 6, are the eight legislative reports and analyses concerning AB 218. These legislative materials were judicially noticed by the trial court and the Court of Appeal. (See *Los Angeles Unified Sch. Dist. (LAUSD) v. Superior Court* (2021) 64 Cal.App.5th 549, fn. 3; Writ Exh. 6, pp. 85-152.) These documents include the Assem. Floor Analysis, Analysis of Assem. Bill. No. 218 (2019-2020 Reg. Sess.) as amended August 30, 2019 (see Writ Exh. 6, at 92-96); Sen. Rules Com., Analysis of Assem. Bill No. 218 (2019-2020 Reg. Sess.) as amended August 30, 2019 (see Writ Exh. 6, at 97-106); Sen. Com. on Appropriations, Analysis of Assem. Bill No. 218 (2019-2020 Reg. Sess.) as amended August 30, 2019 (see Writ Exh. 6, at 107-108); Sen. Com. on Appropriations, Analysis of Assem. Bill No. 218 (2019-2020 Reg. Sess.) as amended March 25, 2019 (see Writ Exh. 6, at 109-113); Sen. Judiciary Com., Analysis of Assem. Bill No. 218 (2019-2020 Reg. Sess.) as amended March 25, 2019 (see Writ Exh. 6, at 114-128); Assem. Floor Analysis, Third Reading, Analysis of Assem. Bill. No. 218 (2019-2020 Reg. Sess.) as amended March 25, 2019 (see Writ Exh. 6, at 129-132); Assem. Floor Analysis, Third Reading, Analysis of Assem. Bill. No. 218 (2019-2020 Reg. Sess.) as introduced January 16, 2019 (see Writ Exh. 6, at 133-136); Assem. Com. on Judiciary, Analysis of Assem. Bill No. 218 (2019-2020 Reg. Sess.) as introduced January 16, 2019 (see Writ Exh. 6, at 137-150).

Exhibits 1, 2 and 3 attached to this request for judicial notice are a part of the legislative file for AB 218 and were produced by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation as detailed in the declaration of Jenny Lillge submitted herewith.

Published legislative materials, such as bills and their history, are judicially noticeable. (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 544, fn. 4; *In re S.B.* (2004) 32 Cal.4th 1287, 1296, fn. 3.) Reports of legislative committees and commissions are part of a statute's legislative history, and may properly be subject to judicial notice as official acts of the Legislature. (See Evid. Code §§ 451, 452; *Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1135, fn. 1 [Supreme Court took judicial notice of an analysis of a relevant Senate Bill]; *Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 484-485; *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362, 417-418.) In *Arce*, the Court noted: “reports of legislative committees and commissions are part of a statute's legislative history,” and may properly be subject to judicial notice as official acts of the Legislature (Evid.Code, § 452, subd. (c)).” (*Arce, supra*, at p. 484, citing *Benson v. Workers' Comp. Appeals Bd.* (2009) 170 Cal.App.4th 1535, 1554, fn. 16; *Park v. Deftones* (1999) 71 Cal.App.4th 1465, 1472 [judicial notice taken of report of commission established by the Legislature and relied upon by the Legislature in enacting statute].)

The exhibits are relevant to dispel the arguments advanced by the District concerning the original intent of the Legislature in enacting the Code of Civil Procedure section 340.1(b). (See *St. John's Well Child & Family Ctr. v. Schwarzenegger* (2010) 50 Cal.4th 960, 967, fn. 5 [Court took judicial notice of various materials relating to the passage of the 2009 Budget Act, including a Legislative Counsel Opinion].)

Exhibits 5 and 6 are investigative news articles that were referenced by the Author of SB 218 in support of the bill and are likewise relevant to dispel the arguments by the District as to the purported intent of AB 218. The Legislative materials which were submitted to the trial court by Plaintiff, as well as to this Court by Petitioner, and upon which judicial notice was granted by this Court, reference two instances at a public school in San Diego concerning cover-ups. (See Exh. 6, at 144.) These articles provide further details of the allegations at those public schools. Plaintiff does not seek to take judicial notice of the truth of the facts in the article but rather their existence. (See *Brodeur v. Atlas Entertainment, Inc.* (2016) 248 Cal.App.4th 665, 673 [judicial notice of articles and news releases appropriate]; *People v. Pizarro* (1992) 10 Cal.App.4th 57, 72 [court took judicial notice of existence of articles concerning DNA fingerprinting]; *Ghera v. Ford Motor Co.* (1966) 246 Cal.App.2d 639, 652 [judicial notice of newspaper appropriate].)

Exhibits 1-5 were not previously before the trial court in rendering its order. Plaintiffs requested that the Court of Appeal judicially notice Exhibits 1-5. The Court granted judicial notice of Exhibit 2 (the fact sheets) but denied the request for judicial notice of Exhibits 1, 3-6. (See *LAUSD, supra*, 64 Cal.App.5th at p. 558, fn. 3.) Pursuant to Evidence Code section 459, this reviewing Court has the same right and power to take judicial notice as do the lower courts.

Dated: November 17, 2021

TAYLOR & RING, LLP

ESNER, CHANG & BOYER

By: *s/ Holly N. Boyer*

Holly N. Boyer

Attorneys for Plaintiff and Real Party in Interest

DECLARATION OF HOLLY N. BOYER

I, Holly N. Boyer, declare as follows:

1. I am an attorney licensed to practice law in the State of California and a partner at Esner, Chang & Boyer, which along with Taylor & Ring, LLP, represent Plaintiff and Real Party in Interest Jane Doe in the writ now pending before this court.

2. I have personal knowledge of the facts set forth in this declaration and if called upon to do so I could and would competently testify thereto.

3. Plaintiff and Real Party in Interest requests that this Court take judicial notice of the eight legislative reports and analyses concerning AB 218 that were judicially noticed by the trial court and the Court of Appeal. These legislative materials are included in the record before this Court at Petitioner's Writ Exhibits, Vol. 2, Exh. 6, pp. 85-152.

4. Plaintiff and Real Party in Interest further requests that this Court take judicial notice of: (1) a letter dated September 4, 2019 to Members of the California State Senate re: "AB 218 (Gonzalez) Damages re: childhood sexual assault; statute of limitations – Oppose Unless Amended; Submitted on behalf of the California School Boards Association, California Association of School Business Officials, Association of California School Administrators, California Association of Joint Powers Authorities, SIA For Kids, Schools in Partnership, SELF School Excess Liability Fund" as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 7 ((Exhibit 1); (2) Fact Sheet Re AB 218, From the Office of the Author, Assemblywoman Lorena Gonzalez, 80th Assembly District, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 13 (Exhibit 2); and an October 13, 2019 Los Angeles times article by Patrick McGreevy, entitled *California Grants More Time for Filing Sexual Abuse*

Allegations Under New Law, included within the Legislature History of AB 218, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 18 (Exhibit 3).

5. I obtained Exhibits 1, 2, and 3 from the Legislative Intent Service, Inc. Attached hereto as Exhibit A is the Declaration of Jenny Lillge, an attorney with Legislative Intent Service, Inc., detailing the documents compiled as to the enactment of Assembly Bill 218.

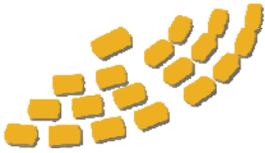
6. Plaintiff also requests that this Court take judicial notice of: (4) a November 20, 2017 Voice of San Diego article by Ashly McGlone, entitled *Women Say Complaints of Unwanted Touching by La Jolla Teacher Went Largely Ignored*, found at <https://www.voiceofsandiego.org/topics/education/women-say-complaints-unwanted-touching-la-jolla-teacher-went-largely-ignored/> (Exhibit 4) and (5) and a January 22, 2019 Voice of San Diego article by Will Huntsberry & Kayla Jimenez, entitled *Student Complaints About a Teacher's Behavior Came and Went, Until One Reported a Rape*, found at <https://www.voiceofsandiego.org/topics/education/student-complaints-about-a-teachers-behavior-came-and-went-until-one-reported-a-rape/> (Exhibit 5). I obtained these articles online at the respective websites.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on November 17, 2021, at Pasadena, California.

s/ Holly N. Boyer

Holly N. Boyer

EXHIBIT A



LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

DECLARATION OF JENNY S. LILLGE

I, Jenny S. Lillge, declare:

I am an attorney licensed to practice in California, State Bar No. 265046, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Assembly Bill 218 of 2019. Assembly Bill 218 was approved by the Legislature and was enacted as Chapter 861 of the Statutes of 2019.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Assembly Bill 218 of 2019. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

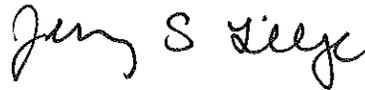
ASSEMBLY BILL 218 OF 2019:

1. All versions of Assembly Bill 218 (Gonzalez-2019);
2. Procedural history of Assembly Bill 218 from the October 14, 2019 *Assembly Weekly History*;
3. Analysis of Assembly Bill 218 prepared for the Assembly Committee on Judiciary;
4. Material from the legislative bill file of the Assembly Committee on Judiciary on Assembly Bill 218;
5. Two Third Reading analyses of Assembly Bill 218 prepared by the Assembly Committee on Judiciary;
6. Analysis of Assembly Bill 218 prepared for the Senate Committee on Judiciary;

7. Material from the legislative bill file of the Senate Committee on Judiciary on Assembly Bill 218;
8. Two Fiscal summaries of Assembly Bill 218 prepared for the Senate Committee on Appropriations;
9. Material from the legislative bill file of the Senate Committee on Appropriations on Assembly Bill 218;
10. Third Reading analysis of Assembly Bill 218 prepared by the Office of Senate Fiscal Analyses;
11. Material from the legislative bill file of the Office of Senate Fiscal Analysis on Assembly Bill 218;
12. Concurrence in Senate Amendments analysis of Assembly Bill 218 prepared by the Assembly Committee on Judiciary;
13. Material from the legislative bill file of Assemblymember Lorena Gonzalez on Assembly Bill 218;
14. Press Releases issued by the Office of Assemblymember Lorena Gonzalez regarding Assembly Bill 218 as follows:
 - a. “Lorena Gonzalez Re-Introduces Bill to Empower Survivors of Childhood Sexual Assault,” January 16, 2019,
 - b. “Lorena Gonzales Bill to Empower Childhood Sexual Assault Survivors Reaches the Governor’s Desk,” September 14, 2019,
 - c. “Governor Signs Lorena Gonzalez Bill to empower Childhood Sexual Abuse Survivors,” October 13, 2019;
15. Post-enrollment documents regarding Assembly Bill 218 - (Governor Newsom’s legislative files are under restricted access and are not available to the public.);
16. Press Release issued by the Office of the Governor on October 13, 2019 to announce that Assembly Bill 218 had been signed;
17. Article entitled “New California law allowing childhood sexual assault victims more time to report draws widespread praise,” from the *Orange County Register*, July 23, 2019;
18. Article entitled “California grants more time for filing child sexual abuse allegations under new law,” from the *Los Angeles Times*, October 13, 2019;
19. Article entitled “New California law gives victims of childhood sexual assault more time to file lawsuits,” from the *Sacramento Bee*, October 14, 2019;
20. Article entitled “New CA law allows survivors of child sexual assault more time to come forward,” from *KSBY News*, October 14, 2019;
21. Article entitled “California braces for onslaught of child sex assault lawsuits under new law,” from the *San Diego Union-Tribune*, October 20, 2019;

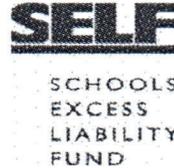
22. Article entitled "How Will the California Assembly Bill 218 Impact Victims Of Childhood Sexual Assault," from lawyer-monthly.com, November 2019;
23. Article entitled "The Lifetime Prevalence of Child Sexual Abuse and Sexual Assault Assessed in Late Adolescence," from the *Journal of the Adolescent Health*, December 13, 2013;
24. Article entitled "Adult Survivors of Childhood Sexual Abuse and the Statute of Limitations: The Need for Consistent Application of the Delayed Discovery Rule," from *Pepperdine Law Review*, Vol. 20, 1993.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of November, 2020 at Woodland, California.



JENNY S. LILLGE

EXHIBIT 1



****FLOOR ALERT****

September 4, 2019

TO: Members of the California State Senate

RE: AB 218 (Gonzalez) Damages: childhood sexual assault: statute of limitations – Oppose Unless Amended

Please **OPPOSE AB 218 (GONZALEZ) UNLESS IT IS AMENDED** to include strong, effective prevention measures to accompany robust and fair victim compensation.

We applaud the author’s intent and are fully committed to continually creating a safe learning environment for all children. We want to protect kids and believe there are better ways to do this than funneling school dollars into civil litigation.

We absolutely support the criminal prosecution of perpetrators and recognize the need for fair victim compensation; however AB 218 as written is doing more harm by:

- o Creating strict liability for schools, regardless of knowledge of or reasonable steps taken to safeguard children from abuse.
- o Forcing billions of dollars in payments from today’s schools that have no fiscal reserves for these liabilities, for claims that involve employees and administrators long gone from decades prior.
- o Increasing litigation costs for three years, allowing the re-opening of all time barred cases (to be issued awards that now include triple damages for “cover ups”) with attorneys collecting 40%-60% of the settlements.
- o Limiting needed insurance options through significantly increased rates, hard caps, exclusions, limits of coverage, and stricter underwriting – potentially leaving schools and local governments without coverage and exposed to the direct costs of these claims.

The vast majority of schools (and other public entities) in California self fund their liability coverage using risk-pooling JPAs which are not insurance, but they fill that gaps in liability that insurance companies don’t cover. They are non-profit public entities that pay for the cost of claims through school budgets and tax payer dollars.

These JPAs were born in the 1970s, at a time when insurance companies refused to provide coverage to public agencies because they were considered too risky. We are headed toward that same environment now and we soon find our schools without essential coverage that insurance companies provide.

AB 218 will make it impossible for public employers to effectively defend against claims that are decades old, when evidence is likely gone, witnesses have moved or passed away, and there has been a turnover of staff. The reality is a diversion of funding intended to educate students and serve communities- to financing increased legal costs, whether or not the claim is valid.

The amendments we have proposed are balanced to include the extended statute of limitations to 40 years old, medical and psychological treatment and robust prevention measures, which when combined with fair and reasonable victim compensation is the right thing to do, and good public policy.

A child’s future depends on a safe environment and a good education. Please oppose AB 218 unless it is amended to ensure both.

LEGISLATIVE INTENT SERVICE (800) 666-1917



EXHIBIT 2



Assembly Bill 218: Child Sexual Assault

IN BRIEF

Assembly Bill 218 would give victims of childhood sexual assault more time to bring cases in civil court due to the unique situation of these victims, and take a hard stance against individuals and entities engaged in covering up evidence.

BACKGROUND

Last year, media attention around childhood sexual abuse increased with high profile cases such as Larry Nassar, the former USA Gymnastics team physician, who sexually abused over 150 young athletes, and the hundreds of underage USA swimmers who were subjected to sexual abuse at the hands of their coaches and others in positions of power. "Top USA Swimming executives, board members, top officials and coaches acknowledge [...] that they were aware of sexually predatory coaches for years, in some cases even decades, but did not take action against them"¹.

Most cases are not high profile though, and occur in our own schools, churches, and communities. At a high school in the San Diego area, a teacher was investigated for improper behavior towards students multiple times and even removed from the classroom by the district. However, an investigation found a lack of records for additional complaints that were made over a 10-year period, stating "some student complaints may have never left the principal's office"². The former students coming forward are now are in their 20s and 30s.

At a middle school between 2008 and 2015, students tried to raise concerns about a teacher to employees of the school, but were met with unhelpful advice and no consequences for the teacher for years, until one of the former middle school students reported a rape³.

Due to the unique nature of these cases, some jurisdictions have given victims more flexibility to pursue cases. In 2007, the legislature in Delaware completely removed the civil statute of limitations for claims of childhood sexual abuse. Maine, Utah and Guam have also completely abolished a statute of limitations for claims of childhood sexual abuse.

¹ <https://www.oregister.com/2018/02/16/investigation-usa-swimming-ignored-sexual-abuse-for-decades/>

² <https://www.voiceofsandiego.org/topics/education/women-say-complaints-unwanted-touching-la-jolla-teacher-went-largely-ignored/>

³ <https://www.voiceofsandiego.org/topics/education/student-complaints-about-a-teacher-s-behavior-came-and-went-until-one-reported-a-rape/>

PROBLEM

Due to psychological trauma, shame, fear, and various other reasons, it can take a long time for victims of childhood sexual assault to come forward.

Current law requires victims to make claims before age 26 or within 3 years of a delayed discovery of a psychological injury or illness resulting from the abuse. This still imposes restrictive limits on the survivors of sexual assault because many do not come forward until they are older than age 26, but are unable to prove that they only recently "discovered" the psychological injury or illness.

When victims are not able to come forward against the individuals and institutions who perpetuated and enabled sexual assault, and there are not effective deterrents for those who might cover up evidence of sexual assaults, no one is held accountable and additional children are put in a position where they might be abused.

SOLUTION

AB 218 would expand access to justice for victims of childhood sexual assault.

AB 218 would:

- Expand the statute of limitations from age 26 to age 40, and period for delayed discovery actions from 3 to 5 years after discovery.
- Allow for a window of three years after enactment for the revival of past claims, which may have expired due to the statute of limitations
- In a case where a victim was sexually assaulted as a result of a cover up of past assaults, allow for the recovery of up to treble damages from the defendant who engaged in the cover up.

SUPPORT

Victim Policy Institute (sponsor)
 California Police Chiefs Association Inc
 California Protective Parents Association
 California PTA
 Consumer Attorneys of California
 Joyful Heart Foundation
 National Association of Social Workers
 Stop Educator Sexual Abuse, Misconduct & Exploitation (S.E.S.A.M.E., Inc)

FOR MORE INFORMATION

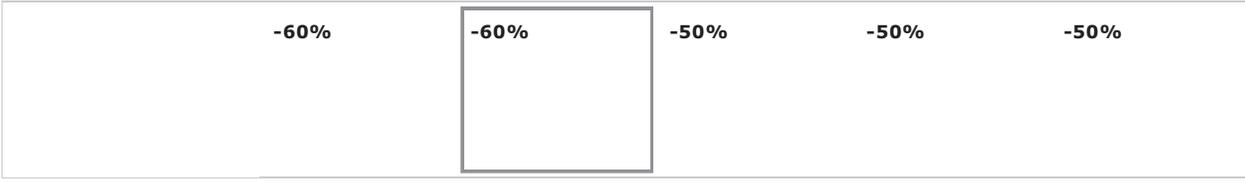
Laurel Brodzinsky, Office of Asm. Gonzalez Fletcher
 916-319-2080 | laurel.brodzinsky@asm.ca.gov



EXHIBIT 3



ADVERTISEMENT



CALIFORNIA

California grants more time for filing child sexual abuse allegations under new law



Olympic gold medalist Aly Raisman gives her victim impact statement during Larry Nassar's trial. The California Legislature extended the statute of limitations for claims by abuse victims in response to the Nassar case. (Carlos Osorio / Associated Press)

LEGISLATIVE INTENT SERVICE (800) 666-1917



By PATRICK MCGREEVY
STAFF WRITER

OCT. 13, 2019
5:34 PM



SACRAMENTO — Victims of childhood sexual abuse will have more time to report allegations and file a lawsuit under a California law signed Sunday by Gov. Gavin Newsom.

The legislation was introduced following widespread allegations of [abuse of minors by Catholic priests](#) as well as the 2018 conviction of [Larry Nassar](#), a former U.S. Olympic gymnastics team doctor, for molesting young athletes.

“The idea that someone who is assaulted as a child can actually run out of time to report that abuse is outrageous,” said Assemblywoman Lorena Gonzalez (D-San Diego), the bill’s author. “More and more, we’re hearing about people who were victims years ago but were not ready to come forward to tell their story until now.”

Currently, survivors must file a lawsuit within eight years of reaching adulthood or within three years of the date a survivor who has reached adulthood “discovers or reasonably should have discovered” they suffered damages, whichever comes later.

Gonzalez’s Assembly Bill 218 extends the statute of limitations for reporting childhood sexual assault from the time a victim is age 26 to age 40, and increases the period for delayed reasonable discovery from three to five years.



The bill also provides a window of three years for the revival of past claims that might have expired due to the statute of limitations. In addition, damages can be trebled in cases in which a child becomes a victim of sexual assault as the result of an effort to cover up past assaults, Gonzalez said.

“We shouldn’t be telling victims their time is up when in reality we need them to come forward to protect the community from future abuse,” Gonzalez added.

The measure had support from gymnastic athletes who were victims of Nassar, who was [sentenced to 40 to 125 years](#) in prison after more than 260 women and girls came forward with assault allegations against the doctor that dated to the early 1990s.



SPONSORED CONTENT

See the 6 cars that are nearly perfect

By Cars.com

Car experts reveal which cars teeter on the edge of glory, many just one change away from making the leap from good to great. Click to see which models made the list.

ADVERTISEMENT

The bill was opposed by the California Civil Liberties Advocacy, which argued in a letter to lawmakers that the proposal will “negatively impact civil defendants because the availability and reliability of evidence diminishes over time.”

The group also maintained that “extending the statute of limitations in civil suits is more in the interests of the plaintiffs’ lawyer industry than that of the abuse survivors, in which the negative effects will be felt in the decades to come.”

However, the Victim Policy Institute wrote: “The current law lets too many abusers avoid accountability for their actions. The only good thing to come out of recent scandals was an environment that encouraged well-known women — actors or Olympians — who were victims of childhood sexual assault to come forward.”



Newsom also signed a bill that temporarily lifts the statute of limitations on lawsuits for damages over sex abuse allegations against [former USC campus gynecologist George Tyndall](#), who has pleaded not guilty to charges he sexually abused 16 former patients at the campus clinic dating to 2009.

Although nearly 400 women have made allegations against Tyndall covering his 27-year career at the university, the statute of limitations for damages arising from a sexual assault that occurred when the victim was an adult is 10 years from the date of the last actionable conduct or three years from the discovery of the resulting injury, whichever is later.

The new law allows lawsuits to be filed, starting Jan. 1, alleging improper sexual contact or communications by a physician at a student health center between Jan. 1, 1988, and Jan. 1, 2017.

CALIFORNIA

NEWSLETTER

Get our Essential California newsletter

Please enter your email address

Subscribe



Patrick McGreevy

Twitter Instagram Email Facebook

Patrick McGreevy is a reporter covering California state government and politics in the Sacramento Bureau. He previously worked in the Los Angeles City Hall Bureau for The Times. He is a native of San Diego and a graduate of San Jose State University.

(800) 666-1917

LEGISLATIVE INTENT SERVICE



EXHIBIT 4

- Voice of San Diego - <https://www.voiceofsandiego.org> -

Women Say Complaints of Unwanted Touching by La Jolla Teacher Went Largely Ignored

Posted By *Ashly McGlone* On November 20, 2017 @ 4:45 am



Loxie Gant is one of four women who says physics teacher Martin Teachworth harassed them when they were students at La Jolla High School. / Photo by Adriana Heldiz

At first, Maura Kanter thought it must have been an accident when her advanced physics teacher leaned over to check her work, and brushed against her breast.

It was 2011, and Kanter, who's now 22, was a junior at La Jolla High School. But the touching kept happening, and then she said her teacher, Martin Teachworth, began touching other areas of her body.

"He liked to come up and surprise us, by like squeezing our thighs, tickling. Just awful. And I hate getting tickled, so I was really, really pissed off about that in general. And (he'd) stand a little too close, and lean in too close," Kanter said. On other occasions, she said Teachworth

would brush her hair back. "I started getting so uncomfortable."

No other teacher touched her this much. No one else made her feel so uneasy. She started dreading going to class every day. When Teachworth squeezed the sides of her waist one day, she had had enough.

"Don't touch me anymore. Please," Kanter said she told Teachworth. "He looked confused and stricken, and I said, 'Do not touch me again.'"

Kanter was not alone in her frustration and anxiety. She is one of four women who shared their stories about Teachworth while students in his classroom from 2002 to 2013.

Teachworth's groping, they said, included grazing their chest, tickling their stomach and squeezing their hips, thighs and butt.

Most voiced their concerns to school administration at the time, but an investigation by Voice of San Diego found no records of their complaints were kept. Teachworth's conduct was investigated on at least four separate occasions. The district removed him from the classroom just once. Some student complaints may have never left the principal's office.

"This is the first time that I've heard about most of these allegations," Teachworth wrote in an email ^[1]. "I don't know if any of those students complained to their parents or the school district. I don't recall ever being informed of any such complaints between the 2003 and 2016 complaints."

Teachworth, who retired in June, declined several requests for an interview, but wrote in an email, "I strongly deny having engaged in improper conduct with any student during my 38 years as a schoolteacher."

When asked if the interactions occurred as described by the four women, Teachworth specifically denied one encounter and said the two investigations he was aware of cleared him of wrongdoing. Records show one investigation was dropped when a student who complained in 2016 could not be identified, and the district had no record of the other investigation.

Teachworth said he did touch students on occasion, but described it as incidental.

"Throughout the school day, and particularly in lab settings, I routinely interacted with students: for example, I might inadvertently contact a student while looking over his or her shoulder to assist with an assignment, or I might tap students to move them out of the way

or to move to a different part of the classroom. However, throughout my career, I always did my best to respect my students' physical space and privacy. I would never have intentionally harmed or frightened a student," he wrote.

Kanter and others said they took their concerns to the principal at the time, Dana Shelburne, during three different school years over a 10-year period.

"This happened like once a year. Girls would finally get up the courage to go tell someone, thinking it would help and it didn't," Kanter said. Her meeting with Shelburne lasted "maybe 10 minutes. ... It wasn't a particularly long or meaningful meeting."

She said Shelburne did not take notes, but promised to look into her concerns and those shared by her friends also at the meeting. She never heard from Shelburne again.

"I felt very helpless, especially after that meeting, because I was like, 'Great. They already know. They don't care. [Teachworth] has tenure. I guess that's what's more important to them,'" she said. "I was so sickened by it. I wanted him to never be able to do that to another girl, ever. ... This is behavior that should never be tolerated, under any circumstances, and the fact that it has been is a stain upon that school, is a stain upon the administration."

"He kind of kept pushing me to say that like, it wasn't a big deal, or that it didn't really happen."

[2] [2] [3]

Shelburne, who served as principal at La Jolla High for 18 years before being reassigned to a school construction liaison ^[4] job at the district office in 2013, is also newly retired. He declined to discuss specific student complaints with Voice of San Diego, but said he "consistently" followed district and union contract protocols for complaints against teachers.

"I referred student concerns to district officials for investigation and guidance," Shelburne wrote in a text message. "I cannot comment on any conversations or directives I had or gave pertaining to this issue. ... I am constrained by law from discussing specifics."

If Shelburne followed the teacher's union ^[5] contract ^[6] to the letter each time, he would have informed Teachworth of every complaint. Teachworth claims that didn't happen.

Even if Teachworth knew, it's unclear if district officials were alerted to every complaint.

The teacher's union contract calls for complaints to be resolved "at the lowest possible level,"

and the school [district website](#) ^[7] says, “The district believes that it can resolve issues of harassment and discrimination at the school site.”

District officials said they searched district and school site files for documentation of complaints made by Kanter and others interviewed by Voice of San Diego and found none.

Nine years before Kanter complained, another student left Teachworth’s class on the heels of an encounter that left her shaken.



Loxie Gant took Teachworth’s advanced physics when she was a senior in the 2002-03 school year.

As students were working independently at their desks one day, Gant said she went to the scratch paper bin at the front of the class. As she was facing the whiteboard, Teachworth “grabbed my butt, like kind of two times. It was sort of a solid hand and a grab, and it was a one, two to my bottom.”

She was stunned.

She said she immediately told the male student sitting next to her what happened.

“My eyes were wide open. And he goes, ‘Are you OK?’ and I said, ‘No. Mr. Teachworth just grabbed my butt.’ And he was like, ‘What?! That’s so weird.’ And I was like, ‘Yeah. I know. I don’t know what to do.’ And I kind of just froze and I didn’t complete my work the rest of the period,” Gant said.

When reached by Voice of San Diego, the male student, who requested VOSD not use his name, said he recalled an instance in which Gant returned to her seat shaken by an interaction she’d had with Teachworth, but that he couldn’t say for certain whether it was something Teachworth did or something he said.

Gant said that the teacher in her next class noticed something was wrong.

“She wrote me a pass. I went straight down and sat in Mr. Shelburne’s office, the principal at the time, and told him the whole story,” said Gant. “I remember him being very defensive towards me about Mr. Teachworth. Like, I almost felt like I was like telling the story to his best friend. ... He kind of kept pushing me to say that like, it wasn’t a big deal, or that it didn’t really happen. ... I just remember feeling really like, kind of not believed right away, you

know?"

Gant stood firm, and she said Shelburne brought in an investigator a day or two later. Gant can't recall if the man she spoke to was a city police officer, or a member of the school district's police force, but she said they talked alone in the conference room next to Shelburne's office for about an hour.

School district officials said they have no record of Gant's complaint and "No record of any investigator has been identified."

"I just remember him being a tall, white and bald man that I talked to. ... There was a gold shield on his business card," Gant said. "It was just me and him in a room, which also made me really uncomfortable, because I was talking about my butt to like, another older man."

During the meeting, Gant said the investigator pressed her about what happened, and questioned her intentions.

"I felt completely interrogated," Gant said. When he asked, "Are you sure you are not just doing this for a grade or to get transferred out of his class?" she said no, and explained she was already admitted to San Diego State through a guaranteed admission program.

The investigator also said something that has stuck with Gant, even 15 years later.

"He asked me: 'Am I only reporting this because I know about all of the other reports?' And I said, 'I don't know what you are talking about.'" He also asked if she'd be willing to testify in court about what happened, she recalled.

Gant said she was willing.

The investigator had her draw a diagram of the classroom, to show where the incident occurred. Gant said she was told to go home and type out a statement, again describing what happened, so she did.

"After I told Mr. Shelburne and after I talked to the investigator, I don't remember ever going back into his classroom after that," said Gant, who transferred to another physics class. Teachworth remained at work.

Teachworth said he recalls Gant's complaint and the investigation that followed.

"I disputed her claims and the school district found no substantiation for them," Teachworth

wrote.

But district officials said they have no record of any of it.



Vivian Rand was taking advanced physics with Teachworth her junior year, in the fall of 2011, when she noticed “he was testing the waters with students, girls pretty much, to see what he could get away with,” Rand said.

“Because he has so much power in the classroom over your grade, it’s very hard to tell him to stop or say that’s inappropriate,” she said. But when Teachworth scraped something – possibly his stamp pad – across her face next to her ear, she said her body language sent a loud message.

“I turned around and I gave him a look that said, ‘You are never, ever to do that again to me. Don’t ever bother me again,’” she recalls. After that, Rand said Teachworth didn’t bother her the rest of the year, but others in class were not as fortunate.

“He would touch other girls. So, for instance, he would poke their bellies, or like you know, poke their stomachs, and always trying to be all cutesy, familiar. He would squeeze their sides by their hips with his hands, like before they would walk away,” Rand said. “There is no excuse for that. ... Some of the girls just ignored it. Other girls tried to act or pretend or even tried to convince themselves that it’s OK, because, ‘He doesn’t mean to be harassing me.’”

The following school year, Rand said she was speaking to another student about Teachworth and later that day, she was called to the principal’s office. She was out of his class by then, so she said she felt free to speak candidly about her experience and what she witnessed.

“My senior year, he doesn’t have any power or authority over me anymore, so anything I say can’t be used against me in the class anymore,” Rand remembers thinking. “The principal at the time was Dana Shelburne,” and he took notes, she said.

Rand said she gave Shelburne Kanter’s name, too. After that meeting, she said no one from the school or district asked her about Teachworth again.



Kaitlyn McCall – “Kat” to her friends – knew advanced physics her senior year in 2012-13 would be academically challenging, but she didn’t anticipate being racked with anxiety each

class period over something else.

“Pretty quickly into his class, he started coming up behind me during exams or while we were working on projects and he would get so close to me that I could feel his breath on my ear. ... And he would really, creepily make cat noises in my ear. Like meowing. And if I turned around and said, ‘That’s making me uncomfortable,’ or like, ‘Could you please not do that? That is very distracting,’ he would hiss, like a cat.”

“He would harass me, sexually. I mean, he was getting into my personal space and into the space of other young women in my class. He was pulling on belt loops. Touching my hair,” McCall said. “He never stopped. It went on for the rest of the school year.”

One of her friends thought Teachworth lowered her grade when she told him to stop touching her, “So, I was very nervous to make a big deal out of anything he was doing to me,” McCall said.

“I never engaged in retaliatory behavior against any student,” Teachworth told Voice of San Diego in an email.

The touching became so normal, McCall and her friends came up with a policy to protect themselves, she said.

“Don’t hang out in Teachworth’s class alone. Take a buddy,” McCall remembers them saying. “He shouldn’t have been touching my hair. He shouldn’t have been breathing on it. He shouldn’t have been in that kind of space. And I felt that if he was willing to be that close and cross those boundaries with other people around, I didn’t want to see what he would do if I was alone with him.”

McCall said she didn’t meet with Shelburne, but she knew others who did, and she could tell it didn’t go well.

“I remember the girls coming out crying from the office. ... If the principal was not going to do anything then, I think at least in our 17-year-old, 16-year-old minds, there wasn’t anything we could do,” McCall said. “Honestly, it was kind of devastating. I have always been a very trusting person, and I think at the time, it made me really confused about where you are supposed to go when you need help. I feel like, we are students, minors. You go to the principal or you go to teachers when you have a problem. And not only did they not help us, but the principal like, invalidated our feelings.”

"I deeply wish I had written something down at the time," McCall said.



Gant and other students did, however, put their concerns about Teachworth in writing.

Records obtained by Voice of San Diego through a Public Records Act request show an unnamed student lodged a complaint ^[8] against Teachworth using the district's online bullying complaint form in 2016.

The student claimed Teachworth, "gives a girl (me) neck rubs. I feel intimidated by him because i have seem (sic) him do this to others and if they try to back away, he gets upset. he has done this more than tem (sic) times to me."

District emails show Teachworth was put on paid administrative leave ^[9] for a week – from Feb. 29, 2016, to March 7, 2016 – while an investigation was done. School district officials said that was the only time they removed Teachworth from the classroom during his career.

Officials tried to track the IP address of the computer from which the complaint was sent, but never located the student, which stymied the investigation.

La Jolla High Principal Chuck Podhorsky wrote an email to a colleague saying he contacted Child Protective Services, but the agency declined to take a report without a student name, and told him to refer the matter to the school district's police department. When Podhorsky did, he was told by a school police sergeant "since there is no accuser, we can't adequately move forward with an investigation," Podhorsky wrote district officials ^[10] on March 7, 2016. "The other student statements," he said, "don't seem to be pointing to any confirmation of the events reported."

"We don't have any witnesses, student identified or substantiating evidence," Podhorsky wrote. "Mr. Teachworth told me there was an accusation many years ago but that that investigation was also dismissed."

Teachworth was welcomed back to school the next day.

District officials declined to provide to Voice of San Diego the student statements referenced by Podhorsky, citing Teachworth's "right to privacy," but confirmed they were not from Gant, Kanter, Rand or McCall.

“The district did not find any documents relative to complaints by any of those people in responding to this request,” district spokeswoman Maureen Magee wrote.



Teachworth said he was aware of the investigation of Gant’s complaint in 2003, and the anonymous complaint in 2016. But other district emails suggest he was investigated to some extent at least two other times in his career, even if he didn’t know it.

Ten years after Gant graduated in 2003, she heard female students were still complaining about touching by Teachworth. She emailed her old Associated Student Body adviser, Joe Cavaiola, who was still working at the school in 2013, to relay her experience and continued concerns.

“How in the world is he still teaching? How does (Shelburne), knowing that he has this history, and that reports are still coming in, after over 10 years, he is still allowed to be behind closed doors with students on a daily basis?” Gant wrote on Aug. 8, 2013. “What can be done? My police report from 10 years ago has to be in a file somewhere, right? I know the statute of limitations has run out on that, but I am sure there are a lot more recently than mine that would be willing to come forward.”

According to the emails shared by Gant, the adviser forwarded Gant’s email to Shelburne and two vice principals. Shelburne replied on Aug. 11, 2013, “An active investigation is presently underway, and I will forward this to the person in HR who has been working with me on this for the last several months.”

Asked why the district did not produce any documents of the 2013 investigation or findings mentioned by Shelburne in response to public records requests for such records submitted by Voice of San Diego in 2015 and 2016, district officials said, “The district did not find any record of documented evidence that this individual engaged in inappropriate behavior.”

Other district emails show the lack of disciplinary action against Teachworth was the subject of a separate complaint ^[11] made to the state Department of Fair Employment and Housing sometime in the 2015-16 school year. The agency is charged with enforcing California’s civil rights laws.

In response to a public records request, San Diego Unified produced an email mentioning the complaint, but redacted the name of the person who complained. District officials said

another teacher removed from school for an unrelated incident had alleged employment discrimination and claimed other teachers, like Teachworth, were treated differently.

“And I felt that if he was willing to be that close and cross those boundaries with other people around, I didn’t want to see what he would do if I was alone with him.”

[2] [2] [12]

“The DFEH investigated and dismissed the case based on insufficient evidence,” Magee, the spokeswoman, wrote.

While working at La Jolla High, Teachworth was known on campus for his work with the science team, blood drive, archery team, fundraising and other extracurricular activities.

His inappropriate interactions with students were also noticed, according to a parent email.

A month before Teachworth was placed on leave in late February 2016, a district email shows a parent – whose name was withheld – alleged Teachworth falsely accused his or her son of cheating as retaliation for calling him an unsavory nickname.

The student “thinks the real reason that he is being punished is because he made a joke about this teacher by referring to him as Mr. Touchworth,” the parent wrote a La Jolla High counselor in an [email on Jan. 29, 2016](#) ^[13]. “I understand that this is a nickname widely used by the students because of alleged incidences of improper touching by this teacher of young girls dating back to at least 2003 and continuing to this day. I have names of girls who have complained to the administration and teachers and one who has not yet complained. I can bring the information Monday if this is something the school is interested in.”

It is not clear in the emails how the complaint was ultimately resolved.

Teachworth denied ever retaliating against his students.



For retiring in June, Teachworth will receive a full year’s salary – [roughly \\$93,000](#) ^[14] – as part of an [early retirement incentive](#) ^[15] approved by the school board. According to state pension officials, Teachworth’s pension payments after 38 years of teaching total \$80,206 a year.

“The safety and wellbeing of students is a top priority for the San Diego Unified School District,” the district said in a statement. “The current administration expects all policies to be

EXHIBIT 5

- Voice of San Diego - <https://www.voiceofsandiego.org> -

Student Complaints About a Teacher's Behavior Came and Went, Until One Reported a Rape

Posted By *Will Huntsberry* On January 22, 2019 @ 4:00 am



Illustration by Sarah Beth Morgan

[Lee este artículo en español aquí.](#) ^[1]

Jane Doe, as she is known in the case files, knew of her teacher Josh French's creepy reputation.

It was an open secret that he hand-picked the best looking girls to sit at the front of his 8th grade social studies class at Mission Middle School in Escondido Union School District. From his viewpoint at the lectern, he could look directly down their shirts and many said he did so quite openly. French even held awards for the "Prettiest Girl" in class, according to one

account in the district investigative files. (French denies these allegations.)

More than one student reported French's behavior to more than one teacher. At least one dozen middle school girls told at least three school workers what was happening.

One teacher suggested they "write incident reports."

Another said "not to wear low cut shirts."

"Put binders in front of [your] chests when [you're] near French" to block his gaze, said another, according to investigative reports that emerged later.

As each girl came forward with a new story, it appears teachers kept coming up with new ways for the girls to adjust their own behavior or appearance. Meanwhile, French's colleagues made way for him – a young white man who brought energy and authoritative presence to a primarily Latino, high-poverty middle school – to be himself.

But Jane Doe, who was one of French's students and no more than 13 years old, knew it was wrong for a grown man to act the way he did toward young girls, she later told investigators. Doe was at the center of an intensive district investigation of French that included interviews with his colleagues and former students. Those interviews paint a disturbing picture: Warning signs that French did not belong in the classroom, that his students felt he treated them as sexual objects and that he harassed them appeared over and over again. But no one acted.

At least not until Doe came forward in 2015 and said French raped her inside a locked classroom.

A district investigation ultimately determined French engaged in "immoral conduct" and committed "sexual assault, sexual battery or sexual coercion." But even after that, California's regulatory system allowed him to stay in the classroom for more than an additional year teaching students. A criminal investigation against him stalled, and he has never been charged with a crime.

This story is compiled from the district's investigative case files, obtained by Voice of San Diego through a Public Records Act request, as well as extensive interviews.



Josh French came from a long line of educators. When he started teaching in 2005, he

envisioned a lifelong career and that he would eventually become a principal. His father Thomas French was a legendary principal in Escondido Union and served as an assistant superintendent. Josh French taught early American history.

"I put costumes on and everything," he said in an interview with Voice of San Diego. "I'd pretend to be the person I was teaching about. I put my heart and soul into it."

French spoke some Spanish, too, a valuable asset at Mission Middle School, where roughly 45 percent of students are English-language learners [2]. He was the boys' soccer coach and many of the boys in the school liked him, according to interviews in the district's investigative files. By some accounts, he worked well with challenging students. He set boundaries and kept them, he said. He described his style as "tough" and no-nonsense.



Mission Middle School / Photo by Adriana Heldiz

Supervisors gave French positive reviews in each of five evaluations included in his case file. He received the highest, "Exemplifies Standard," in his final three evaluations. But even as supervisors signed off on French's professionalism, some coworkers noticed a toxic streak.

Once, a female clerk who worked in the front office noticed French was having a positive

impact on a female student who served as his student aid. The girl was “sassy and mouthy,” the clerk said, but French’s tough style seemed to be helping her. French, though, decided he didn’t want to work with the student anymore. He came into the office and started yelling that he wanted the girl assigned to someone else, according to multiple accounts. The clerk pushed back and the two of them started openly arguing.

“I got kind of heated,” French admitted to VOSD, recalling the argument.

One person at the time believed French called several women in the office “whores” during the scene, that person told investigators.

“Never. Absolutely never happened,” French told VOSD.

French spoke to VOSD in a series of three phone conversations, ranging from 10 minutes to nearly an hour. At times, he was angry. At others, he was perturbed but calm and defended his innocence.

The clerk and French went through official mediation and moved on. But other teachers also started questioning his behavior toward women.

One man who taught with French remembers several women coming to him upset by how French had treated them. “I did at times hear a number of complaints from colleagues that were not happy with the way he was treating them. They were mostly women,” the teacher said.

Voice of San Diego agreed to withhold the teacher’s name because he said he feared retaliation.

The teacher, like French, had been relatively new to the classroom at the time. Some days he thought maybe he should say something, and that maybe French shouldn’t be in a classroom. Others it seemed everything was OK. He wishes he could do it over again.

5. ██████ felt it was awkward the way French looked at younger girls and the way he spoke to women at work. ██████ felt French had no filter and he used a lot of sexual innuendos and it made ██████ feel uncomfortable." French often made comments about the different women he slept with while they were in front of other staff members (including females) in the staff lounge.

"I wish I had spoken up more or at least talked to him about it," he said. "If I could do it again, I would have had a conversation with Josh about it – about the way that colleagues were responding to him."

The teacher said he never heard of French's sexualized behavior toward the students of Mission Middle School. If he had, he might have acted. But like everyone else, he knew only a piece of French's behavior – which, seen as a whole, should have easily triggered an adult to do something.



For some young girls, French was becoming a perceived threat by 2008. One of French's students, who is not named in the files, said she knew to be "cautious" around French. He gave too much attention to girls, generally, she told an investigator, and would place his hands on their shoulders.

Once French let a girl walk by him, she said; he then turned and looked her up and down from head to toe. She saw him stand over girls and look down their shirts. It was "weird," she said.

French denies that he looked down girls' shirts or sized them up.

18. █████ said French was strict with some kids and he seemed to have a short fuse. █████ said boys liked him because he coached soccer, but girls felt uneasy around him. A group of girls, during the 2008-2009 school year, told █████ and █████ they thought French was looking down their shirts during class. █████ instructed the girls not to wear low cut shirts. █████ believes the female students reported the same problem during the 2009-2010 school year.

Another girl in French's 2009-10 social studies class told investigators French had a reputation among students as a "pervert." He told her multiple times she was "attractive" and "had a nice body," she said. (French denies this.) He placed his hand on her hip in a way she felt was inappropriate once as they were posing for a photo, she said. (French doesn't remember this, he said.) It was common knowledge, the girl said, that French found her attractive and talked about it to the boys on his soccer team.

One of the most disturbing interviews, recounted in French's district file, comes from a fellow teacher, another man, who was friendly with French outside work. At least one dozen young women came to the teacher to report French's flirtatious behavior and his unwelcome leering. The teacher's response: He told the girls to "write incident reports." The case file does not indicate the teacher did anything else, such as report French's behavior to a superior.

French also shared deeply troubling thoughts with the man. Once they went shooting together at a gun range. French, according to the man's memory, said all girls should know how to give a blowjob by the time they reach puberty. This was especially rattling, the teacher told investigators, given the age of the girls they taught and the reports the teacher was hearing from students.

Another time, French confessed to him what many people already knew: "I put the girls with

bigger tits in the front, so I can look down their shirts," French told him, the teacher remembered, according to the investigative report.

One explanation for the teacher's inaction seems to be French's father's reputation.

Thomas French had worked his way up to assistant superintendent of business services in Escondido Union. But before he retired, he went back to the classroom and spent his last three years as principal of Orange Glen Elementary School. [In a glowing profile](#) ^[3], written at the time of his retirement, the San Diego Union-Tribune highlighted his tendency to wear costumes and go to outlandish lengths to make school fun.

French told the teacher his father's reputation made him "untouchable," the teacher told investigators. It's unclear how many teachers really believed this. French's father retired in 2006, just a year after French started teaching. If some believed French was untouchable, it may have been simply because he acted as if it were true.

French denies everything the teacher said. However, he said, he doesn't deny everything in his case file. But then, when asked for point-by-point responses to the major events in his file, he denied all of them, except for becoming "heated" in the verbal fight with the office clerk.

"As a human, there's times when we say stupid stuff," he said. "But did I get out of control? No. I'm an intense guy. But being unprofessional or extremely heated in school? That's not me. I grew up in a family of education professionals. We know how to act."



Jane Doe was 18 and a senior in high school in 2015, when she first told someone what had happened to her five years earlier. First she told her boyfriend and her sister-in-law. Her sister-in-law told her brother, and her brother told their mother. Then they told Escondido police.

Doe, like the other girls unfortunate enough to have French's attention, sat at the front of his eighth grade social studies class in 2010. French was "flirty" with her, she later told district investigators. Once as she was putting on lip gloss, he told her, "I like how your lips look," she said. Doe knew "a grown man" shouldn't be talking to her that way. But she was a child then and children know one thing for sure about adults: They are not subject to rules the same way children are.

Leading up to Winter Break, they'd been studying the Bill of Rights. Doe's grandfather died in December, and she missed some assignments. She showed up after school one Monday to collect them and found French alone at his desk in Room 23. She sat down to wait while he gathered what she needed, but instead he locked the classroom door, she said.

This account – which French aggressively denies – is presented in the “notice of charges” document school officials presented to the school board, recommending French be fired:

“French said he was sorry for her loss and with his arms outstretched, gestured with his arms to hug her. Doe got up and French hugged her, but the hug was ‘too tight’ and Doe pushed French away. French pushed Doe to the ground and Doe almost hit her head on the desk ... Doe was wearing a dress and French placed his hand under her dress ... French did not undress himself, but had his pants unzipped. French did not say anything to her and then jabbed his penis inside her. French continued to penetrate Doe for what seemed like a long time. Doe stated that she mumbled and tried to say no but was unable to because French's arm covered Doe's mouth. When French finished penetrating Doe, he zipped his pants and then threatened to harm Doe's mother if she told anyone about the incident.”

Doe got up with her shoulder bag still slung across her body and ran out of the room.



When Doe and her family told police what happened, they immediately started an investigation and informed school district officials. District officials placed French on paid administrative leave on April 15, 2015. They also hired their own private investigator to try to find out what happened.

Michelle Mayfield, a detective with Escondido police, worked the case for more than a year, but it eventually dried up. It's unclear why. French refused to be interviewed throughout the entire police investigation. He refused, he said, because police would not grant him an informal interview. Anything he told them could have been used in a prosecution.

Notes in the school district's case file also indicate Mayfield began having trouble contacting Doe.

Escondido police spokesman Chris Lick declined to comment on the case or to make Mayfield available for an interview. Lick would not say why the investigation wound down or whether it was even still open. Apparently, investigators didn't believe there was enough

evidence for a prosecution: They never submitted the case to the San Diego County district attorney's office, a spokeswoman for the DA's office said.



Bringing a rape case is notoriously difficult. People accused, like French, have a constitutional right to face their accuser in court. Even in a case with witnesses and DNA evidence, a victim usually needs to be willing to participate for a trial to move forward. They will be forced to sit in the middle of an open courtroom, surrounded by people, as at least one lawyer tries to discredit their story. If it is a he-said-she-said situation, and the aggressor walks free, it would be more demoralizing than doing nothing at all.

VOSD described the charges in French's case file to Verna Griffin-Tabor, who has worked with people affected by sexual violence for more than 20 years and runs the Center for Community Solutions in San Diego. Although she couldn't comment specifically on French's case, she said, "Most perpetrators of this level of harm are smart and calculating." Sophisticated predators, she said, "make sure there aren't any witnesses. They try to set it up as a he said-she said situation."

But many warning signs – which each present opportunities to intervene – rise to the surface before most assaults ever occur, said Griffin-Tabor. Rapes do not tend to happen all of a sudden. Abusers test boundaries first, she said. Maybe it is a hand on the shoulder. Then a comment about looks. Then both in an empty room. As a potential abuser tests the greater community, maybe it is the overt sexualization of young women. If no one responds, that is a signal.

"Many times, because adults don't know what to do, they do nothing," she said.

In other words, the inaction of the adults at Mission Middle School is not unique. Escondido Union officials said they strive to create a safe environment, where people feel comfortable to speak up about inappropriate behavior – just like any organization.

We asked if that was the environment at Mission Middle School in 2010.

"That would call for speculation on what conditions were like when this occurred," said Superintendent Luis Rankins-Ibarra in a statement. He said he's confident the district has a system in place for dealing with similar complaints now.



The school district's investigation did not require the same burden of proof as a criminal case. Officials concluded, based on dozens of interviews, that French engaged in "unwelcome leering," "graphic verbal comments," "touching ... in a sexual way," "impeding or blocking movements" and "sexual assault, sexual battery or sexual coercion."

District officials moved to fire French, but he voluntarily resigned on Aug. 19, 2016, more than a year after the investigation started. The district's findings triggered the submission of a report on French's behavior to the California Commission on Teacher Credentialing. The commission conducted its own investigation, and revoked French's teaching credential 14 months later.

In the meantime, French worked as a substitute teacher in two school districts – Vista Unified and Murrieta Valley Unified School District. He was allowed to stay in the classroom until October 2017.

"Many times, because adults don't know what to do, they do nothing."

[4] [4] [5]

An official with Vista Unified said that district followed "normal procedures" for hiring a substitute teacher when it hired French. But the official would not confirm whether that meant district officials checked on French's history in Escondido. Officials at Murrieta Valley did not respond to a request for comment on whether they inquired about French's work history. School districts are not required to make such inquiries.

A state bill ^[6] introduced last year would have forced districts to check with past employers to find out if a person had been found responsible for sexual abuse or misconduct. That bill died in committee after opposition from the state teacher's union and the American Civil Liberties Union, which argued it hindered due process.

The federal government has urged states to create such laws to keep sexual predators out of the classroom. But California has yet to do so. If a California school district fails to check up on new hires, and a predator makes it inside the classroom, that district has not done anything wrong, based on the state's current legal framework.

A separate 2014 bill ^[7] that was successful made it easier for local districts to fire educators who committed egregious misconduct. But it did not address keeping them out of classrooms in other school districts.

French now works as an independent adviser, consulting people on their retirement, he said. He hasn't worked in education since he was a substitute teacher and hopes to get a position at a bigger company working in sales and consulting.



We asked French why he thought so many people would be willing to say so many bad things about him, if they weren't true.

"That is the same question I have asked and my family and friends have asked," French said in a phone conversation. "We don't know whether it was a scheme or what ... her and whoever she was involved with are the only people who really know what happened."

"Maybe she had a crush or something like that," he said in separate conversation.

Asked again, he had another theory: "I think it's 100 percent jealousy," he said of why so many people would bring such serious charges against him. "Pure jealousy. Because I'm a good teacher. I had great respect. I was a leader and there's people out there that don't like that - especially when you're the new guy."

"I've been the victim," he said.

He also lashed out at Voice of San Diego and other media for singling out men in recent years over sexual abuse. "This whole 'me too' bullshit, you're living on it. You're making money on it. I didn't do shit. I'm sure there were some things that were said over the years that were inappropriate. ... But I didn't do the horrible thing they accused me of."

Jane Doe spent days and weeks thinking about what he had said about hurting her mother, she told investigators. She believed his threat was real. He knew where she lived, she thought. In time, she moved on with her life, but she couldn't leave what happened behind. She saw French's face in nightmares and flashbacks, until she finally told someone what happened.

The file does not say why Doe fell out of contact with police. Her case was five years old and the file suggests there were no witnesses or other corroborating evidence. She would have faced a horrendous ordeal and an uncertain outcome in court. Should Doe ever come forward again, the case could still go ahead. There is no statute of limitations on a sex crime against a minor.

S269608

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

LOS ANGELES UNIFIED SCHOOL DISTRICT,
Defendant and Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS
ANGELES,
Respondent,

JANE DOE,
Plaintiff and Real Party in Interest.

AFTER A DECISION BY THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION 3, CASE NO. B307389
HON. SHIRLEY K. WATKINS, TRIAL JUDGE
LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. BC659059

[PROPOSED] ORDER

IT IS ORDERED that Plaintiff and Real Party in Interest’s motion for judicial notice is granted. The Court takes judicial notice of the following materials:

Petitioner’s Writ Exhibits Vol. 2, Exh. 6, pp. 85-152: The eight legislative reports and analyses concerning AB 218 that were judicially noticed by the trial court and the Court of Appeal.

Exhibit 1: Letter dated Sept. 4, 2019, to Members of the California State Senate, re: “AB 218 (Gonzalez) Damages re: childhood sexual assault; statute of limitations – Oppose Unless Amended; Submitted

on behalf of the California School Boards Association, California Association of School Business Officials, Association of California School Administrators, California Association of Joint Powers Authorities, SIA For Kids, Schools in Partnership, SELF School Excess Liability Fund,” as referenced in the declaration of Jenny Lillge, ¶ 7.

Exhibit 2: Fact Sheet Re AB 218, From the Office of the Author, Assemblywoman Lorena Gonzalez, 80th Assembly District, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 13.

Exhibit 3: McGreevy, California Grants More Time for Filing Sexual Abuse Allegations Under New Law, The Los Angeles Times (Oct. 13, 2019), included within the Legislature History of AB 218, as produced by Legislative Intent Service, Inc. as referenced in the declaration of Jenny Lillge, ¶ 18.

Exhibit 4: McGlone, Women Say Complaints of Unwanted Touching by La Jolla Teacher Went Largely Ignored, Voice of San Diego (Nov. 20, 2017), <https://www.voiceofsandiego.org/topics/education/women-say-complaints-unwanted-touching-la-jolla-teacher-went-largely-ignored/>

Exhibit 5: Huntsberry & Jimenez, Student Complaints About a Teacher’s Behavior Came and Went, Until One Reported a Rape, Voice of San Diego (Jan. 22, 2019), <https://www.voiceofsandiego.org/topics/education/student-complaints-about-a-teachers-behavior-came-and-went-until-one-reported-a-rape/>

DATED: _____

CHIEF JUSTICE

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 234 East Colorado Boulevard, Suite 975, Pasadena, CA 91101.

On the date set forth below, I served the foregoing document(s) described as follows: **REAL PARTY IN INTEREST'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPENING BRIEF ON THE MERITS; DECLARATION OF HOLLY N. BOYER; [PROPOSED] ORDER**, on the interested parties in this action by placing ___ the original/ X a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

SEE ATTACHED SERVICE LIST

- BY ELECTRONIC SERVICE VIA TRUEFILING Based on a court order, I caused the above-entitled document(s) to be served through TrueFiling at <https://www.truefiling.com> addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the TrueFiling Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the original document(s) in this office.
- STATE I declare under penalty of perjury that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 17, 2021 at Honolulu, Hawaii.

s/ Kelsey Wong

Kelsey Wong

SERVICE LIST

Los Angeles Unified School District v. The Superior Court
of Los Angeles County

(S269608 | B307389 | BC659059)

Calvin R. House, Esq.
Arthur C. Preciado, Esq.
GUTIERREZ PRECIADO & HOUSE
3020 E. Colorado Blvd.
Pasadena, CA 91107
Telephone: (626) 449-2300
Email: calvin.house@gphlawyers.com
apreciado@gphlawyers.com

*Attorneys for Defendant
and Petitioner*
Los Angeles Unified
School District

Frederick R. Bennett, Esq.
SUPERIOR COURT OF LOS ANGELES COUNTY
111 North Hill Street, Room 546
Los Angeles, CA 90012
Telephone: (213) 633-8598
Email: fbennett@lacourt.org

Attorneys for Respondent
Superior Court of Los
Angeles County

David M. Ring, Esq.
Natalie L. Weatherford, Esq.
TAYLOR & RING LLP
1230 Rosecrans Avenue, Suite 360
Manhattan Beach, CA 90266
Telephone: (310) 209-4100
Email: ring@tayloring.com
weatherford@tayloring.com

*Attorneys for Plaintiff
and Real Party in
Interest*
Jane Doe

Devin M. Storey, Esq.
THE ZALKIN LAW FIRM, P.C.
10590 W. Ocean Air Drive, Suite 125
San Diego, CA 92130
Telephone: (858) 259-3011
Email: dms@zalkin.com

Attorneys Amicus Curiae
National Center for the
Victims of Crime

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **LOS ANGELES UNIFIED SCHOOL DISTRICT v. S.C. (JANE DOE)**

Case Number: **S269608**

Lower Court Case Number: **B307389**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **hboyer@ecbappeal.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	Real Party in Interest's Opening Brief on the Merits
REQUEST FOR JUDICIAL NOTICE	Real Party in Interest's Request for Judicial Notice

Service Recipients:

Person Served	Email Address	Type	Date / Time
Calvin House Gutierrez Preciado & House LLP 134902	calvin.house@gphlawyers.com	e-Serve	11/17/2021 3:04:13 PM
Marina Maynez Esner, Chang & Boyer	mmaynez@ecbappeal.com	e-Serve	11/17/2021 3:04:13 PM
Natalie Weatherford TAYLOR & RING 278522	weatherford@tayloring.com	e-Serve	11/17/2021 3:04:13 PM
Sheeny Bang Esner, Chang & Boyer	sbang@ecbappeal.com	e-Serve	11/17/2021 3:04:13 PM
Kelsey Wong Esner, Chang & Boyer	kwong@ecbappeal.com	e-Serve	11/17/2021 3:04:13 PM
Claudia Ramirez Gutierrez, Preciado & House, LLP	claudia.ramirez@gphlawyers.com	e-Serve	11/17/2021 3:04:13 PM
Holly Boyer Esner Chang & Boyer 221788	hboyer@ecbappeal.com	e-Serve	11/17/2021 3:04:13 PM
Frederick Bennett Superior Court of Los Angeles County 47455	fbennett@lacourt.org	e-Serve	11/17/2021 3:04:13 PM
David Ring Taylor & Ring, LLP	ring@tayloring.com	e-Serve	11/17/2021 3:04:13 PM
Arthur Preciado	apreciado@gphlawyers.com	e-Serve	11/17/2021 3:04:13 PM
Devin Storey 234271	dms@zalkin.com	e-Serve	11/17/2021 3:04:13 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

11/17/2021

Date

/s/Kelsey Wong

Signature

Boyer, Holly N. (221788)

Last Name, First Name (PNum)

Esner, Chang & Boyer

Law Firm