

**Summary of  
Investigation Concerning  
Educator Sexual Abuse  
and Educator Sexual  
Misconduct  
Helix Charter High School  
2006 - 2008**

**January 15, 2009**

Page Intentionally Left Blank

## TABLE OF CONTENTS

Summary of Findings _____	7
Explanation of Terms _____	9
The Incidents _____	11
How We Conducted The Investigation _____	13
Literature Relating to Educator Sexual Abuse and Educator Sexual Misconduct _____	17
Safeguards Provided by California State Law and Helix Charter High School Employment Practices _____	19
Investigative Findings _____	23
Efforts by Helix Charter School to Prevent Future Incidents of Educator Sexual Abuse	31



Page Intentionally Left Blank

## **Introduction**

We were asked to conduct an investigation relating to the four widely reported episodes of educator sexual misconduct and educator sexual abuse occurring at Helix Charter High School during the school years 2006-2007 and 2007-2008.

Specifically, we were asked to determine how four graphic examples of educator sexual misconduct or educator sexual abuse occurred during such a short period of time (December 2006 through May 2008), and whether these incidents indicated a systemic failure of policies and procedures designed to safeguard students from these situations.

In conducting this investigation, we examined the incidents and reviewed the policies and procedures at Helix Charter High School that could be used to respond to these and other incidents of educator sexual misconduct or educator sexual abuse.

We also consulted available literature relating to educator sexual misconduct as it occurs in the United States and Canada's primary and secondary education facilities.

Finally, in the context of the literature, we attempted to gather information relating to the Helix Charter High School environment leading to the time of the educator misconduct and subsequent criminal convictions, in order to determine if effective training was conducted, and if Helix was observing the safeguards and laws that were in place to prevent or deter educator sexual abuse.



Page Intentionally Left Blank

## Summary of Findings

Prior to the arrest of [REDACTED], the first teacher arrested, Helix High School employees did not obey the mandated reporter laws of the State of California in that they did not immediately report reasonable suspicions of child abuse or neglect when they received them.

Additionally, Helix employees, upon receiving complaints about [REDACTED] activities toward a female student, did not take appropriate action to prevent [REDACTED] from sexually abusing her.

Following the arrest of [REDACTED], Helix High School employees did not disclose or examine their errors, and took no meaningful action to prevent future episodes of educator sexual abuse of educator sexual misconduct.

Helix High School's response to the first complaints and the arrest of the first teacher created an environment where students and the parent who had reported their suspicions about [REDACTED] before his arrest could not expect that their future complaints would be believed or taken seriously.

Moreover, educators at Helix who were disposed to this type of criminal activity, or would become disposed to this type of activity, were likely boosted by the Helix response, because they could assume that the chances of their illegal activity being exposed were lessened, and the chances of them facing significant punishment if exposed were slight.

Overall, Helix has not consistently complied with the mandated reporter law and reporting requirements of the California Commission on Teacher Credentialing. At the time of our inquiry, we were told that Helix has a training program in development but we are unaware that Helix has provided training to its staff that is adequate to ensure compliance with the applicable laws and to avoid further abuse.



Page Intentionally Left Blank

## Explanation of Terms

As used in this report, the term “educator sexual misconduct” is behavior by teachers and staff at an educational facility that does not fall into categories defined in the California Penal Code Section 11165.1 as sexual abuse (sexual assault or sexual exploitation).

Educator sexual misconduct includes behaviors that are thought of as run-of-the-mill sexual harassment, including inappropriate comments, inappropriate jokes, etc. Additionally, the term “educator sexual misconduct” as used in this report includes relationships between educators and students that might be termed inappropriate or contrary to policy, but not necessarily illegal. These might involve “dating” between the educator and the student.

“Educator sexual abuse” is a term used in this report to describe acts by educators that are defined in California Penal Code Section 11165.1 as sexual assault or sexual exploitation.

By way of example, teacher [REDACTED] reportedly delayed his sexual intercourse with his target until she was 18 years old. However, he reportedly did not refrain from kissing or touching his target prior to that time. Consequently, the conduct occurring after the target’s 18<sup>th</sup> birthday was likely limited to sexual misconduct, while the actions by [REDACTED] prior to her 18<sup>th</sup> birthday were examples of sexual abuse. Indeed, [REDACTED] was charged with multiple counts of child molesting for his actions prior to the target’s 18<sup>th</sup> birthday.

You will also note that we use the term “target” referring to the students involved in episodes of educator sexual abuse or educator sexual misconduct. We have borrowed this term from the literature concerning educator sexual abuse and educator sexual misconduct because we feel that this term is more descriptive of the relationship between the educator miscreant and the target.



Page Intentionally Left Blank

## The Incidents

The incidents of educator sexual abuse and educator sexual misconduct that we reviewed included:

1. Assistant Instructional Music Director ██████████'s sexual abuse of a female student. This situation began at the start of the school year 2006-2007 and culminated in ██████████'s arrest and conviction in December 2006 and April 2007 respectively. This situation was first reported to Helix educators in October 2006. The second time ██████████'s behavior came to the attention of the school was after the target's father became suspicious and reported ██████████ to the police.
2. An Assistant Principal who resigned his position in mid September 2007 while a complaint of sexual harassment was pending against him.
3. Teacher and Girls Soccer Coach ██████████'s sexual abuse of a female student during the 2006-2007 school year. The abuse continued into May 2007. The sexual abuse was discovered by a student using ██████████'s school computer that contained images of ██████████ and the female target that suggested the sexual abuse. The student reported this to the student's parents, who reported it to the La Mesa Police Department on May 17, 2008. The police arrested ██████████ on May 19, 2008, and obtained a confession. ██████████ was subsequently convicted of unlawful sexual intercourse with a minor on July 24, 2008.
4. Instrumental Music Director ██████████'s sexual abuse of a male student. This situation began early in the 2007-2008 school year and culminated in her admission of guilt, arrest, and conviction on October 5, 2007; October 11, 2007; and December 6, 2007, respectively. This situation first came to the attention of one of ██████████'s co-workers who reported it to the Executive Director of Helix Charter School.
5. Teacher and ASB Advisor ██████████'s sexual abuse of a female student during the 2007-2008 school year. The sexual abuse started in October 2007, and led to sexual intercourse on February 20, 2008. The sexual misconduct stopped in June 2008 after the student graduated from Helix. ██████████ knew that this student had previously been sexually abused by teacher ██████████, but did not report it. ██████████ confessed to having sexual intercourse with the student to the Helix Executive Director on June 13, 2008. ██████████ was subsequently charged with five counts of child molesting and one count of failure to report suspected child abuse or neglect. ██████████ was convicted on September 16, 2008, in a plea agreement to one count of child molesting and one count of failure to report.



Page Intentionally Left Blank

## **How We Conducted The Investigation**

In the investigation, we sought to develop information that could lead to a logical conclusion about what had happened at Helix that resulted in four incidents of educator sexual abuse surfacing in a short period of time.

We began our investigation by conducting a preliminary interview of the Executive Director of Helix Charter High School. During that initial interview, the Executive Director maintained that not including personnel files, there were no investigation files relating to cases of educator sexual misconduct maintained at Helix. We were assured that in the past several years there had not been any other episodes of educator sexual misconduct, other than those reported in the media accounts and which were addressed in the Executive Director's Letter of Response to Notice to Cure, dated July 31, 2008. Further, all of the recent episodes of educator sexual abuse were unexpected, and complete surprises.

The Executive Director added that in addition to the four media-reported incidents, there was an incident related to sexual harassment of a classified staff member by an assistant principal. We were told that this incident occurred several years ago, and was not related to the educator sexual abuse cases. The Executive Director advised that, in any event, there were no investigative files concerning this incident.

Given these assurances and the statement that there was no documentation available relating to the incidents (other than the personnel files), we suggested that one approach to determine if Helix was capable of recognizing and stopping educator sexual misconduct and abuse, might include interviews of staff members who have regular contact with students and could be the earliest recipients of information from students, faculty, and staff members about inappropriate educator behavior. We identified these potential witnesses as including guidance counselors and class advisors.

We requested that Helix provide us with access to these individuals in order to determine how information was flowing and how it was being reacted to by Helix. We found the assertions that there were absolutely no other complaints or episodes relating to educator sexual misconduct unlikely, but taking these statements at face value, we felt that it was possible that somewhere in the information flow or follow-up, incidents were not being reported by those observing the behavior, or that once reported, nothing was being done with the reports.

Our request for access to these witnesses met with a challenge by Helix High and its legal counsel, who would not provide access to the requested witnesses. After being refused access to these witnesses, we altered our investigation plan.

We began a review of personnel files compiled from a Grossmont Union High School District (GUHSD) list of certificated and classified personnel who had separated from Helix High School from July 1, 2002 to June 30, 2008. These files would be found in two locations, principally in the district offices, and secondarily at Helix Charter High School.

This filing system was explained by GUHSD as resulting from changes over time, as Helix High School changed from a district school to a charter high school under district control, and then to a separate 501(c)(3) on July 1, 2007, using the district's Human Resources Department, and finally a 501(c)(3) that did not use the district's Human Resources Department.

In all, we were provided with about 80 names of separated employees. We were then given access to GUHSD's personnel files for these people as they existed at the district. We also reviewed a small number of miscellaneous files and documents consisting of complaints having to do with Helix Charter High School over the past decade or so. These items were in various forms and detail, and because of their age, could not be tracked as to having an effect on the present investigation. Some of these items also fell outside of the scope of the present investigation.

After reviewing the files at the district, we requested access to files at Helix that we had not located in the district files. We were provided prompt access to these files, and we reviewed them. The review of all of the files allowed us to identify possible witnesses to the Helix incidents, who could be contacted independently. The review also gave us an understanding of the administrative processes undertaken by the district and Helix in hiring, vetting, evaluating, retaining, investigating complaints against, disciplining, and terminating employees. We also reviewed the files for evidence of mandated child abuse complaints and reports to the California Commission on Teacher Credentialing.

Because Helix did not maintain investigative files of each incident, and the items contained in the criminal teachers' personnel files were limited, we retrieved, or attempted to retrieve, third party records relating to media accounts and the investigations undertaken by Child Protective Services (CPS), the La Mesa Police Department, and the district attorney's office (through the court files). We ultimately compared the third party accounts that we were able to gather with what witnesses told us, or what the Executive Director told us during our interview with him and in his letter of July 31, 2008.

After the review of the personnel files, we selected a number of individuals to interview. We began the interview process, but soon learned that, for the most part, the individuals being interviewed were sharing their personal views and were not providing objective or professional observations about how the climate or practices at Helix High School might have led to the illegal acts and convictions of the teachers.

We also found that some of the separated employees maintained friendships at Helix, had hopes that their children would be hired at Helix, or had children attending Helix. Because of these factors, we felt that these witness statements would need intensive filtering or clarification in order to obtain unbiased reports. Repeatedly we heard comments from the separated employees that shifted the blame for the incidents from the criminal educators to either popular culture or to the targets of the sexual abuse themselves.

For the above reasons, we abandoned efforts to interview the former employees identified from the file review, in favor of a different approach.

One positive outcome from an interview of a former employee was that we learned about a study that was conducted by The National Institute of Ethics (NIE), the expert hired by Helix High School after incident number four (the ██████ incident) to implement what was termed “effective leadership and training measures that will maintain an organization-wide culture of integrity and prevent misconduct.” We requested Helix to provide the material developed by its consultant to us. Helix promptly provided this material to us and introduced us to the consultant. We then interviewed the consultants working on the project about their work at Helix.

During the course of our investigation, we identified the safeguards against educator sexual misconduct that have been devised by the State of California. These are principally contained in the Education Code and the Penal Code. These include the fingerprinting of staff, credentialing, reporting of investigations and complaints relating to credentialed employees to the California Commission on Teacher Credentialing (CTC), and the California Mandated Reporter laws (California Child Abuse and Neglect Reporting Law).

We reviewed the GUHSD hiring process, which reportedly was the same process used by Helix.

Through the review of personnel files, we were able to identify the assistant principal who had separated from Helix High School while a complaint of sexual abuse was pending against him. Contained in the personnel file was a request for a lump sum payment upon separation of \$27,303 and no documentation notifying the CTC of the separation of the employee during the investigation of a complaint of sexual misconduct. We asked for clarification of this point from the file administrator at Helix High School, who told us that she would pass the request on to the Executive Director.

Thereafter, we were told that rather than respond to us directly, the Executive Director explained the situation to a GUHSD administrator, apparently confirming that the assistant principal left while the investigation of sexual harassment was pending against him, and that the termination of employment was not reported to CTC, because of advice from legal counsel and the assertion that the assistant principal was not going to be involved in education in the future.

We decided to locate and interview the former Helix Assistant Principal. We located him at his place of employment, a private K-8 school in Orange County, California. During our interview, we learned that this individual aspires to a career in administration at a public inner-city school in Los Angeles.

Our interview with the former assistant principal identified potential witnesses to the four media-reported incidents. These witnesses had separated from employment from Helix, but were not on the separated employee list provided by the district at the outset of the investigation. We decided to interview a number of these witnesses. These

witnesses ultimately provided what we believe to be significant information relating to the incidents, and in particular, the [REDACTED] and [REDACTED] incidents.

Finally, we wrote to the Executive Director in December 2008 and asked him for a meeting where we could share our observations and seek clarification before publishing this summary. GUHSD received a response from the Executive Director, who refused to meet with us but said that he was available for a meeting with Superintendent Collins.

## **Literature Relating to Educator Sexual Abuse and Educator Sexual Misconduct**

To create an understanding of the crimes and behaviors involved, we consulted available literature relating to the issue of educator sexual misconduct. Central to our review of the literature is a study commissioned by the United States Department of Education in 2004 titled "Education Sexual Misconduct: A Synthesis of Existing Literature" and authored by Charol Shakeshaft, Ph.D.

A separate paper by Dr. Shakeshaft, titled "In Loco Parentis: Sexual Abuse of Students in Schools, What Administrators Should Know," was published in January 1994.

These two works, and the therein referenced materials, can form the basis for an understanding of the problem of Educator Sexual Abuse and Misconduct. For the purposes of this investigation, we identified key areas from the literature that we believe have a bearing on this investigation.

The areas/issues that we took from the Shakeshaft Synthesis:

1. Likely Offenders are teachers and coaches. Teachers whose job descriptions include time with individual students, such as music teachers or coaches, are more likely to sexually abuse than other teachers (See Charol Shakeshaft, Ph.D. "Education Sexual Misconduct: A Synthesis of Existing Literature", 2004, Section 6.1, page 31). At Helix, the identified offenders were two music teachers, a girls soccer coach, and an ASB Advisor.
2. Selection of Target by Offender – Selection is influenced by the compliance of the student and the likelihood of secrecy (See Charol Shakeshaft, Ph.D. "Education Sexual Misconduct: A Synthesis of Existing Literature", 2004, Section 6.2, page 32). Contrary to what we heard from many witnesses, Educator Sexual Abuse or Educator Sexual Misconduct is not driven by popular culture or students' loose morals. This crime rests with the educator offender who wants to conceal his/her sexual contact with the student. This results in the offender targeting students who will afford secrecy and will comply with the educator's suggestions or demands.
3. Grooming – The abuser selects a student, gives the student attention and rewards, provides the student with support and understanding, all the while increasing the amount of touch or other sexual behavior. When present, this grooming behavior has the added benefit to the abuser of being a way in which to test a child's compliance (See Charol Shakeshaft, Ph.D. "Education Sexual Misconduct: A Synthesis of Existing Literature", 2004, Section 6.2, page 31 - Shakeshaft references a work by Sydney L. Robins, "Protecting Our Students: A Review to Identify or Prevent Sexual Misconduct in Ontario", 2000).

4. Reporting – When alleged misconduct is reported, the majority of complaints are ignored or disbelieved. (See Charol Shakeshaft, Ph.D. “Education Sexual Misconduct: A Synthesis of Existing Literature”, 2004, Section 7.2, page 35 – this also references the 2000 Robins paper).

### **Safeguards Provided by California State Law and Helix Charter High School Employment Practices**

During the course of this investigation, we identified the safeguards that are provided by California State law and the Helix High School employment practices that were designed to assist in preventing incidents of educator sexual misconduct and educator sexual abuse. We determined that the following items were important components of a system that seeks to minimize the risk to students by educator sexual abuse and educator sexual misconduct.

1. Teachers, administrators and counselors undergo a credentialing process.
2. The California Commission on Teacher Credentialing requires that certain disciplinary actions taken by schools and districts be reported to the Commission.
3. The California Penal Code requires that mandated reporters (including teachers and staff members of schools) immediately report reasonable suspicions of child abuse.
4. All staff members are required to sign a form acknowledging that they are mandated reporters of sexual abuse, and understand what that means.
5. All applicants are required to submit fingerprints for searching through the California Department of Justice to locate arrest and criminal records.
6. Some applicants are required to submit fingerprints for searching through the Federal Bureau of Investigation's records to locate arrest and criminal records.
7. Classified employees are required to sign a form acknowledging a school and district "guideline" against inappropriate student contact.
8. An applicant's professional references are checked.

During our investigation, we observed that Helix Administrators seemed to rely upon pre-employment background investigations to ferret out educator sexual abusers more than they should, given the actual nature of the background investigation being conducted by the district and Helix Charter High School. The nature of the background investigations being conducted are limited to fingerprint checks and reference checks. The reference checks are thought to consist of the telephoning of the professional references listed by the applicants.

As a pre-employment tool, reference checks are restricted by the ability of the reference checker to obtain valuable information from those being contacted, and the

knowledge and willingness of those being contacted to provide accurate information. It is a rare applicant who provides names of either professional or personal references who will not give the applicant a good recommendation. Because of this, effective background investigations require that the investigator develop sources of information outside of the references listed, in order to have a better chance of obtaining reliable impressions of the applicant. This can be as simple as asking a provided reference whether they could recommend someone else who the investigator could contact (one who is not already listed on the application).

The cornerstone of the "background checks" being run by the district and Helix Charter High School appears to be the fingerprint searches for criminal records placed with the California Department of Justice, and occasionally, the Federal Bureau of Investigation. The California Department of Justice is the main government agency receiving the fingerprints of applicants. This department does not have records of criminal arrests or convictions of individuals who were arrested or convicted outside of the state of California.

The Federal Bureau of Investigation maintains information for people arrested and convicted nationwide, including California. Checking only the California Department of Justice records for a person who resided outside of the state of California, or has traveled outside of the state of California, may result in missing an out-of-state incident that might appear in the FBI's records.

The Education Code does not mandate that both the California Department of Justice and the Federal Bureau of Investigation's records be searched in every instance, although it would be a good practice.

Additionally, there are problems in both criminal recordkeeping agencies with regard to the completeness and accuracy of the records that they are maintaining. This situation, as it exists at the Federal Bureau of Investigation, is described in a paper called "The National Crime Information Center, A Review and Evaluation, July 25, 2005" prepared by Craig N. Winston. We do not have an opinion as to the accuracy of Mr. Winston's report or any changes that may have been made to the National Crime Information Center (NCIC) since the publication of this report. We do feel that this report discusses some of the shortcomings of NCIC.

Our experience in the past indicates that the California Department of Justice System suffers from many of the same problems experienced by NCIC. The lesson to be taken from this is that these fingerprint checks are not an exact science, and although they can be helpful in some situations, they cannot positively screen out those who would do harm to the children they come in contact within the educational workplace.

One witness told us that for a number of years, because he was an employee of a school booster club and not an employee of the district or Helix, he was not fingerprinted under district rules, even though he worked daily with students.

We also found during our investigation that other safeguards put in place by the state of California have not been observed by Helix Charter High School. These included

the mandated reporter requirements of teachers and staff and the reporting requirements to the Commission on Teacher Credentialing by administrators.

The reporting requirements of the Commission on Teacher Credentialing are in place to keep offending teachers from moving from school district to school district without consequence for their actions. In California, a professional educator needs a credential to teach in public schools. The revocation or suspension of a credential can mean the loss of a significant career. Without proper reports, the Commission on Teacher Credentialing cannot move against the credentials of offending teachers effectively.

The mandated reporter laws of the state of California seek to have people who come in contact with children in educational situations, be alert to suspicions that a child is being abused, either by other educators, members of the public, or by parents or guardians. The law is specific in its requirements, and is in place to protect children from additional harm, once abuse is reasonably suspected. The requirement that reports be made immediately is to stop potential further abuse of the child when abuse is first reasonably suspected. Thus, the delaying of a report could result in further injury to a child. During the course of our investigation, we uncovered information that these mandated reports had not been made as required at Helix Charter High School.



Page Intentionally Left Blank

## Investigative Findings

1. In October 2006, Helix employees did not observe California law when they did not report suspicions of child abuse when they were told by students and a parent of suspicions of misconduct by teacher [REDACTED] because they had observed that he was spending too much time with a female student. The California Penal Code (Section 11166) requires teachers who reasonably suspect that a child has been the victim of abuse or neglect to immediately make a report to the police or Child Protective Services.
2. In September 2007, Helix Charter High School did not report the separation of a credentialed employee who left Helix Charter High School while under investigation for a complaint of sexual harassment of a classified employee. California Education Code Section 80303 requires that when a credential holder resigns while an allegation of misconduct is pending, the superintendent of the employing school district shall report the change in employment status to the CTC not later than 30 days after the employment action. The report shall contain all known information about each alleged act of misconduct.
3. In October 2006, when faced with complaints of inappropriate behavior by teacher [REDACTED] toward a female student, school employees conducted an ineffective investigation that resulted in no determination as to the validity of the complaints. The investigation also did not serve to curtail the behavior. These actions, when combined with not reporting the suspicions to the Child Protective Services or the police, unnecessarily put a student in peril, and failed to prevent acts of sexual abuse by this teacher against this student.
4. Helix employees failed to adequately document the receipt of complaints from students and the parent relating to [REDACTED]'s inappropriate behavior toward a female student.
5. After the arrest of [REDACTED], Helix employees failed to examine the situation in retrospect, and determine an appropriate course of action to avoid similar occurrences in the future.
6. From our conversation with the NIE consultants, we have no indication that they were aware of the earliest [REDACTED] complaint and investigation. If Helix did not provide a complete picture of the incidents and Helix's response, the effectiveness of the consultant's work may be compromised.
7. It is our impression that Helix employees did not, and to our knowledge, currently do not have a correct understanding of the problem of educator sexual abuse or sexual misconduct. During our investigation, witnesses maintained that educator sexual abuse and educator sexual misconduct are problems that are contributed to by the target of the abuse or misconduct, through dress, mannerisms or actions. They also hold that popular culture is a major factor in educator sexual abuse or educator sexual misconduct. Helix's consultant, NIE,

reported similar statements.

8. When the second episode of educator sexual abuse was discovered (the [REDACTED] incident), the Assistant Band Director who reported the sexual abuse did not immediately report the incident to Child Protective Services or the police, as required by law. To our knowledge, there was also no follow-up by the Assistant Band Director to any report of this incident.

Instead of reporting the incident to Child Protective Services or the police department, the Helix Assistant Band Director reported it to the Helix Charter High School Executive Director, who in turn did not immediately report the incident to Child Protective Services or the La Mesa Police Department. Instead, the Executive Director received the information on October 1, 2007 and on October 2, 2007 began an investigation by first interviewing [REDACTED], then the student. According to [REDACTED]'s personnel file, the Executive Director re-interviewed [REDACTED] on October 5, 2007, and obtained a confession.

The La Mesa Police reported to us that the Executive Director received the information from [REDACTED]'s roommate and not the Helix Assistant Band Director on October 1, 2007, and confronted [REDACTED] and made a report to Child Protective Services on October 2, 2007. The La Mesa Police Department School Resource Officer was then notified, and later the La Mesa Police Department was notified on October 3, 2007.

The La Mesa Police Department summary is silent as to what action the department took from the time of the Executive Director's notification to its School Resource Officer on October 2, 2007, and the confession of [REDACTED] to the Executive Director on October 5, 2007. [REDACTED]'s personnel file indicated that even after his contacts with law enforcement and [REDACTED] being placed on administrative leave, the Executive Director persisted in his investigation and obtained a confession from [REDACTED] on October 5, 2007.

9. Following the [REDACTED] arrest, Helix released a press statement that said in part, "Prior to employment, all potential employees are fingerprinted and a thorough background check is performed." We've learned that other than fingerprint checks and reference calling, there are no background checks performed at the Grossmont Union High School District or Helix Charter High School. A fingerprint check, even when combined with telephone calls to references, cannot be considered a "thorough background check."
10. Following the arrest of [REDACTED], Helix released an official statement that said in part about [REDACTED], "For 13 years, he has taught various classes and coached the Women's Soccer Team." Helix has only a Girl's Soccer Team. We view this statement as mitigating language seeking to soften the fact that [REDACTED] was an educator who engaged in sexual intercourse with a minor student.

11. In a letter dated July 31, 2008, the Executive Director responded to Superintendent Collins regarding the educators' sexual misconduct and educators' sexual abuse at Helix High School. We have noted inconsistencies between what is stated in that letter and what we learned during our investigation. We also detected what we believe to be mitigating language in the letter. For example:

On page 2 of the letter, in the third to last paragraph, the Executive Director maintained that in the ██████ case, ██████ resigned before engaging in an inappropriate and unlawful relationship with a minor.

Witnesses told us that a parent and students complained to three Helix educators about what they suspected to be an inappropriate relationship between ██████ and his target, weeks before ██████'s last day at Helix. These observations were made of ██████'s conduct during school hours, on school grounds, and while ██████ was employed as a teacher. These complaints were also severe enough to result in an investigation by at least those three Helix educators, culminating in interviews of the target and ██████.

The Executive Director continued in the second to last paragraph on page 2 of the letter, "It is important to note that none of the alleged conduct occurred on school grounds, or during any school activities, but rather occurred off campus and during non-school hours."

This statement is inconsistent with the facts as we know them. In particular, the target of ██████ told the Executive Director that the target and ██████ had engaged in sexual intercourse in the Band Room on the weekend.

The Executive Director documented this incident in a memorandum dated October 4, 2007 from the Executive Director to ██████, titled, "Summary of Allegations Investigation into Serious Charges of Misconduct." In this memo, the Executive Director writes:

*Following our discussion, I interviewed [the target] and asked him if he had engaged in sexual intercourse with you. He stated that he had engaged in sex acts with you on more than one occasion, and in more than one place. In particular, he stated that your relationship initially was friendly and appropriate, but about two weeks ago, you called him late in the evening on his cell phone, and that night you met him off campus on an isolated country road where-in you and he engaged in sexual intercourse. Following this event, he stated that you engaged in sexual intercourse on at least three more occasions, once in the Band Room on the weekend.*

This fact was also contained in the synopsis provided to us by the La Mesa Police Department wherein they reported that the target told the police officers that the target and ██████ had sex once on campus in the band building on a weekend day.

In addition to the [REDACTED] incident, and by the nature of the early complaints against [REDACTED], we know that [REDACTED]'s activities with his target were not limited to activities outside of the school day and off-campus. In order to be observed by a number of students and a parent, [REDACTED]'s activities were necessarily not limited to off-campus, off-hours activities.

We obtained other information that is inconsistent with the Executive Director's contention that all of the illegal and inappropriate activities occurred outside of the school day and off campus. The information we received during this investigation indicates that [REDACTED]'s sexual abuse of the target occurred on campus and his sexual misconduct with the target took place during school hours. The La Mesa Police Department reported to us that [REDACTED] told the police officers that some of the encounters between the target and [REDACTED] occurred at school in a room behind the ASB room, and some were off school grounds.

[REDACTED] also told the police department, "Some of the encounters were during school hours, but off school grounds, sometimes in the guise of ASB activities." Indeed, [REDACTED] told a psychologist during the run-up to his criminal sentencing, that the last time [REDACTED] and the target had any type of intimacy was on June 4 (2008), after her graduation. At that time, the target stopped by [REDACTED]'s classroom where [REDACTED] kissed the target for a few minutes.

With regard to the [REDACTED] situation, the La Mesa Police Department reported to us that the incident was discovered when a student, working on [REDACTED]'s school computer discovered photographs depicting [REDACTED] and the target kissing, [REDACTED]'s naked body, and [REDACTED] and the target in bed together with no clothes visible above the covers. Although these incidents did not appear to have taken place at the school, they were documented and stored on a school computer.

In his letter of July 31, 2008, the Executive Director stated in the second to last paragraph of page 2, "Any information or reports of possible inappropriate behavior, once made, are immediately investigated and completely addressed."

This is contrary to our understanding with regard to the [REDACTED] complaints received in October 2006, and for that matter, the school's investigation (if any) of any other incident referred to in this report. Our review of personnel files developed only evidence that the [REDACTED] incident had been investigated (other than the Executive Director receiving a telephone confession from [REDACTED]), and that the assistant principal's sexual harassment incident investigation, if any, was undocumented and not reported to CTC.

The Executive Director continued, in the last paragraph of page 2: "All criminal background checks on such employees were completed by the district, and such employees were cleared prior to employment."

Our investigation failed to develop any information that any criminal background checks were conducted by the district or by Helix High School prior to the employment of new employees, and that in fact, the only checks that are conducted are fingerprint checks through the California Department of Justice, and occasionally the Federal Bureau of Investigation. These fingerprint checks will only result in the development of a criminal record for a potential hiree under certain conditions.

The Executive Director continued in paragraph 4 of page 3, stating about [REDACTED], "Following his resignation, he was charged with Sexual Misconduct which occurred after December 19."

[REDACTED] was not charged with Sexual Misconduct. He was charged with:

1. One count of Unlawful Sexual Intercourse with a minor more than 3 years younger than himself on or about December 15, 2006.
2. One count of Oral Copulation of a person under 18, occurring on or about December 15, 2006.
3. One count of Unlawful Sexual Intercourse that occurred on or about December 18, 2006
4. One count of Oral Copulation of a person under 18, occurring on or about December 18, 2006.
5. One count of Unlawful Sexual Intercourse occurring on or about December 20, 2006.
6. One count of Oral Copulation of a person under 18 on or about December 20, 2006.

These are not charges of sexual misconduct. These are charges of sexual abuse.

In the last paragraph of page 3 of the letter, the Executive Director recounted his efforts in the [REDACTED] investigation. The Executive Director advised Superintendent Collins as follows:

*On October 1, 2007, the assistant Instrumental Music teacher informed me that he had information that Ms. [REDACTED] was having an inappropriate sexual relationship with a 17-year old male band student. I immediately placed [REDACTED] on leave and commenced an investigation into the allegation. My efforts confirmed the initial report, and I reported the case to the La Mesa Police Department and filed a Child Protective Services report.*

By the Executive Director's own words, he did not take the appropriate and legal action in this matter. He is to report any reasonable suspicions of child abuse

immediately. The mandated reported statute does not mention a duty to investigate.

The assistant Instrumental Music teacher should have immediately reported his suspicions to the police or Child Protective Services rather than to the Executive Director on the day following his learning of [REDACTED]'s conduct.

Immediately does not mean the following day, but means immediately. The Assistant Instrumental Music teacher told us that he recognized that he had an obligation to report [REDACTED]'s sexual abuse of the target, but was told by the Executive Director that the Executive Director would take care of the report. The Executive Director states in the July 31, 2008 letter that he "immediately placed Ms. [REDACTED] on leave, and commenced an investigation into the allegations." The proper course of action would have been to immediately notify Child Protective Services or the La Mesa Police Department.

On page 4, paragraph 1 of the letter, the Executive Director maintained that [REDACTED] was arrested by police on May 18, 2008, and was charged with "Sexual Misconduct with a Minor." In fact, [REDACTED] was charged with Unlawful Sexual Intercourse with a Minor more than three years younger than himself, that occurred on or about and between May 1, 2007 and May 31, 2007. [REDACTED] was also charged with Attending an Arranged Illicit Meeting with a Minor that occurred on or about and between May 1, 2007 and May 31, 2007.

The Executive Director continued, "The investigation determined that the [REDACTED] inappropriate conduct occurred prior to the December 2006 ([REDACTED]) incident."

The La Mesa Police Department reported to us that the target claimed that the target and [REDACTED] "planned to have sex together in November or December of 2006, and went to a hotel in Hotel Circle in Mission Valley and had sex, once in a hotel room." Although this encounter seems to predate the [REDACTED] arrest for Unlawful Sexual Intercourse, it does not predate the first report of suspected inappropriate conduct by [REDACTED] toward the target student. Further, the La Mesa Police Department reported to us that the target of [REDACTED]'s illegal activity told the police that the target ended the relationship with [REDACTED] around the end of May 2007, which is more than five months after the [REDACTED] arrest. Regardless of who had illegal sex first, [REDACTED] continued his abuse of the target for months after the [REDACTED] arrest.

Continuing in paragraph 2 of page 4 of the July 31, 2008 letter, the Executive Director advised,

*On June 13, 2008, while attending my daughter's college graduation out of the area, I received a phone call from [REDACTED]; a counselor at HCHS. She reported to me that she had a meeting with a HCHS graduate and her mother. The graduate was the same female who was involved in the [REDACTED] case. The graduate reported to [REDACTED]; "after she became*

*18, she had a sexual relationship with ██████████, a teacher and ASB Advisor at HCHS." In addition to contacting me, ██████████ also contacted the La Mesa Police Department.*

During the course of our investigation, we had no confirmation from the school's files or from witness interviews that this initial complaint to ██████████ was reported according to the Mandated Reporter laws. It was reported to us during our investigation that in addition to being a counselor at HCHS, ██████████ is a HCHS board member.

The La Mesa Police Department reported to us that on June 17, 2008, "the victim and her parents met with police to report an inappropriate relationship between the victim and her teacher/student advisor."

The Executive Director continued in his letter, page 4, paragraph 2,

*Criminal charges against ██████████ have been referred to the District Attorney, but he has not been arrested. The charge was Misdemeanor Sexual Conduct with a Minor (romantic hugging and kissing with a juvenile). This case is still pending.*

Our investigation showed that on July 31, 2008 (the date of the Executive Director's letter) ██████████ was charged with five counts of Child Molesting and one count of Failure to Report Suspected Child Abuse or Neglect. The last charge was brought, according to the La Mesa Police Department, because:

*The suspect had knowledge of the victim's relationship with the teacher in the prior case [█████████], but failed to report it as child abuse as he required to do under Section 11166PC-Duty to Report by Mandated Reporters.*

The Executive Director continues on page 5, in the last paragraph,

*Our investigation of these four cases produced no evidence of misconduct occurring during the school day or any school-related activities. The misconduct in these cases occurred on weekends in private residences, hotels, and locations distant and disconnected from HCHS. The misconduct occurred when students and teachers met beyond the boundary of our supervision.*

As discussed above, this assertion is inconsistent with the findings of our investigation.

In continuing our review of the letter by the Executive Director, we looked at the Response section and spoke with the consultants hired by Helix Charter High School to assist Helix in its efforts to eliminate educators' sexual misconduct and educators' sexual abuse in the future.

In that regard, we reviewed the study prepared by the National Institute of Ethics (The Helix Charter High School Consultants). This study gave us some insight into the problems at Helix, and confirmed some statements that we had heard during some of our witness interviews.

### **Efforts by Helix Charter School to Prevent Future Incidents of Educator Sexual Abuse**

Other than the information provided to us in the Executive Director's letter to the Superintendent of Schools dated July 31, 2008, we received other information relating to the response of Helix Charter High School to the four incidents from the school's consultants, The National Institute of Ethics (NIE). We obtained a copy of the report produced by NIE, and spoke with the consultants working on the project.

Because we do not know exactly what Helix Charter High School did following each incident with regard to offering counseling, notifying parents and students, conducting investigations, we have no opinion as to whether these measures, if any, were adequate or effective for their intended purpose.

We do feel that Helix's investigation of each incident was lacking because of the following reasons:

1. Even though the La Mesa Police Department took control of each situation after it was reported, and in each case achieved a conviction of the offending teacher, we feel that Helix needed to conduct its own investigation into the incidents, to learn from each incident and ensure that it was meeting its legal requirements, as well as satisfying its duty of protecting the students attending Helix Charter High School. This would necessarily have to have been conducted without interfering with any law enforcement investigation or prosecution. The investigation should have been conducted to further the administration's mission, to prevent future incidents, and set the groundwork for healing after what are generally upsetting situations.
2. Although the La Mesa Police Department at least in one case appeared to have encouraged other victims to come forward, at a minimum, Helix should have canvassed its staff to possibly identify other victims. It appears from our review, that once the La Mesa Police Department took over, or the Executive Director had obtained an admission of guilt from the offending employee, the school investigation was discontinued.
3. It appears that when the fourth episode of educator sexual abuse was uncovered, and print and media accounts were unkind, Helix Charter High School sought assistance from NIE. We reviewed the findings by NIE contained in a report titled, "Report of Findings Helix Charter High School."

NIE, in its Goals section, recognized an important point for this investigation, that being that "teachers were led to believe that sexual misconduct with students could be accomplished without fear of discovery."

We observe that by not having a proper protocol in place, each incident of educator sexual abuse can lead to a perception by subsequent educator offenders that they can engage in illegal acts, yet stand a good chance of not being discovered, or suffering severe consequences if discovered.

NIE collected information by survey and discussion with faculty members, students, parents and administrators. We feel that although the sample size was smaller than what would have been desirable, there were items discovered and reported by NIE that are relevant to our investigation. Additionally, many of the comments generated by NIE, if reviewed and acted upon appropriately, could be helpful to Helix in many different ways.

By way of example, on page 8 of the NIE report, NIE noted that faculty members commented:

*There is a belief within the current faculty that students were "empowered" to entice teacher misconduct.*

*Faculty members made global statements that societal norms are currently permissive. They believe that that (sic) teacher/student misconduct is reflective of those relaxed standards. Significantly, some observations were made of over-familiarity by students of faculty with teachers being addressed by their first names. This, coupled with other permissive behavior tends to lead to students "crossing the line."*

These faculty comments, suggesting that students are "crossing the line" or that students are "empowered to entice teacher misconduct" are disturbing. This purview may impact the ability of staff to recognize the aberrant behavior of their co-workers.

The students contacted by NIE had a different perception of the four incidents of educator sexual abuse occurring at the school. NIE reported:

*The students believe that parents were aware of some of the close relationships that existed between the student victims and the transgressing teachers, but they also noted that "nothing was done."*

*Students believe that teachers need to be more aware of what is happening around them. Students, who were caught up in the sexual misconduct, seemed to be constantly with a teacher during free time. This should be checked on by administration.*

*The students pointed out that the girls involved in the misconduct were not the "type to speak up." These girls also exhibited behaviors that included vulnerability, instability coupled with family problems, and a reputation for being a "loner[s]."*

The above student observations are largely supported by our investigation and our understanding of the problem.

5. As a portion of the NIE engagement, a draft "Staff/Student Interaction policy" was created. We obtained a copy of the draft policy from the Helix Charter High School website. We recognize the difficulty in preparing such a policy from scratch, and the fact that the policy we reviewed was a draft. It is in that light that we offer these comments

We found that the proposed policy may not have addressed all of the educator sexual abuse issues at Helix, and we are concerned whether the proposed policy violates California Penal Code, Section 11166 (i)(1).

The proposed policy does contain language relating to due process and the privacy of those accused. We believe that these are important concepts, but that the centerpiece of the policy should be the safety of the students.

The draft policy also includes a "Duty to Report" section, which includes the language:

*If the observed behavior appears significant, it is the duty of every staff member to immediately report it to an administrator.*

The Duty to Report section contained in the draft document is possibly contrary to the mandated reporter law of the state of California. Issuance of such a policy might be construed as a violation of California Penal Code Section 11166(i)(1) which states:

*The reporting duties under this section are individual and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subjected to any sanctions for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this article.*

If Helix moves forward with a policy such as this draft, Helix should ensure that the provisions of the policy are consistent with the provisions and spirit of California Penal Code Section 11166.