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Civitas ChildLaw Center Loyola University Chicago School of Law
in cooperation with the National Association of Counsel for Children
In the Courts:
A Balancing Act: The Protection of Child Abuse Victims and the Rights of a Defendant

By Jennifer Fox

Alexandra Bochte in her article The Double-Edged Sword of Justice: The Need for Prosecutors to Take Care of Child Victims highlights the problematic operation of the justice system in forcing victims of child abuse to testify in open court. Courts have treated children as adults in sexual abuse cases. There has been a continuous struggle in order to balance a defendant’s Sixth Amendment right to confront his accusers with protecting child victim’s emotional and mental state. Although the courts have implemented new ways to protect the victim while staying in line with the defendant’s Sixth Amendment rights, such as having the child be cross-examined through a one-way circuit television, the child’s emotional and mental stress is still at issue. The Supreme Court is currently examining this issue in Ohio v. Clark. In order to protect child abuse victims from testifying in open court, courts should permit teachers and social workers to be viewed as law enforcement agents under the Confrontation Clause.

In Clark, a preschool teacher in Cuyahoga County reported that a three-year-old student had whip marks on her face and a bloodshot eye. Through questioning the teacher, a detective, and multiple social workers the child admitted that her mother’s boyfriend, Darius Clark, was abusing her. The Grand Jury indicted Clark on felonious assault. At trial, the court allowed the preschool teachers, detective, and social workers to testify on behalf of the child. On appeal, Clark claimed that his Confrontation Clause rights under the Sixth Amendment were violated, due to the fact that the preschool teachers were testifying on behalf of the child rather than the child testifying herself. The Sixth Amendment states that “in all criminal prosecutions, the accused shall . . . be confronted with the witnesses against him.” Clark claimed that he had the right to confront his accusers; in this case, the three-year-old child.

The Ohio Court of Appeals held that the trial court abused its discretion in permitting the detective, preschool teachers, and social workers to testify on behalf of the child’s statements. The Court determined that because the statements were testimonial, and implicated the defendant of the crime, the fact that the child did not testify violated the Confrontation Clause. The decision was reversed and the case went to the Supreme Court of Ohio. The Supreme Court of Ohio found that the preschool teachers were acting in a dual capacity as an instructor and a law enforcement agent when they questioned the child about her injuries. The teachers were attempting to gather evidence against the defendant, and therefore the admission of the child’s statements without the child being present in court did violate the Confrontation Clause under the Sixth Amendment.

Clark is now on the U.S. Supreme Court’s docket. Arguments were presented to the Supreme Court in March 2015. The issue in contention is whether statements made by children to their teachers can be utilized as evidence in criminal trials where the child feels they are not able to testify. The Supreme Court will examine whether a teacher’s
obligation to report child abuse permits them to be viewed as law enforcement agents under the Confrontation Clause. Additionally, the Court needs to determine if narratives from the students to teachers and social workers are considered to be testimonial. If the statements are determined to be testimonial, it further needs to be determined if prosecutors are, or are not, permitted to use the statements without the opportunity to cross-examine the victim.

The Supreme Court’s decision will have many policy implications. Under the Federal Rules of Evidence, “every person is competent to be a witness . . . .” This rule includes children, who may not be able to fully comprehend the situation. It is the role of the judge, not the jury, to determine if a child is competent to stand trial. But, a child may be subjected to emotional strife if they are forced to testify in trial. The Court needs to balance justice with the protection of child abuse victims.

If preschool teachers or daycare workers are viewed as law enforcement agents under the Confrontation Clause, this could potentially increase the amount of child abuse cases reported. Teachers are trained to look for signs of abuse in their students. If teachers are seen as law enforcement agents, they can protect the children who are often too young to understand and identify what happened to them. Teachers could report the abuse, and the statements given by the children could be used as evidence in order to indict abusers. If the statements are not allowed in, it will be difficult to indict individuals when the only witness is a young child, who will often have difficulty to stand trial.

By allowing teachers or social workers to be law enforcement agents and testify on behalf of the child, this could help remove young children from the trial process. As Bochte states in her article, placing a child in open court burdens the child with emotional and mental anguish. Rather than having a three-year-old child go through the ordeal of a trial, a child could be properly represented by their teacher or social worker; eliminating the need of the child to relive the abuse and be in fear while at court. If a teacher or social worker is viewed as a law enforcement agent and can speak on behalf of the victim, the defendant’s Sixth Amendment right of confrontation would be fulfilled. Due to the fact the teacher or social worker is representing the victim, the defendant would have an opportunity to confront his accuser. This could balance the rights of the defendant, while protecting the emotional and mental state of the victim of child abuse. Teachers and social workers should be viewed as law enforcement agents on behalf of children who are victims of child abuse.

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Opposing Viewpoints:
Preparing Students, Teachers, and the Community for School Shootings: Saving Lives with Active Shooter Simulations

By Michael Gubiotti

One can never be too prepared for a disastrous event such as an earthquake, tornado, fire, or any other type of natural disaster that our K-12 schools prepare for on a regular basis. So why not prepare for an event that is so unnatural as to cause nationwide concern? The type of event in question is a school shooting. Over the last couple of decades, and particularly in the years following the school shooting at Columbine High School in Colorado, there have been legislative efforts by many states towards participation in school shooting simulations. In Illinois, an elementary school superintendent was quoted saying, “I’d much rather [...] children be a little bit scared and alive, than not knowing what to do and end up being hurt.” By preparing students, teachers, and the communities for school shootings in a realistic scenario, everyone involved will be better prepared for an actual school shooting and lives will be saved.

Law enforcement and other members of the community, such as church members and parents, may be involved in an active shooter simulation. Some of these simulations have involved the discharge of guns; however, the guns are merely loaded with blanks in order to create as realistic a scenario as possible. These simulations have sparked concerns that these types of drills are going too far and have the potential of traumatizing students. Despite these concerns, there is a need to educate students, teachers, and the communities on how to react if a shooting were to occur due to the increased occurrences of school shootings throughout the United States.

Although it may seem like a big step to discharge a gun, even if they are only blanks, realistic demonstrations and simulations have been occurring for years. The activist group Mother’s Against Drunk Driving (“MADD”) has been putting on demonstrations at schools for many years now. In some of these cases MADD will have student and teacher volunteers put on very realistic demonstrations of car wrecks, which include real cars, fire engines, and ambulances. In these scenarios the students watch as “victims” are pulled from cars, covered in fake blood and wounds, and are taken away in ambulances. In comparison, realistic school shooting simulations are not so farfetched as to be considered an inappropriate means of educating students, teachers, and members of the community about the reality of school shooting occurrences.

Another critique of these active shooter simulations is that it creates distrust when students are not forewarned that a simulation is going to be conducted on a particular day. The response, however, is that by not informing the students, they will be better prepared for an actual attack. If a real shooter were on a school campus, there could be little to no warning. Therefore, the more realistic a scenario, the more the teachers and law enforcement will be able to get a better gage as to how students would react and educate them appropriately to help them react better in the future.
There are risks involved when students are not informed of these drills. For instance, if a student were to react badly and attempt to fight back there could be an unintended consequence, and a student may be harmed or traumatized. On the flip side, when students are subjected to active shooter simulations, they could think an actual school-shooting event is just a drill. However, through the use of these simulations and education about school shootings in general, students will be better prepared if an actual shooting event were to occur on their school campus.

Active shooter simulations are becoming increasingly more common in many states, and it appears this trend will continue as long as school shootings continue to occur. These types of simulations, however, are still new and it will take time and practice to help educate and prepare students for school shootings. When combined with educational tools, open discussions, and active shooter simulations the youth of the United State will hopefully become more aware of the danger and reality of school shootings. There is still a learning curve, but as the legislation evolves and these active shooter simulations become more common, there is hope that one day lives will be saved and school shootings will be prevented.

Sources:


The United Nations established the Convention on the Rights of the Child (“CRC”) in 1989. The final version was completed in 2002. Since 1989, according to the Office of the High Commissioner for Human Rights (“OHCHR”), 194 countries have signed in support and in effort to make a political and legal change for children’s rights in their respective countries. One element of the CRC is education for students with disabilities. Education rights are discussed at length in the CRC under Articles 23, 28, and 29. Article 23 specifically focuses on children with disabilities. Additionally, it addresses the responsibility for the state actor to provide free education so the child is “achieving the fullest possible social integration and individual development.” Extensive research shows that inclusion in education can help pull people with disabilities out of a vicious cycle of poverty across the globe. Jean-Francois Tran and Mitchell Loeb researched the aftermath of war-stricken countries for people with disabilities and found that education is key to access general opportunities for people with mild to severe disabilities. While the United States has refused to ratify the CRC, it is ahead of developing countries with inclusion and rights for children with disabilities but stands to learn from those following the CRC’s ambitious goal to fully integrate and offer free services to maximize the potential of students with disabilities.

The United Nations OHCHR gathered information from the education plan of every country that signed off on the CRC. Developing countries without the resources to feed their population are not generally able to establish a special education program for students with disabilities. The OHCHR’s “In the Field Report” from 2013 indicates that some target countries have moved towards a free primary education and include women in their education programs; others are trying to establish a system of education for children in general. Other countries have to focus on eliminating human rights violations occurring in schools. For example, Bolivia must eradicate corporal punishments in school that are disparately impacting minority children.

Education for girls is a starting point for some countries, while others are establishing laws, rules and regulations for students with disabilities. The OHCHR noted that it was rare to find a country with “least restrictive environment” laws or inclusion for students with disabilities. Russia established a new system of education for students with disabilities, including the right to free and necessary education with protection against discriminatory enrollment. The laws do not impede or facilitate inclusion. Iceland encourages inclusion for all students and has had heterogeneous classrooms since the early 1990s. The Centre for Studies on Inclusive Education reports that legislation such as the Equality Act of 2010 and their commitment to the CRC has established a right to inclusion for students with disabilities in the United Kingdom. The system in the United Kingdom is
most similar to that of the United States; however, they include the CRC and therefore look to maximize student potential. Despite its popularity and reference in the CRC, inclusion is not always seen as the best option for the child.

Finland, a leading country in innovative education models, has established its own education paradigm and law for students with disabilities. Through the Basic Education Act, Finland has established free education for all at their highest possible level without cost to the parent. The Basic Education Act states that all students have a right to inclusion but that the parent can choose whether that is the best option for the child. Conversely, the U.S. Supreme Court ruled in Board of Education v. Rowley that students must only receive a meaningful education, much like the Russian standard, but still require inclusion. Providing for students to maximize their education level is not part of U.S. law.

Although U.S. children are not guaranteed an education to fully thrive, they are given the opportunity, to the maximum extent possible, to be educated with their non-disabled peers. Those in the field argue time away from non-disabled peers maximizes learning, but others suggest the real-world application of working alongside any person is more valuable for students to learn. This debate exists across the globe for countries able to focus on disability rights for students.

Sources:


**Opposing Viewpoints:**
**The Sixth Amendment and Child Witnesses**

By Sarah Kroll

A trial can have serious effects on child witnesses. Questioning children about a crime that was committed against them can lead to re-traumatization, defined as feelings that the traumatizing event (such as physical and sexual abuse) is happening to them again. The original traumatizing event, as well as the re-traumatization, can result in lasting physical and mental harm to the health of a child. Children are especially susceptible to re-traumatization to a much greater degree than adults. Making a child face their alleged attacker and answer questions about the traumatic crime against them can cause further harm to them, making their experience and the abuse against them that much worse.

The Sixth Amendment guarantees criminal defendants the right “to be confronted with the witnesses against him.” In *Crawford v. Washington*, the Court held that testimonial hearsay cannot be used unless the declarant (the individual giving the testimony) has been cross-examined by the defendant. The Sixth Amendment does not make a distinction in the ages of witnesses. It sets the law that criminal defendants have the right to confront all witnesses against him. *Crawford* does not make a distinction in age. No testimonial evidence can be used against a defendant without the opportunity to cross-examine the witness.

In recent years, the Supreme Court has found some exceptions to the Sixth Amendment and ruling of *Crawford* for child witnesses. The Court recognized how testifying in a courtroom in front of the accused can have a negative effect on a child victim. Instead of asking a child to confront a defendant who has possibly brutally attacked or abused the child, different courts have allowed child witnesses to testify via closed-circuit television, behind screens, or through the testimony of adults. But does this satisfy the Sixth Amendment’s requirement to allow the accused to confront the witnesses against him? It seems undeniable that it does not, but the courts have found in multiple cases that the interest of protecting children outweighs the importance of the adherence to the Sixth Amendment.

**Effect on Child Witnesses**

Children are vulnerable, but it is not the criminal defendants’ trials that injure the child witnesses. Child witnesses were injured by the crimes against them. This pain and trauma can last a lifetime. Although questioning a child at trial can re-traumatize a child, a defendant’s Sixth Amendment rights must be protected. Criminal defendants have a right to confront and cross-examine the witnesses against them. Child witnesses must be required to testify in the courtroom, confronting face-to-face the criminal defendant who harmed the child.

A child can suffer from trauma because of many different terrible events, including rape, sexual abuse, physical abuse, neglect, and exposure to violence. Trauma can have both short-term and long-term effects on a child. Sexual abuse can result in a large range of negative effects on a child. This includes sexually acting out by looking at
pornographic material, dressing promiscuously, publically exposing themselves, masturbating suddenly, or being sexually aggressive.

These events could also seriously traumatize adults and cause them to experience re-traumatization on the witness stand. Children are more vulnerable and sensitive and may experience more lasting effects from trauma than most adults may, but this does not exempt them from the Sixth Amendment. Criminal defendants do not lose their rights when their crime is against a child.

**Interpretation of Confrontation Clause**

The courts declared confrontation as face-to-face in the 1980s. In *Coy v. Iowa*, the trial court and the Iowa Supreme Court allowed a screen to be placed in between the child witness and defendant in order to make the child witness feel more at ease. The U.S. Supreme Court reversed, holding that placing a screen between the witness and defendant was a violation of the Sixth Amendment. Justice Scalia held that the right to confrontation meant a “constitutional right to face-to-face confrontation.”

In *Maryland v. Craig*, the Supreme Court again ruled that the Sixth Amendment required face-to-face confrontation. In that case, the trial court allowed four child witnesses to testify via one-way closed circuit television. The child witness, the prosecutor, and the defense counsel were able to question the child in a separate room, while the judge, the jury, and the defendant watched the testimony on a video monitor in the courtroom. The Supreme Court held that “physical presence, oath, cross-examination, and observation of demeanor by the trier of fact” was required.

The Court went on to say, however, that “a State’s interest in the physical and psychological well-being of child abuse victims may be sufficiently important to outweigh, at least in some cases, a defendant’s right to face accusers in court.” This statement is in direct conflict with the Court’s previous statements in the same opinion, as well as the Sixth Amendment.

**Conclusion**

The Sixth Amendment very clearly states that a criminal defendant has the right to confront the witnesses against him. *Crawford* held that testimonial evidence cannot be used against the defendant without the opportunity to cross-examine the witness. *Coy* and *Maryland* held that the right to confront a witness meant face-to-face confrontation in court.

Child witnesses are vulnerable and can have lifelong trauma as a result of the crime committed against them. However, allowing a child to testify behind a screen, in another room, or outside of the court completely violates the Sixth Amendment and Supreme Court precedent. Permitting children to testify in this manner does not take away the trauma they are already experiencing as a result of the abuse or event they are testifying about. Therefore, the Sixth Amendment must guarantee the right to confront your witnesses, even when a witness is a child.

**Sources**

U.S. CONST. amend. VI.


Interview With:
Miranda Johnson, Associate Director of the Education Law and Policy Institute, Loyola University Chicago School of Law

By Jenessy Rodriguez

Miranda Johnson serves as the Associate Director of the Education Law and Policy Institute at Loyola University Chicago School of Law. She supports the development of an effective course curriculum, plans new research, and expands outreach opportunities in educational advocacy. She teaches several courses in education law at Loyola and also supervises law students in school discipline and special education cases. She has worked for various organizations such as Advocates for Children of New York (“AFC”), where she represented parents of students with disabilities and advocated for appropriate educational services. Miranda also collaborated with students at Loyola in developing a suspension advocacy group called Stand Up For Each Other, Chicago! (“SUFEO”), which aids parents and students in suspension appeals and in fostering better communication with school administration.

Q: What do you think about school districts that assert restrictiveness as a defense to claims for private school tuition?

I understand that school districts are seeking to defend against claims for rather significant amounts of tuition reimbursement and are looking for any argument that might be acceptable to courts. I also think that there may be some language that supports the position that looking at whether the parent’s selected placement satisfies the goals of the least restrictive environment (“LRE”) is appropriate as one of the factors to consider. For example, if the parent was evaluating two different types of private school placements, then restrictiveness would be an appropriate consideration. While I do not think that it is the strongest defense, I understand why school districts may rely on it. However, I would be concerned if that was their sole defense.

Q: Do you think that the implication is that those districts are motivated more by financial interests rather than morality or altruism?

While I think that the implication is likely true, it is also true that school districts have a responsibility to educate all the children in their district and need to be careful about expenditure of resources. The unfortunate reality of most of these cases involving private school placement is that if the district fulfilled their responsibility to provide a free and appropriate public education (“FAPE”) to all students in their districts, then parents could never even win these cases. The fundamental basis of all these cases is that, in order to provide reimbursement to parents of students with disabilities, the district must have failed to provide FAPE. What saddens me is that these kinds of disputes over a parent’s private school placement need to be litigated when the district could have and should
have provided a FAPE to begin with. If districts paid less attention to litigation over parent’s private school placements and instead focused their resources and attention on the quality of services in the public schools, then there would be a lot of good that would result.

**Q: Are there other remedies besides litigation, such as mediation?**

Yes, the Illinois State Board of Education (“ISBE”) does offer mediation as an option in these kinds of disputes. Also, the Individuals with Disabilities Education Act (“IDEA”) requires that when you file for due process there is a 30-thirty-day resolution period, which is essentially an opportunity to resolve disputes like this through mediation. However, the types of disputes that are harder to resolve occur when the parent has become so frustrated with the public school system and may have tried to make the system work for their child for many years. These parents have become skeptical of the school district’s contention that it can meet their child’s needs.

**Q: In situations where a parent seeks reimbursement for private school tuition reimbursement, should public school authorities be permitted to challenge the private placement on the sole ground of restrictiveness?**

I do not think that school districts should be permitted to challenge the private school placement on the sole ground of restrictiveness. If you are looking at a private school day placement, there are not many private placements that offer special education services while also offering mainstreaming opportunities with general education peers. If hearing officers and courts were to reject a parent’s placement solely on the ground that it was too restrictive, that would effectively hamstring parents in accessing a remedy that the Supreme Court has made available to them when school districts fail to offer FAPE. The burden on parents to identify and find an appropriate private school placement that would accept their child is already difficult. Therefore, to add the additional requirement that the private school day placement must also have mainstreaming opportunities is counterproductive.

**Q: Are parents offered any guidance in searching for an appropriate private school placement?**

Often, what I see is parents are trying to navigate the special education system on their own. Parents may have the support of a private evaluator or an attorney, and it is usually these families who are the ones able to identify an appropriate private school placement. For low-income families, there are significant obstacles to taking advantage of the remedy of unilateral private school placement. A low-income parent cannot simply decide that she is not going to accept the school district’s placement and will instead place her child in a private placement and pay tuition while due process proceedings are pending. Special education services at a private school are enormously expensive. Some circuits have accepted the remedy of direct payment to the private school as a prospective
remedy for the denial of FAPE. This means that the parent could place the child at a private school that specializes in special education and seek an order by a hearing officer to directly pay tuition rather than having the tuition reimbursed to the parents. However, this is not a widely accepted practice in all circuits, and even if it were, it would still usually mean that a low-income parent would need to wait on a due process decision before she could go forward with the placement. Therefore, the court decisions regarding unilateral placement usually involve wealthier families who can afford to take the risk of withdrawing the child from the special education placement and placing the child in a private school at their own expense. However, this is a very limited set of families. Unfortunately, many parents of various income backgrounds do not know the options available to them. It is a confusing process for any parent to navigate.

Q: What do you think about applying the “least restrictive environment” standard when parents are seeking inclusion, but not considering it in evaluating unilateral placements in tuition reimbursement cases?

I think that the LRE standard was really put into place to guard against districts warehousing students in segregated special education placements when that was not really necessary. I think that it is a very appropriate standard to think about when looking at a district’s placement. Do we really need to place this child in a self-contained class with only other students with disabilities when actually the student could succeed in general education if given sufficient supports and services? So I think that is why the LRE standard is an important consideration and certainly a motivating factor of the IDEA. There were too many children with disabilities being inappropriately warehoused in classrooms in placements that were not meeting their needs. However, we cannot forget that one of the primary motivating factors of the IDEA is that these placements were not meeting the child’s needs. There needed to be a remedy for parents that allows them to secure in a timely manner an appropriate placement that will meet the child’s needs. A child’s education is not something you can litigate for a long time without impacting the child. I do not think that the same standards that you hold school district accountable to should be applied to a parent’s placement. The school should have a whole continuum of options and a menu of potential placements for the students in their districts, and parents cannot be held to that same standard.

Q: Do you believe that there is some legitimacy in sacrificing educational benefit for the greater social benefit of being surrounded by mainstream peers?

I think that the primary focus should always be whether or not we are meeting the child’s individual educational needs. If a student is not reading, then that student should be provided with research-based instruction that will meet the student’s needs. If the child has emotional disabilities, then he or she should be provided with support and services that meet his or her individualized needs. There should be recognition that the needs of a student with anxiety may be different from a student with emotional disabilities that are more aggressive or involve externalizing behaviors and likewise for students who have
other types of disabilities or classifications. If the instruction that meets the child’s individual needs can be provided within a context that allows them to access the types of extracurricular and social opportunities that are available to all students or students in general education environment, that is ideal. But I get concerned when the LRE mandate is focused on at the expense of the research-based instruction that meets the student’s needs.

**Q: If the IDEA seeks to emphasize a more qualitative agenda, can a presumption for integration serve this purpose?**

In placing students, the school districts should evaluate whether the school’s overall environment is a good fit for the student and whether various aspects of the school environment are meeting the student’s needs. An emphasis on enhancing social interactions with peers is not often sufficiently considered in the development of an Individualized Educational Plan (“IEP”). I think that addressing internalizing and externalizing behaviors offer opportunities to teach healthy ways to handle anger, conflict, and frustration. All too often, externalizing behaviors are met with punitive discipline rather than addressed constructively. I think that the problem is that these needs cannot be adequately addressed in an individual IEP alone. There needs to be a school-wide and district-wide commitment to a positive school climate. One of main recommendations of U.S. Department of Education in their discipline guidance package last January is that schools should be focusing on developing a positive school climate. If schools start with their overall climate issue, then building and structuring supports and interventions into IEPs for particular students with behavior-related needs will help. However, if the school climate is promoting bullying and micro-aggressions and teachers are not available or unsupportive, then building these aspects into an IEP will often not be that helpful. The environment may be the LRE for the student but it may not meet the student’s needs due to the nature of the school. Therefore, those parents may consider placing their child in a private environment that is smaller and more likely to keep that student engaged and feeling that the school is really concerned about meeting their needs.

**Sources:**

**Spotlight On:**

**School Violence Prevention**

*By Paige Steffen*

The National Association of School Psychologists (“NASP”) is a professional organization for school psychologists that provides standards, guidance, and education to “improve students’ learning, behavior, and mental health.”

The NASP provides guidance on how to create safe and peaceful schools, free from violence in all of its forms. In addition to providing advice regarding active shooter drills, as discussed in *School Shooting Simulations: At What Point Does Preparation Become More Harmful than Helpful?*, the NASP provides recommendations as to how schools can create and implement purposeful, coordinated, evidence-based policies and strategies that promote the safety of their students. Research shows that these strategies help protect students’ safety by both fostering conditions that discourage violence and by enabling schools to respond quickly and effectively when violence does occur.

**School Violence & Its Effects**

Students should feel safe at school, and parents should feel confident that schools will properly care for and protect their children from violence. School violence exists, however, and remains prevalent in schools all across the country. School violence comes in many forms, including threats, name-calling, verbal attacks, bullying, cyberbullying, physical assault, sexual harassment, and school shootings. According to research, school violence victims are at a greater risk of academic and social-emotional problems. Additionally, school violence can “erode the climate of the school, damage the resilience promoting influence of schools, and leave many students to suffer in silence with diminished personal wellness and resilience capacity.” As such, schools must ensure that they are ready and able to properly address and respond to school violence.

**Important Role of School Psychologists**

Teachers and school staff have the potential to prevent violence by fostering relationships with students that help students cope with challenges and avoid violence perpetration and victimization. More specifically, school-based mental health professionals, such as school psychologists, can play a central role in school violence prevention and can be an important resource to help respond to violence if it occurs. Not only does the NASP recommend that school psychologists participate in school violence prevention, Principle IV.1 of the NASP Principles for Professional Ethics explicitly states that “school psychologists use their expertise in psychology and education to promote school, family, and community environments that are safe and healthy for children.”

School psychologists can assist with school violence prevention programs in several ways. They include the following: school psychologists can help create and form safety and crisis planning teams; implement prevention and intervention programs
designed to reduce aggressive behavior among students; counsel and support victims of violence; and help students respond to crises created by violence.

In order to better assure that school psychologists are well-equipped and able to help create and promote a safe school environment, the NASP has developed school violence professional training standards in hopes that these standards will be adopted by all state education credentialing bodies.

**NASP’s Strategies for Successful Violence Prevention Program**

Although the NASP does not promote a single school violence prevention program, it does provide nine strategies that help create a successful program:

1. *Create a School-Community Safety Partnership:* School violence prevention programs must utilize collaboration across disciplines. This collaboration should be among administrators, teachers, school psychologists, parents, students, and community partners such as local law enforcement, public health personnel, and other community groups.

2. *Establish a Comprehensive School Crisis Plan:* Crisis plans can help schools respond to crisis situations. The plans should focus on the importance of mental health response in order to minimize the traumatic impact of the situation. In general, the plans should provide procedures for ensuring perceptions of safety and security, re-establishing social support, and evaluating psychological trauma risk.

3. *Enhance the Classroom and School Climate:* Classroom and school climate are both conditions that can unintentionally foster violent acts. By intentionally creating a climate of acceptance and understanding, the nature and quality of the relationships among students and staff will improve, which can decrease frustrations that ultimately lead to violence.

4. *Promote Positive School Discipline and Support:* Schools should balance disciplinary responses to violence with efforts to promote cooperation, positive social skills, and peaceful conflict resolution. Successful school violence prevention programs go beyond simply increasing security and punishing students who violate the rules. The program must also incorporate efforts to increase support, trust, and caring among students and staff.

5. *Use Non-Stigmatizing School Violence Prevention Programs:* Schools should use a threat assessment approach in order to better understand students’ potential for violent behavior. All threat response efforts should be based on research-validated procedures.

6. *Promote Anti-Violence Initiatives For All Students:* School-wide initiatives should be adopted in order to address pervasive school safety challenges, such as bullying. These programs can promote both personal, individual change and larger, social change in the school.

7. *Provide Support for Students Exhibiting Warning Signs of Disruptive Behavior:* Some students will not respond to school-wide programs. Those students, who
have displayed aggressive and violent behavior at school, must be provided with additional support and guidance.

8. Intervene With Students Who Have Significant Behavioral Adjustment Problems: Oftentimes students who have engaged in or are at risk of engaging in violent behavior are concurrently experiencing social or psychological distress. This distress will generally require coordinated efforts between the school and community agencies, such as community mental health, child welfare services, and alcohol and drug treatment agencies.

9. Support Policies that Reduce Access to Firearms by Youth: Supporting policies that reduce access to firearms by youth and others who are of immediate danger to themselves or others can decrease school violence. Such policies include improving awareness of safe gun practices and restricting the presence of guns in schools to only commissioned school resource officers.

In summary, to be a comprehensive school violence prevention program, the program must positively influence students’ attitudes towards violence, teach effective conflict resolution skills, promote tolerance and understanding, integrate with outside violence prevention efforts, and involve the community.

Coordinated, comprehensive school violence prevention plans that follow these recommended strategies have been largely successful, as documented by recent national reports. For example, there was a forty-nine percent reduction in students reporting that they are “fearful of being attacked or harmed on their school campus,” and a fifteen percent reduction in student reports of both “carrying weapons and fighting at school.”

The NASP is committed to improving the safety of students. The NASP provides extensive resources on school safety and crisis resources that include materials on talking to children about violence, identifying seriously traumatized children, and managing strong emotional reactions to traumatic events. Please visit their website, http://www.nasponline.org/, for more information and to learn more about their organization.

Sources


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  Salisbury Post-Graduate  
  Clinical Teaching Fellow  

• Kathleen Hirsman  
  Senior Lecturer in Residence  

• Miranda Johnson  
  Associate Director  
  ChildLaw and Education Institute  

• Michael J. Kaufman  
  Professor and Associate Dean for Academic Affairs Director  
  ChildLaw and Education Institute  

• Melina Healey  
  Post-Graduate ChildLaw Policy and Legislation Teaching Fellow  

• Stacey E. Platt  
  Clinical Professor and Associate Director  
  Civitas ChildLaw Clinic  

• Anita Weinberg  
  Clinical Professor and Director  
  ChildLaw Policy Institute

Staff Attorneys

• Mary Burns  
  Academic Director, On-line Masters in Jurisprudence Degree  

• Lisa Jacobs  
  Program Manager for the Illinois Models for Change Initiative

Part-Time Faculty

Campus-Based

• Shelley Ballard  
  Partner at Ballard, Desai & Miller  
  Attorney  
  (Adoption Law Seminar)  

• Hillary Coustan  
  Attorney  
  (Education Law Practicum and Disability Law)  

• Corinne Levitz  
  Circuit Court of Cook County Mediator  
  (Child and Family Law Mediation and Mediation Seminar)  

• Michael Nathanson  
  (Child and Family Law Mediation and Mediation Seminar)  

Online M.J. Faculty

• Sara Block  
  (Child Welfare Law and Policy; Juvenile Justice)  

• Mary Burns  
  (Family Law)  

• Kathleen Hirsman  
  (Education Law and Policy)  

• Diane Geraghty  
  (International Children’s Rights)  

• Art Elster  
  (Children’s Health Law and Policy)  

• Joseph Monahan  
  (Mental Health Law)  

• Helen Kim Skinner  
  (Introduction to Children’s Law and Policy)  

• Marilyn Stocker  
  (Leadership Development)  

• Cheryl A. Warzynski  
  (Introduction to the Study of Law and Legal System)