
Preface

Many of the teachers and parents who grumble that kids “just don’t take responsibility” spend their days ordering kids around as though children could learn how to make good decisions by following directions.

—Alfie Kohn, Educational Theorist
(Kohl, 2000, p. 57)

All day the phone kept ringing off the hook. And, of course, I was behind on everything. Again the phone rang. I couldn’t possibly take another call! I glanced at the caller ID and saw that it was one of my key employees who lives in another city. Hoping to handle the matter quickly, I answered, “Hey Susan, what can I do for you?”

“I’m having a really bad day,” Susan responded. Oh, no! I thought. So much for handling this quickly. “What’s happening?” I asked.

“Johnny got sent home from school for fighting and I don’t know what to do. My child is a bully and I am a terrible mother,” Susan sobbed.

“I understand your feelings. Having your seven-year-old sent home from school for fighting would upset any parent. Let’s see if we can sort the problem out in a way that allows both you and Johnny to grow even closer.”

FOUR POWERFUL QUESTIONS

I had no ready-made answer for Susan, but I had a set of four questions that I knew could guide Susan and Johnny to resolution. I had the same four questions for this mother and son that I give to school leaders all over the world while training them to deal fairly and justly with misconduct issues.

“OK, Susan, let’s use the McGrath SUCCEED System approach on this situation. The approach will guide you in using constructive thinking, listening, and speaking and help you to decide what effective action to take to handle the situation. Now, go ask Johnny these four questions:

xiv School Bullying: Tools for Avoiding Harm and Liability

- What happened at school today that you got sent home for?
- How did those things hurt somebody else or even you?
- Was there something else happening that we need to know about to understand what's going on?
- What should we do now that we know all of the things we just looked at?"

Then I hung up and waited for Susan to call me back.

I have developed and refined these four questions over the span of the last 25 years. One wouldn't think it would take 25 years to sort out four questions, but these are very special questions. They synthesize a great deal of knowledge in various fields, including law, science, philosophy, and ontology (the study of being). These questions are also used to put into action the fundamental human principles of trust, respect, understanding, and growth, while at the same time being legally sound.

Since I am a lawyer, mother, and grandmother, it was natural that I turned to the law to discover the fundamentals of justice and fairness and then combined them with caring. The legal cases from which these questions derive address all kinds of people issues in schools, from employee terminations to student expulsions. These questions capture the essence of how the judges weigh, balance, and decide a fair and just resolution of any particular situation.

The four questions are also the heart of the McGrath SUCCEED System, an approach specifically designed to address the complex and painful people issues within our schools, of which bullying is just one. The McGrath SUCCEED System is a comprehensive approach to complaint intake, management, and investigation that emphasizes due process and just cause rights of the individual. Said in plain English, the McGrath SUCCEED System is about both the skill to handle bullying issues well and the will to transform the culture and climate in which the bullying occurs.

WHY ADDRESS BULLYING?

Every hour of every day, in every schoolhouse around the world, children experience bullying and harassment by their peers (and sometimes even by the adults in their lives, but that is beyond the scope of this book). Peer-to-peer bullying is so pervasive in our schools that it's almost transparent, invisible to the adult eye. The prevailing sentiment often is that "it is simply part of growing up." Yet both the immediate and long-term impacts on the victims' ability to study and learn, their emotional health, and their self-esteem are staggering.

In a 2002 address to the American Medical Association, Dr. Joseph L. Wright, Medical Director of Advocacy and Community Affairs of Children's National Medical Center in Washington, DC, remarked on the 30% prevalence rate of bullying reported by researchers:

These are remarkable rates of bullying. If this were a medical issue, for example, an infectious disease in my pediatrics practice, we would have the Epidemic Intelligence Service people from the Centers for Disease Control and Prevention investigate it. (Wright, 2002, p. 23)

In addition, our federal and state legislative bodies and various courts of law are holding school personnel more and more accountable for preventing and intervening in these matters. Parents, student advocates, and even the students themselves are calling for a new world order. One family in Canada recently filed suit against a school district, alleging that the district had not fulfilled its duty to create a school climate that supports student learning (Egale Canada, 2005). In December 2005, a Kansas City teen received a \$440,000 settlement from the Tonganoxie School District for the incessant bullying he experienced from his seventh-grade year through the eleventh grade, when he left school (Associated Press, 2005). Parents and students want school environments that are free from bullying and harassment, and they are willing to fight for those environments as a fundamental educational right.

This is where I come in. I am a school law attorney. My focus is employee and student misconduct, with an emphasis on illegal harassment and bullying. I have been representing school boards and training students and staff on these matters for nearly 30 years. I was a pioneer in peer-to-peer sexual harassment training and am at the top of the field on bullying, sexual harassment, and abuse investigation pertaining to schools.

In addition, over the course of my 30-year practice, I have been training the adults in schools to deal effectively with delicate and extremely complex employee issues. Implementing the philosophy “lead from the heart while using your head” through the McGrath SUCCEED System, I have trained school district leaders to successfully transform the culture of administrator-employee-student relations so that true partnerships and systemic change are possible.

WHAT IS THE McGRATH SUCCEED SYSTEM?

The McGrath SUCCEED System organizes fundamental legal and human principles into a powerful methodology for resolving and transforming complex human situations. On the one hand, the McGrath SUCCEED System provides step-by-step, legally sound procedures and practices for identification of bullying and for complaint intake, management, and investigation of these matters. On the other hand, the McGrath SUCCEED System provides practical transformational tools for analyzing bullying situations and for listening to and communicating with all of the constituents involved—students, parents, teachers, staff, community members, and others. The intended outcome of the McGrath SUCCEED System is the creation of a school environment of safety, caring, and excellence.

WHAT SPECIFICALLY DOES THE McGRATH SUCCEED SYSTEM ADDRESS?

The McGrath SUCCEED System addresses both the *content* and the *context* of bullying. Content means “Who did what to whom?” and “What are we going to do about it?” Provided in the system are practical action steps that respect the due process and just cause rights of those involved, and include:

xvi School Bullying: Tools for Avoiding Harm and Liability

- distinguishing actionable bullying from acceptable student behavior;
- having a uniform, three-tiered systemwide approach for complaint intake and management;
- applying legally fit procedures throughout the process;
- creating quality records of the actions taken; and
- maintaining step-by-step documentation of the investigation.

When dealing with the context of bullying, the environment is addressed from two views: (1) the environment in which the behavior arose, and (2) the future environment that the school community is committed to having in school. For this purpose, included in the McGrath SUCCEED System are practices that bring out qualities such as:

- acting with honesty, compassion, and accountability;
- fostering trust, respect, understanding, and a commitment to growth;
- honoring the whole human being;
- addressing the varying needs of that whole human being; and
- providing a basic format to integrate these qualities into daily life.

The McGrath SUCCEED System offers practices that put fundamental ethical principles into action. Each interaction flows from an application of the McGrath SUCCEED System's ultimate purpose—to develop people and the culture and climate in which they work and study. While accomplishing the appropriate result with each individual, the McGrath SUCCEED System provides the means to alter the culture and climate of the school.

FACTS-IMPACT-CONTEXT

The phone rang and it was Susan again. "OK, this has been going really well. I have been talking with Johnny and have learned a lot. I asked Johnny what happened and he told me that he and his friend Tim were tackling each other. The tackling got out of hand and Johnny hurt Tim, who responded by biting him. Johnny went to the yard duty monitor and told her that they had been wrestling and Tim had bitten him. He knew that things had gotten out of hand and wanted some help. The yard duty monitor simply told Johnny and Tim to go play somewhere else. Tim picked up a stick and was poking Johnny with it. Johnny hit Tim. The assistant principal sent both boys home.

"When I asked Johnny how this had hurt someone else or even himself, he said, 'When I hit Tim I was angry, then he bit me and I pushed him. After I pushed him I was still angry, and I was also sad. I didn't know how to be friends again. It was hopeless. That's why I got the yard duty lady.'

"Johnny also acknowledged that he had worried his teacher, his classmates, and his friends, and that he felt I was disappointed in him. I did not know that Johnny was so insightful. I have a whole new respect for my child out of this conversation.

"I asked him about the context. It turns out this is the first time he has ever been in trouble for fighting. He also tried to get help and was frustrated by the yard duty monitor's response.

"I realize that I was about to label my child a 'bully' rather than deal objectively with the behavior and its impact. Johnny is not a bully. He is learning a lot from this incident. We both are."

ACTION

Susan and I reviewed the facts and impact of the situation and considered them in light of the context that this was Johnny's first time in trouble at school. Then we came up with actions to take:

1. Johnny's consequence would be formative—something that would develop him as a good citizen and restore his relationship with himself as a caring person. Johnny himself came up with the idea that he would do 10 acts of kindness that night and the following day at school.
2. Johnny would be warned that any future fighting at school would result in lost television privileges.
3. Susan would speak to the teacher to let her know the facts—including what had transpired with the yard duty monitor. She would request that the teacher speak to the yard duty monitor about what else she could have done when Johnny came to her for help.
4. Susan would follow up with Johnny after school the next day regarding the 10 acts of kindness and talk about what he had learned.

When I next spoke with Susan, she was ecstatic. Johnny had remarked that his mother was his "guardian angel." He was already in action on the acts of kindness and had started setting the table for dinner—without being asked! Susan spoke to Johnny's teacher, who was enthralled with the outcome. She said, "I know I shouldn't be happy about this, but I have to say that we have all learned so much from it that I am really glad that it happened."

FOUR GUIDING QUESTIONS

Four questions, linked by a simple logic formula and housed inside four fundamental human principles, provide a clear path for the way human beings can and should treat each other—fairly and justly, in a legally sound manner. This whole approach, its component parts, and how it applies to bullying in schools will be addressed as we go forward through this book. The organization of the book will be guided by the McGrath SUCCEED System and its Facts-Impact-Context-Action structure.

xviii School Bullying: Tools for Avoiding Harm and Liability**INTENDED AUDIENCE**

School Bullying: Tools for Avoiding Harm and Liability is intended to be a practical resource for the extraordinary men and women who administer the daily operations of K–12 school sites—superintendents, school principals, assistant principals, deans, student services directors, risk managers, directors of curriculum and instruction, Title IX officers, complaint managers, and others who create and oversee the culture and climate of our schools. While they may not use the final chapters on Level III investigation procedures and techniques, it is also critical that school counselors, nurses, teachers, and others in whom students confide their concerns and complaints read and understand Chapters 1 through 7 so that their actions are consistent with the legal duties and responsibilities entrusted to the school district.