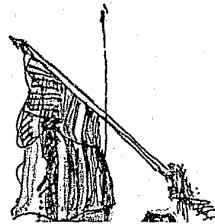


School Safety

YOUTH,
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U.S. Department of Justice
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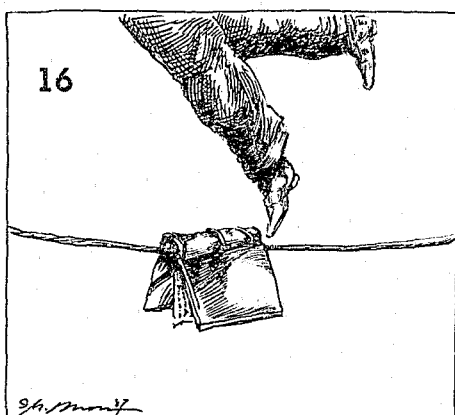
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About the cover:

Just as passing from grade to grade, growing up requires learning and balancing a series of rights and responsibilities. Cover by Geoffrey Moss. Copyright © 1978, Washington Post Writers Group. Reprinted with permission.

CONTENTS



4 Beyond rights and responsibilities

By James A. Rapp

10 Educated rites of passage

By Ronald W. Garrison

12 Emotional safety and growing up

By Bob Ditter

16 Disappearing markers and deviant behavior

By David Elkind

20 Significant adults and at-risk youth

By Joseph J. Galbo

24 Schooling children about alcohol abuse

26 Peer counseling for troubled youth

By Ira Sachnoff

28 They dare to care

By-Ronald D. Stephens

Updates

2 NSSC Update

30 National Update

31 Legislative Update

32 Legal Update

34 Resource Update

Resources

9 NSSC Resources

23 "What's Wrong With This Picture?" (film/videotape)

35 "Principals of Leadership"

BY JAMES A. RAPP

The ramifications of a bad school experience are so great that we must prevent negative situations from occurring.

Beyond rights and responsibilities

Very few people who have attended school or who are now students have managed to escape some form of harassment. Even Mark Twain failed to escape being made the object of ridicule.

When Twain began school at the ripe age of 7, he was approached by a girl of 15 who asked if he "used tobacco" — meaning did he chew it. Twain replied no. The answer roused her scorn and she reported him to all the crowd and said, "Here is a boy 7 years old who can't chew tobacco."

According to Twain:

By the looks and comments which this produced I realized that I was a degraded object; I was cruelly ashamed of myself. I determined to reform. But I only made myself sick; I was not able to learn to chew tobacco. I learned to smoke fairly well but that did not conciliate anybody and I remained a poor thing and characterless. I longed to be respected but I never was able to rise. Children have but little charity for one another's defects.¹

Twain's embarrassment stuck with him all his life. He dwelled upon it just prior to his death in

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his 70s in the book he wrote about his life, *The Autobiography of Mark Twain*.

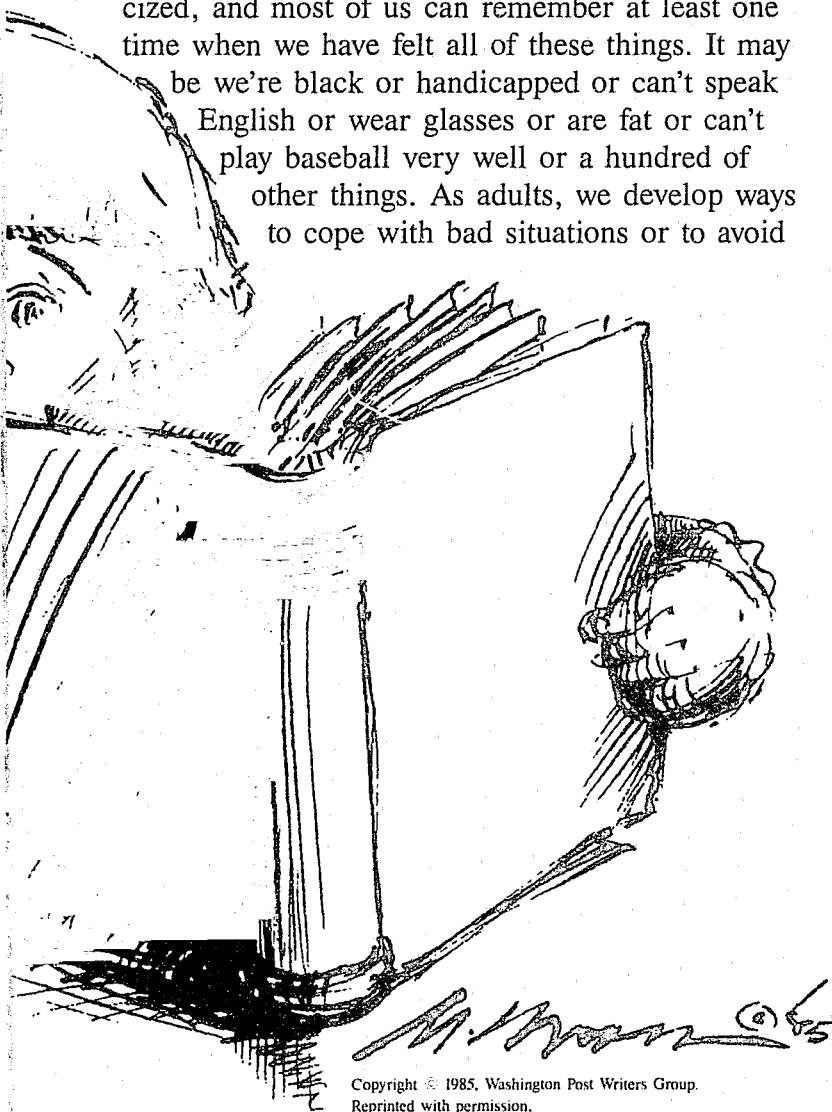
It may seem amazing that a man like Mark Twain would remember his childhood embarrassment. Yet each of us — student, parent or teacher — no doubt has some memory from school that has stuck with us and will continue to sting throughout our lives.

While it is tempting to view Twain's incident as quaint or even funny — After all, don't we expect

America's great humorist to be funny? — harassment is no laughing matter.

Being an "outsider"

None of us wants to be in a situation where we feel awkward, embarrassed, ridiculed or ostracized, and most of us can remember at least one time when we have felt all of these things. It may be we're black or handicapped or can't speak English or wear glasses or are fat or can't play baseball very well or a hundred of other things. As adults, we develop ways to cope with bad situations or to avoid



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them altogether. As students, most likely facing significant exposure to out-of-the-home influences for the first time, we are, perhaps, especially vulnerable to painful, extracurricular experiences.

For students who are different and who feel that they cannot fit in positively at school, the realization often translates into behavioral difficulties.

There is no simple cookbook formula to determine whether the kindergartner, arriving at school on that first day with high hopes and dreams, actually will graduate from high school years later with those hopes and dreams preserved and with an impeccable academic record as well.

For nearly 800,000 of our nation's students who drop out each year, there is little question that somewhere along the way those early hopes and dreams have given way to frustration, bitterness and the belief that it is impossible to fit comfortably into the academic system.² Often during this squelching process, these students — discouraged and frustrated — may act out their disillusionment in ways that are considered undesirable at best and threatening to school safety and the well-being of fellow students or teachers at worst. Perhaps we have done this ourselves!

Since the 1970s, it has been recognized that students with learning disabilities, which often go unidentified, have an increased tendency to behave delinquently as well.

Capturing the attention of school officials nationwide, a study found that more than nine out of 10 of all youths in the custody of one state correctional agency exhibited two or more learning disabilities. In another study, it was found that males with learning disabilities tended to be more abusive and violent and to use more drugs than students without disabilities. Ultimately, the learning-disabled student also was more likely to be arrested and to end up in the juvenile justice system than other students.

Learning-disabled students, barraged with the constant frustration of being unable to function with average competency in a classroom environment, responded to the stress of ongoing failure in many socially negative ways.

Besides learning disabilities, students also may find themselves at odds with the standard educational system for other reasons beyond their control. Problems may range from ethnic, racial or religious differences, social or economic differences, or even cultural or language barriers that complicate efforts to fit in.

Our society has made every effort to prevent children from being treated as outsiders. But all too often, it occurs.

The "outsider's" dilemma — fight or flight?

Confronted by a system where success is unlikely and the environment threatening, students typically will exhibit a classic reaction to stress — that of "fight or flight."

According to one author, under stressful conditions — regardless of the trigger of the stress — any person will react in one of two basic ways: A person may react *actively*, through fight, or *passively*, by running away from the situation or putting up with it.³ Where a student doesn't have the choice of simply dropping out of school, the student under stress faces fight or flight.

The implications of fight or flight are significant for schools besieged with problems that, in turn, become society's problems as well.

While some students may attempt to work within the educational setting to fight stress constructively, far more will try to fight or "get even" in destructive, negative ways.

Externally, a student may fight by becoming unruly or violent or exhibiting other disruptive behaviors in school. For example, students may carry weapons with them to school — ostensibly to protect themselves from what they perceived to be a threatening and unsafe environment.

Other students may internalize the fight. While juvenile males may be more prone to violent behavior, it is estimated that approximately one out of 100 teen-aged girls, feeling overwhelmed by stress, is at risk to develop a serious, potentially life-threatening eating disorder, anorexia nervosa.

Safe and welcoming schools

The ramifications of a bad school experience are great, and so the question must be asked: What can be done to prevent such experiences from occurring at all?

The decades of the 1950s, 1960s and 1970s addressed the concern that students must be assured equality of educational opportunity. This concept

was first developed in the landmark case of *Brown v. Board of Education*,⁴ in which the U.S. Supreme Court recognized that racial segregation in schools denied equal protection. Following *Brown v. Board of Education*, the concept of equality of educational opportunity became widely accepted. It has been extended to prohibit discrimination based on color, national origin, sex and handicap. Prohibited discrimination includes not only obvious forms like segregating students, but also more subtle discrimination such as denying educational opportunities because of a limited ability to speak English or a pattern of disciplining students because of race, rather than conduct.

In the 1960s, attention was directed to other rights as well. These initial efforts culminated in 1969 with the case of *Tinker v. Des Moines Independent Community School District*,⁵ in which the Supreme Court recognized that students do not shed their constitutional rights at the school-house gate. Accordingly, students enjoy various substantive rights. Examples of these ever-developing rights include the following:

The First Amendment to the Constitution, which applies to schools by virtue of the Fourteenth Amendment, grants students a broad range of rights, including freedom of speech and expression. Students may, for example, engage in symbolic speech and political expression, such as wearing armbands, buttons, insignias or emblems that do not result in an unusual degree of school disruption.

The Fourth Amendment protects students against unreasonable searches and seizures. However, a school is not required to get a search warrant prior to searching a student. School searches are permitted whenever: 1) there are reasonable grounds to suspect the search will turn up evidence that the student has violated or is violating either the law or the rules of the school, and 2) the search is conducted in a reasonable manner. Most courts allow searches utilizing drug-sniffing dogs. Although there have been few cases involving use of such things as metal detectors to locate weapons, some states expressly

allow their use. Except in rare cases, strip searches of students are seldom justified. Locker searches are usually permitted. Although searches by schools are given special treatment in the law, searches conducted by the police are not. Therefore, when a search is requested by the police, even greater protections apply.

The Fourteenth Amendment provides that no person may be deprived of life, liberty or property without due process of law. Due process is thus usually required before a student is disciplined or punished. What procedures must be followed depend in large part on the circumstances. A few general rules follow:

- Prior to suspending a student for a short period of time, usually 10 days or less, a student must be given oral or written notice of the reasons he or she is to be disciplined. If the student denies the reasons, an explanation of the school's evidence must be provided and the student given an opportunity to present his or her side of the story.
- Prior to suspending a student for longer than 10 days, or expelling a student, more formal hearing rights apply. While the formality required may vary, due process usually requires the student be given: 1) written notice of the charges against him; 2) the opportunity to receive and present evidence; 3) the opportunity to prepare for the hearing; and, 4) the right to be represented by an attorney, especially if the school is represented.
- Hearing rights usually must be given prior to suspending, expelling or disciplining the student. In emergency cases, such as where the student is a danger to other students or to teachers, the student may be excluded immediately. Hearing rights will then be given thereafter.

Some schools bristled at the idea of "student rights." They responded by paralleling these rights with "student responsibilities."

Beyond "student rights and responsibilities"

However significant a student's rights to equality

of educational opportunities, they are empty rights if the schools in which they are assured are not safe and welcoming.

Maintaining discipline in school has, perhaps, never been particularly easy. But, as recognized by the Supreme Court, in recent years, school disorder has often taken particularly ugly forms; drug use and violent crime in the schools have become major social problems.⁶ In many localities, especially inner-city urban campuses, we are not confronted simply by mischievously inclined students, but by hard-core school-aged youth inclined to commit serious crimes against the persons and property of fellow students, teachers and others on or about the school campus.

According to the President's Task Force on Victims of Crime, schools carry a public trust in the instruction of children that requires them to teach shared cultural values in an environment which is both scholarly and safe.⁷ However difficult the task, students should enjoy the right to safe schools.

Right to safe schools

No matter how excellent the teachers are or the material to be taught, learning is hampered when teachers are forced to teach, and students are forced to learn, in an atmosphere of fear of crime and violence. The effectiveness of the learning process varies in direct proportion to the quality of the learning environment.

Supreme Court Justice Lewis Powell articulated this view by stating that:

Without first establishing discipline and maintaining order, teachers cannot begin to educate their students. And apart from education, the school has an obligation to protect pupils from mistreatment by other children, and also to protect teachers themselves from violence by the few students whose conduct in recent years has prompted national concern.⁸

America's legal system has turned its attention to the plight of school crime and violence victims. And, as recognized by former U.S. Chief Justice

Warren E. Burger:

The true genius of the American legal system — indeed of our entire system of government — is its evolutionary capacity to meet new problems. Legal institutions change as they respond to new challenges. The serious challenge of restoring a safe school environment has begun to reshape the law.⁹

School law is being reshaped to assure students a right to safe schools.

In the state of California, the drive to promote safe schools resulted in the approval of a constitutional provision which states that students have "the inalienable right to attend campuses which are safe, secure and peaceful."¹⁰ In states other than California, a right to safe schools is being developed in court cases.

Schools cannot, of course, guarantee the safety of their students from every conceivable harm. But a school can and should ensure that students are provided, in addition to an intellectual climate, a physical environment harmonious with the purposes of a school. Where large groups of students are required to attend a school, the school assumes a duty to protect them from anti-social activities — their own and those of other students — and to provide them with an environment in which education is possible.¹¹

The right to safe schools includes a number of protections.¹² These include the right:

- *To be protected against crime or violence by non-students that the school should have anticipated.* If, for example, crime and violence have become commonplace, a school will likely be responsible if it makes no reasonable effort to prevent it.
- *To be protected against student crime or violence that could have been prevented by adequate supervision.*
- *To be protected against students who are known to be dangerous.* Students have the right to be protected against dangerous students.
- *To be protected against violent students who are improperly placed at the school.* Although most

students have the right to be admitted to school, they seldom have the right to attend any particular school or program. Thus, schools must consider any known violence of a student when placing the student.

- *To expect schools to know how to respond to a student's "fight" or "flight."* This responsibility extends to knowing how to deal with discipline problems as they arise as well.

Our schools

We all understand that schools prepare us for future careers. But more basic, schools teach us to live. Schools are primarily a social institution. It is usually the first time we are exposed to authority and discipline outside the home. It is often the first time we face the stress of competition and comparisons outside the security of our own families. It is the first time we are likely to respond to our stress by "fight" or "flight."

Numerous studies and reports recognize that disruptive behavior in schools poses a threat. It prevents learning by everyone. This behavior presents a challenge. Meeting this challenge begins with us.

In a recent speech to school officials, President Reagan emphasized, as he often has, that "to get learning back into our schools we must get crime and violence out." This will never occur unless each of us develops values of honesty, integrity, tolerance, responsibility, respect for rules and an acceptance of ourselves and others.¹³ □

Endnotes

1. C. Neider (ed.), *The Autobiography of Mark Twain* (Harper & Row).
2. See Act Together, Inc., *Youth at Risk/Jobs* (1983).
3. See H. Selye, *Stress Without Distress* (J.B. Lippincott Co., 1974).
4. 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954).
5. 393 U.S. 503, 89 S. Ct. 733, 21 L. Ed. 2d 731 (1969).
6. *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720, 21 Educ. L.R. 1122 (1985).
7. *Financial Report of the President's Task Force on Victims of Crime*, (U.S. Government Printing Office, 1982).
8. *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720, 21 Educ. L.R. 1122 (1985) (Powell, J. concurring).
9. W. Burger, "School Safety Goes to Court" *School Safety*, National School Safety Center Newsjournal 4-5 (Winter 1986).
10. Cal. Const. art. I, sec. 28(c).
11. See *People v. William G.*, 40 Cal. 3d 455 (1985).
12. See J. Rapp, F. Carrington and G. Nicholson, *School Crime and Violence: Victims' Rights* (National School Safety Center, 1986).
13. See W. Burger, "School Safety Goes to Court," *School Safety*, National School Safety Center Newsjournal 4-5 (Winter 1986).