

**Analysis of a Major Ethical/Legal Theme with Related Court Case Studies**

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### **Abstract**

There are three important aspects of bullying prevention. School counselors should be delivering instruction for bullying prevention and they should provide proper support to both the victim and the perpetrator. Failure to provide this support could be considered negligence and lead to a lawsuit against the school, the counselor and the school district. Furthermore, failure to provide adequate interventions could lead to loss of life.

### **Purpose**

Bullying is an issue in schools. As a school counselor I want to make sure that students on my campus feel safe but I also want them to feel confident and resilient. As a substitute teacher, I often hear student complaints about feeling bullied. It is usually one student with no filter wondering why another student is “different.” When a student feels confident in themselves these personal comments just roll off but, when a student is feeling vulnerable, ashamed, insecure then these comments become overwhelming. Students who bully others are often bullied themselves. My brother was a special needs student who was often bullied because of his issues. He coped with it by bullying me. I am sure that he also picked on other students at school as well.

### **Problem/Belief Statement**

Bullying is an issue that is far more common than we might think. Many incidents go unreported and we continue to hear about students committing suicide to escape the feelings induced by bullies. I believe that teaching both resilience and bullying prevention goes a long way to reduce the number of occurrences. I also believe that providing support to both the victim and the perpetrator will go a long way in preventing further occurrences but also helps the

social-emotional development of these students. When intervening in the classroom, I help students to see the other's point of view which is an important step in prevention.

### **Analysis Court Case #1**

In an article by Caleb Lunetta, he describes a lawsuit filed by a father against the school district. The father alleges that his son was bullied for three years and despite reporting the issue multiple times that the school "failed to properly intervene," The incident was not recorded, the safety officer was not informed and the parents were not aware of the rights to make a formal complaint. The accusations include physical and verbal assaults over a three year period. (Lunetta, 2021).

The Center for Disease Control, (CDC) reports that bullying results in psychological harm that can lead to suicide. They also report that students who are bullied have an increased risk for depression, anxiety, sleep difficulties, lower academic achievement, and dropping out of school." This supports the fathers claim of future loss.

The school district will have to prove that they documented the interactions with the parents, that they reported it to the school safety officer and that there were protections put into place. They would also have to document that they met with the parents of the bully and the bully himself and that disciplinary action was taken. The parent, Mr. Neville will have the burden of proof but he can subpoena the school records to help prove his case. If the school did in fact do some sort of intervention but did not document it over the course of the three years. Then the school will be found in the wrong.

### **Findings**

The case was dismissed due to "lack of representative capacity and lack of government claim, the court refrains from addressing the substantive merits of the

claims, including the insufficiency of facts and potential immunity." (*PATRICK NEVILLE, et AL. VS NEWHALL SCHOOL DISTRICT, et AL.*, n.d.). While the school district won this case there was a disruption of service, court costs, and negative attention on the school.

### **Reflection**

As a school counselor it is not just about who wins the lawsuit, it is about a safe and welcoming environment for all students. Providing interventions is a large part of what we do and we must document our actions. We also want to make sure that we involve the right people to support the students and follow up with the parties concerned. If the administration had taken these steps they could have prevented the bullying situation from going further and helped all of the parents to know that their children are safe on the school grounds.

### **Conclusion**

What I learned from this is that we must collaborate with parents, address their concerns and follow up with all of the parties involved. I would have spoken to the teachers and supervision staff so that they could provide proper guidance. I would have documented reporting to the safety officer and worked with him to provide support. I would have had a daily check in for both students and address any home issues that may have prompted this.

### **Analysis Court Case #2**

Esquivel, Reymundo Jr vs. Critchfield, Gerald (minor)... is a court case in which the parents of the bullying victim sued the bullies and their parents in 2014. (*First Amended Answer and Special Exceptions of Defendants Ashley Devoy and Vikki Devoy September 12, 2014.*) Six minors and their parents had to answer to the lawsuit. This case involved cyberbullying and fell under the jurisdiction of libel. The parents denied knowledge of the cyberbullying and the defendant further pleaded that they had no idea that the victim had

access to the online account. This case is weak because it must prove intent. While cyberbullying is extremely harmful one must consider the legal aspects of proving libel.

### **Findings**

All of the lawsuits were disposed of for lack of evidence of libel or involvement by the parents. While this lawsuit drew attention to the very real problem of cyberbullying and the importance of parent involvement it did not prove to be a good court case.

### **Reflection**

As a school counselor it would be very important to educate students about cyberbullying as an effective preventative measure. I would also encourage parents to monitor their children's use of social media. I would investigate and address any rumors regarding cyberbullying. I would want to address the core issues that lead to cyberbullying.

### **Conclusion**

What I learned from this is that cyberbullying is just as hurtful as any other kind of bullying and that I have an obligation to address the social-emotional issues that cause it. The best prevention is keeping parents informed and involved when providing cell phones for their children.

### **Analysis Court Case #3**

A court case was filed in March by a parent of a student with special educational needs. The student was bullied because of her disabilities. She later took her own life as the only means of escaping the bullying. The parents are alleging that no action was taken by the administration and in fact gave dismissive remarks.

### **Findings**

This case has just recently been filed so the outcome will come in the future.

### **Reflection**

After reading about this case I can see that our students with special needs can have a very hard time at school when their peers do not understand their special conditions. This is a reflection of school climate where every student should feel important and supported. I have seen many programs that integrate special needs students into general education classrooms. I have also seen programs where seniors get to serve students with moderate to severe disabilities. Every student should be respected and our most vulnerable students need our support.

### **Conclusion**

As a counselor I am going to work hard to make connections with all of the staff at my school. I want to provide support for students with disabilities and make sure that they are respected. I can set an example by treating all students with dignity and respect. I can encourage others to do the same. If we have a student with a rare condition I will make sure that students understand that the condition does not define who they are and that they should take the time to get to know the person. I had a fifth grade teacher who gave us all a talk before our special needs student arrived in class. We got to ask questions and she gave us good advice on social interactions.

## Resources

Centers for Disease Control and Prevention. (2019). *Preventing bullying*. Centers for Disease Control and Prevention.

<https://www.cdc.gov/violenceprevention/youthviolence/bullyingresearch/fastfact.html>

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