

THE RECORDER

Workplace Harassment: Who Looks Out for the Children?

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When a group of former child actors went public with claims of sexual harassment and abuse on the set of Nickelodeon dating back three decades, their stories were both horrifying and sensational. “Quiet on the Set: The Dark Side of Kids’ TV,” a documentary series by Investigation Discovery that began airing in March, exposes serious misconduct against child actors that took place in the 1990s and early 2000s.

Children who were paid for their work on “The Amanda Show,” “Drake & Josh,” “All That,” and other popular kids’ shows were allegedly subjected to bullying, racism and sexual assault—all conduct that should not be tolerated in today’s workplace. Despite attempts by some of their parents to stop the abuse, nothing appears to have been done to protect these child actors.

Could the same thing happen today? Have the laws changed sufficiently over the past 30 years to protect workers from such abuse? What can organizations, businesses, and community groups do to protect children in their care and custody?

The Abusers

The alleged abusers in the Nickelodeon story included well-known Hollywood figures, as well as industry veterans who continued to work with children even after their conduct became public knowledge. According to reports, five individuals employed by Nickelodeon were ultimately convicted of sexually molesting children; two others were accused of pedophilia. At least one individual had already been convicted of lewd acts with a child before he was hired to work on the set of Nickelodeon kids shows. Another individual was



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Chambord Benton-Hayes of Benton Employment Law.

ordered to register as a sex offender, pled no contest to two counts of child sexual abuse, and served 16 months in jail. He was later hired to work for Disney.

The abusers—all men—were invested with power and control as they worked with their victims. They were coaches, teachers, directors and producers to whom the children looked for guidance and support. They understood the pressures under which the actors worked and were uniquely positioned to exploit their vulnerability. They also understood the network’s drive to milk its cash cow for all it was worth. Abusers often thrive in these types of work environments and normalize a pattern and practice of abuse.

The victims could have been any children. The abusers could have been any adults. We have all heard the

stories about scouts who were molested by troop leaders, altar boys who were raped by their priests, and elementary school students who were fondled by after-hours daycare workers. But these victims were well-known public figures, they were abused in their workplace, and they were paid handsomely to just do what they were told.

The Children

The child actors in the documentary series were employees entitled to a safe workplace. But they were also children. The #MeToo movement highlighted the challenges women faced after being sexually abused in the workplace. Adults who were subjected to sexual predation experienced shame, denial, and self-harm. How much worse it must have been for the children working at Nickelodeon.

Many of the actors spoke in the documentary about ongoing mental health challenges, as well as substance abuse problems later in life. At an especially vulnerable time in their lives, they felt abandoned. Just as with #MeToo victims, it took decades for them to muster the courage to come forward with their stories. For others, it took decades for them to even realize they experienced abuse and understand how it impacted them in adulthood.

For this reason, California Code of Civil Procedure Section 340.1 allows child victims of sexual assault to seek justice decades later. For the Nickelodeon victims, their claims must commence by the later of their 40th birthday or five years after connecting the puzzle pieces and recognizing that the depression, anxiety, addiction, or other trauma with which they have been living is a direct result of the bad things that happened on the set. Assembly Bill 452 (AB 452), enacted Oct. 10, 2023, eliminates these time limits for child sex abuse claims that arise on or after Jan. 1, 2024.

The claims, however, were not limited to sexual abuse. Many child actors were subjected to bullying, racism, and other forms of abuse. For these victims, there will be no legal recourse. Their sole remedy will be sharing their stories and shining a spotlight on the abuse they suffered at the hands of their employer.

The New Workplace

The Nickelodeon set of the 1990s was a much different world than the modern workplace. Norms and standards to which we have become accustomed were nonexistent, and businesses were far less

concerned about bending or breaking rules. Today, an entire sector of the legal world focuses on child actors, and social media makes instant news of any alleged transgressions. Kids' TV stars are pursuing book deals and legal recourse, keeping their issues in the bullseye of public discourse.

Could the same abuses happen today? Unfortunately, there is no magic bullet to prevent child abuse. The abuser who served time for child sexual abuse at Nickelodeon went on to work on "The Suite Life of Zack and Cody," a highly successful Disney kids' show. Priests who abused children were reassigned to other dioceses. The problem didn't go away; it simply relocated. The child abuse stories simply underscore what should be abundantly clear: individuals who have a propensity for child abuse will continue to seek and find work that puts them into direct contact with children. Even with heightened regulation and the best of background checks, not all information will come to light. Child predators will still find ways to work at camps, schools, daycare centers, and TV shows.

Workplaces in which children are present—as employees, students, campers, scouts or receivers of care—should regularly review their staff. This means doing background checks on an annual or biannual basis to ensure that no red flags show up. Failure to do such routine checks can expose a business to liability for negligent hiring or retention.

Beyond looking for histories or other indicators of sexual abuse, employers should also regularly monitor their workplaces and provide staff training on appropriate conduct at work. The ultimate goal is to ensure that all workers—whether children or adults—are protected from bullying and harassment. California law now makes clear that children who suffer sexual assault or abuse will have no time limit for when they can hold their abusers, and those who aid or allow the abuse to happen, accountable.

Chambord Benton-Hayes is an Oakland-based employment attorney with broad experience representing both businesses and individuals. Before launching Benton Employment Law, she worked in the San Francisco office of an international firm, defending corporations in employment matters. She now represents clients in litigation and arbitration involving allegations of sexual harassment, discrimination, retaliation, wrongful termination and harassment.