

SCHOOL SAFETY CENTER

VIOLENCE PREVENTION

A 10-Step Plan to Break Up a Fight

*Provided with permission by:
By Philip J. Lazarus, Ph.D., NCSP*

Carlos, a 7th grade student had been teased, pushed, and knocked around on the bus for the past five months by two bullies, Sean and Harrison. One day when Carlos was walking down the steps of the bus, Sean pushed him. Harrison was directly in front of Carlos, and Carlos responded to this provocation by pushing Harrison. Once all three boys were off the bus, a fight broke out between Carlos and Harrison.



Another Hispanic boy, thinking that Carlos was being beaten *because he was Cuban*, rushed in, and tried to break up the fight but instead ended up in the middle of it, and a larger melee erupted. Before the morning was over, six boys were suspended from school, and Carlos went to the hospital to receive stitches and to be examined for a possible concussion.

Responding to fights is not typically covered in college or university teacher education courses. Nor is it a skill that teachers, administrators, or support personnel learn in life. Breaking up a fight is difficult. There are many things going on at the same time and a teacher needs to respond

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Obesity, the ADA and Job Descriptions

*Provided by: The McCalmon Group, Inc.
My Community Work-place (11/2014)*

Case 1

2007, a woman claimed she was fired for her obesity and filed a complaint with the Equal Employment Opportunity Commission (EEOC). The woman weighed over 400 pounds at varying times. She worked at a drug treatment center for women where she managed child-care services for patients' children. The woman worked for the organization for nine years before she lost her job.

The woman died at age 48, in 2009, after checking into a hospital for gallstones. She possibly suffered a blood clot triggered by confinement to a hospital bed.

The EEOC filed a federal lawsuit against the organization after her death seeking financial penalties to benefit her estate and called for the organization to change its policies and practices.

The organization denied that it discriminated against the woman based her obesity and claims that it is particularly attuned to protecting the rights of people with disabilities and actively fights discrimination against them. The reason the organization gave for firing the woman was a concern that she would not be able to perform cardiopulmonary resuscitation in an emergency. (Vanessa Bostick, "Legal battle continues posthumously for woman who accused employer of discrimination," www.diversityjobs.com Jan. 21, 2011).

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quickly. Consequently, teachers should have a response plan and should practice it *before* a fight breaks out. Fortunately, Anthony Moriarty, Thomas Fleming and Patrick Fitzgerald developed a 10-point strategy for intervening in the event of a fight.

These 10 elements help defuse violent confrontations among students. A summary is presented here:

1. Get help. The first thing a teacher should do is to summon help. The best way to do this is by finding a bystander that the teacher knows, calling on that student by name, and asking them to get help. For example, “Steve, go to room 125 and ask Mr. Brown to come out here immediately, then go to the Assistant Principal’s office and ask Sister Jean to bring three staff members.” This will not only get additional help but will also get one of the bystanders out of the way.

2. Dismiss the bystanders. The main goal in step two is to send every possible student to a specific location. The idea is to parse the students to a manageable size. Often the fighting students fear backing down because this may cause them to be “disrespected” by their peers. Breaking up the crowd also prevents the bystanders from getting into the fray.

3. Identify yourself. Teachers need to identify themselves loudly, firmly, and clearly and say, “I am Mr. Graham, a teacher.” Based upon the aforementioned authors’ experience, at least one of the fighting students is likely to defer to the authority of the teacher. If as a result of the fighting, the teacher gets hurt, the fighters can’t say they weren’t forewarned.

4. Give specific commands. When students are in the midst of a fight, telling them to “cut it out” or “knock it off” is not sufficient. They need specificity. For example, the teacher may say, “Walk over to the cafeteria, right now.” This is specific and is more likely to be followed than saying, “Stop fighting.”

5. Remind student of the rules. It is best to defer to rules — not to personal authority. The teacher may not have the command necessary to bring the fight under control. Therefore it is best to say, “You both know the rules about fighting in school.”

6. Identify the aggressor. Usually the best way to identify the aggressor is to ask the bystanders, “Who is winning?” Most times a spectator will tell you. The person that is winning will likely be the aggressor and the one who poses the greatest threat. If possible, move the aggressor to a different site, such as a nearby classroom.

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Case 2

A former employee of an art framing business sues his former employer for withdrawing an offer of employment because he is obese. The complainant was employed at the store from 1994 to 2008. He received a job offer in December 2012 from his former employer. He accepted the offer to come back and was scheduled to begin in January 2013.

When the employee arrived for work, his employer reacted by saying, “Oh my God! What happened to you? You got so fat!” After which, according to the employee, his former employer withdrew the offer of employment and reimbursed him \$5.00 for transportation expenses.

At the time the man resigned in 2008, he was already obese and had gained 70 additional pounds in the meantime. “According to the lawsuit, (the complainant) suffers from obesity partially because of medications he has to take.” When interviewed, the former employer stated “he had considered giving (the plaintiff) freelance work, but he looked ill when he showed up.”

The former employee disagrees and said he did not look ill when he arrived. (Alana Abramson, “Brooklyn Man Sues Former Employer for Weight Discrimination,” abcnews.go.com June. 22, 2013).

Commentary (Case 1)

The Americans with Disabilities Act (ADA) and subsequent amendments prohibit employment discrimination against qualified individuals with disabilities.

However, the Act does not contain a list of medical conditions that constitute disabilities. A person has a disability if she has a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or is regarded as having such impairment. Major life activities include such activities as walking, breathing, performing manual tasks, and sitting, standing or lifting.

Under the ADA definition, some severely obese employees may have a disability.

Employers should address risks associated with obesity discrimination in two ways. First, develop a corporate culture that stresses all employees have value and deserve respect. An organizational mission policy that emphasizes respect between all employees is a

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7. Send the loser to a specific location. In most instances, the loser is more interested than the winner in stopping the fight. Therefore the authors recommend telling the loser to go somewhere and wait for another teacher to arrive. The loser may welcome the arrival of an authority figure so they can back out of the fight without sacrificing their reputation.

8. Obtain identification. After the fighting has stopped, the teacher needs to identify the culprits. Then the teacher can settle them down. For example, the teacher could say, "Let's chill out, Harrison. We are just going to stand here and talk for a while." It is important for the teacher to speak calmly, slowly, and deliberately. Nothing will be gained by threatening or riling up an angry student. The intention is to *defuse* the situation. Also by asking for identification, the teacher can find out if any of the fighters are not students. Whenever a fight involves outsiders, it is recommended that you call the police.

9. Write it down. Teachers, fighting students, and bystanders should write down what occurred as soon as possible. It is best to separate all parties in order to get to the truth. In this way, the fighting students will not have the chance to collaborate and make up a story. Also, people tend to remember details more clearly immediately after an event — much more clearly than hours, days, or weeks later. By having everyone put in writing the events leading up to and during the fight, administrators should be able to make informed discipline decisions. An additional suggestion is to have the perpetrators write how they could have solved their differences without resorting to violence.

10. Debrief the teacher(s). Teachers need to discuss what happened as soon as possible. This could be an informal meeting with an administrator or a discussion among all involved staff. The idea is to determine what went right, what may have gone wrong, and what was learned.

Bottom line

Had the bus driver been trained in breaking up fights, could the fight between Carlos and Harrison have been prevented? No. It was already under way. However, if a bully-proofing program had been implemented in the school, perhaps this may have prevented the bullying. Therefore the fight may not have occurred in the first place. However, once the fight started, if all teachers, administrators, and support personnel had been trained in fight control, then perhaps the fight could have been defused with Carlos and Harrison remaining as the only participants.

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good first step. Second, remember that employers are required to provide reasonable accommodations for an employee if the employee is qualified to perform the essential functions of her job. Essential functions are the fundamental and necessary job duties of the position.

In this case, the employer claimed that the employee could not perform CPR. If CPR was a documented essential job function for her position in the organization, and no reasonable accommodation existed to allow the employee to still perform the job, the employer may have a defense against her estate's ADA claim.

Commentary (Case 2)

According to the Centers for Disease Control and Prevention (CDC), "behavior, environment, and genetic factors can affect whether a person is overweight or obese." The CDC reports that more than one-third of U.S. adults are obese.

The CDC reports that obesity "is a complex problem that requires a strong call for action, at many levels, for both adults as well as children. More efforts are needed, and new federal initiatives are helping to change our communities into places that strongly support healthy eating and active living."

Recently, the American Medical Association (AMA) announced that it now recognizes obesity as a disease. According to the AMA, it is the organization's hope that "by changing obesity's status from 'a major public health problem' to a chronic disease," a number of medical interventions could become available for the approximately 33 percent of Americans who are regarded as obese.

Because of the AMA's recognition of obesity as a disease and the expanded definition of disability under the amendments to the Americans with Disabilities Act (ADA), employers should consider if their employment decisions risk violating an ADA-protected disability.

Basing employment decisions on an applicant's or employee's obesity risks ADA liability. According to the Equal Employment Opportunity Commission (EEOC), as long as an employee can perform the essential functions of the job, with or without reason-

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New Regulations Regarding Football Practices

On July 21, 2014, California Governor Jerry Brown signed AB 2127 (Chapter 165, Statutes of 2014). This legislation will limit the number of full-contact football practices in hopes of reducing the number of football-related concussions and brain injuries sustained by high school and middle school athletes.



In the past five years reports of concussions and head injuries in youth sports have been on the rise, particularly in the sport of football. Although these injuries and incidents happen at the collegiate and professional levels as well, it is very important that athletes at the 12th grade and lower level are protected due to their young age and still-developing bodies. According to a recent study by the U.S. Center for Disease Control and Prevention (CDC), nearly four million student-athletes suffer head injuries each year nationwide. A study published in May of 2014 in the American Journal of Sports Medicine showed that the concussion rate of high school athletes nearly doubled between 2005 and 2012. The California Interscholastic Federation (CIF), which oversees high school athletics in California, supported the passage of AB 2127.

Effective January 1, 2015, AB 2127 will prohibit full-contact football practices in the off-season. Just as importantly, the bill limits the amount of full-contact practices teams may hold during the pre-season and regular season to two (2) per week, and those practices may not exceed 90 minutes in any single day. Camp sessions are considered practices for purposes of this bill. The 90-minute limit only applies to full-speed, full-contact and game-like sessions. The bill further urges the CIF to develop and adopt rules to implement these new restrictions.

AB 2127 also institutes a graduated, seven-day, medically supervised return-to-play protocol for athletes who have suffered a concussion or head injury. The bill urges the CIF to work in consultation with the American Academy of Pediatrics and the American Medical Society for Sports Medicine to develop and adopt rules and protocols to implement this requirement.

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able accommodation, the employee should be allowed to work on the same basis as a non-obese person. Perceptions and prejudice will not shield an employer from liability.

Checklist

This checklist will help avoid disability and other discrimination based on obesity:

- Ensure that you have detailed job descriptions for your employment positions that include job classification, title, essential duties as well as salary and benefits, where applicable.
- Routinely review your job descriptions to ensure that they are up-to-date as positions evolve and change.
- Make sure that your employees have a copy of your current job descriptions.
- Provide training to your managers and supervisors on the Americans with Disabilities Act and the meaning of “essential job function” so they have a better understanding of your organization’s responsibility to accommodate.
- Finally, review your disability and accommodation policy. Is it clear that your organization is ready and willing to accommodate an employee with a disability when that employee is able to perform the essential job functions of his or her position?
- Offer benefits and job opportunities to employees based on merit, not on appearance.
- Educate managers to address any disparaging remarks against any employee or group of employees.
- Offer any wellness programs equally to all qualifying employees.

Liability/Property Damage and Workers’ Compensation Newsletter, Winter 2014/15

Future newsletter topics, questions and comments may be addressed to: riskmanager@cvip.net

www.ossweb.org | www.fcsigweb.org

Bill Tucker
Broker-Administrator
billt@ocsnet.net