

The Director's Link

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Letter of the Law versus Spirit of the Law

Holly Elissa Bruno



When I recall the tears tumbling down toddler Clarence's cheeks as he pressed his face into the window glass of his classroom, heartbroken, searching for his teacher who was late (again), I know the right thing to do: Hold Clarence's habitually tardy teacher accountable. Take her through the steps of progressive discipline and, if she continues to arrive late, tell her "You're fired."

As early childhood leaders focused on quality care and education for children, we know the right thing to do. Clarence deserves our best.

Knowing the right thing to do isn't always that clear. Stacks of judicial decisions, constantly changing state and federal regulations, plus dog-eared handbooks of policies and procedures can confuse and complicate our decision making, leaving us wondering which path to take. Teachers, parents, community members, often with opposing views of what's right, expect us to champion their side. Being able to see the merits in each group's position and foresee their outrage if decisions don't go their way, can turn our decision-making path into a mine field.

How Do We Know What the Right Thing to Do Is? What Is Fair?

Even seasoned leaders struggle with this question. Leaders are judged on the fairness of their decisions. Unpopular decisions, if fair, garner respect, albeit grudgingly. Decisions perceived to be unfair can land you in a field of discontent.

We all know what's fair. Or, do we? Is it fair to withhold the truth about Anna's problems in class from her ailing grandmother so as to not hurt her feelings, while telling Reginald's thicker-skinned father the blunt reality? Is it fair to discipline teacher Stacie for being late while excusing Mei Lin for lateness because her relatives are visiting?

If your answer is: "It depends on the situation and individual circumstances," you are in the majority of early childhood decision makers. If your answer is: "Treat

everyone the same. What's fair for one is fair for all," you are in line with the substantial majority of executives and the majority of men. However, in our caring profession, you may be seen as "having ice in your veins" and out of touch with people's feelings. If so, you can expect resistance to your decisions.

Letter of the Law versus *Spirit of the Law*—Which definition of fairness do you most often use as your decision-making standard? Are you still thinking: "It depends"? Let's take a closer look at each standard.

Letter of the Law Definition of Fairness: "It's the Law!"

With the Letter of the Law process, fairness is demonstrated by applying the law the same way to every person. Individual circumstances are immaterial. The law is the law. Consistency is the hallmark of Letter of the Law decision making.

Letter of the Law decisions ensure evenhanded, often impersonal justice. People know what to expect; decisions are predictable. Letter of the Law decision makers argue that "the floodgates will open" if the law as stated isn't enforced the same way each time.

Letter of the Law decisions are made by weighing the benefits and detriments (pros and cons) of each option. An easy way to do this would be to first list pros of the situation objectively, then list the cons objectively, and finally, analyze the list to see which side has more substantial factors and then make a logical decision in favor of the weightier side.

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Letter of the Law decisions make a leader's life easier by being expedient and more quickly made, defensible based on measureable facts and figures, impersonal by not appearing to favor anyone, and consistent in their creation and application. This process often works well.

Administrators, pressed by an onslaught of decisions to be made, find the objective approach useful. When a leader makes an impartial decision, she can decide quickly. She does not have to consider the complexity of human emotion. Decisions are based on established policies and procedures, and following precedent or upholding tradition furthers predictability and stability. Expectations are met with consistency.

When you use Letter of the Law decision making, you meet one standard for fairness. However, you may be faulted for not taking a more interpersonal approach—the Spirit of the Law process. More often than not, an impartial decision will be challenged. Letter of the Law decisions often meet with resistance from individuals who feel their personal circumstances were not considered. An administrator may hear complaints that everyone's opinion was not taken into consideration before deciding or that staff were not notified about an impending change.

Spirit of the Law Definition of Fairness: "Give 'em a Break!"

While Letter of the Law (legal) decisions are expedient, Spirit of the Law (equitable) decisions require time and reflection. Legal decisions call more upon our rational processes (IQ); equitable decisions require us to use both rational and emotionally intelligent (EQ) or integrated processes. Discerning which type of decision-making process is more appropriate calls for a leader's intellectual savvy and skillful ability to perceive the undercurrent dynamics of the organization.

When you make a Spirit of the Law decision, you take into account the totality of the individual's circumstances. You look more deeply to find the root cause of the problem, to make a decision tailored to each individual's situation. Extenuating

circumstances are considered. What is the person's explanation? Were there mitigating circumstances? Did anything beyond the person's control cause the unwanted result? What is the person's overall history or track record? Has she been reliable and dependable? Is this a first offense or part of a pattern of inappropriate behavior? What effect will this decision have on the person and her family? What will help the person grow and change her behavior for the better? Will this decision promote the wellbeing of the whole community?

Because of their history and origin in the court of equity, Spirit of the Law decisions are also called "equitable" decisions. Equitable decisions require us to assess on a case-by-case basis what is fair for each unique individual. No "one-size-fits-all" template exists for Spirit of the Law decisions.

Leaders who make Spirit of the Law decisions are perceived as compassionate and caring individuals. Parents and family members will feel free to bring their concerns to the leader, knowing they will be fully heard. Spirit of the Law decision makers are often loved and admired for their wisdom and compelling interpersonal skills. However, Letter of the Law decision makers may label equitable decision makers as bleeding hearts or pushovers.

Is Either Process Fairer?

Leadership requires maturity. Knowing when to use compassion and when to strictly follow the rules is a judgment call we make in the moment. Most situations, like the individuals in those situations, are complex. Neither decision-making process is superior to the other. However, people passionately argue that their definition of fairness is superior. You are judged by how you judge situations. Being aware of your favored approach and/or definition of fairness will give you needed perspective.

If you do not have to make an immediate decision, step back to theoretically apply both processes to the situation. Ask yourself: Which approach and decision feels right? Does my conscience cause me to cringe when I work through one of these processes? Our sense of rightness

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Our Mission

The McCormick Center for Early Childhood Leadership at National Louis University is dedicated to building the leadership capacity of the early childhood workforce. The activities of the McCormick Center encompass four areas: professional development, evaluation, research, and public awareness.



The Director's Toolbox

What's your style?

How do you make decisions knowing the right thing to do is not always clear? This chart serves as a reference to distinguish the Letter of the Law approach from the more reflective Spirit of the Law process. Use it to guide your decision on which process may work best for different situations. Do you see a pattern emerging in your decision-making preference?

Letter of the Law

You weigh the pros and cons of each option. Your decision ensures evenhanded, often impersonal justice. People know what to expect: decisions are predictable and rules are always enforced the same way.

You might ask yourself these questions:

- ◆ What are the pros of the situation?
- ◆ What are the cons of the situation?
- ◆ Which side has more substantial factors?
- ◆ Can you make a logical decision in favor of the weightier side?

Benefits of this approach:

- ◆ Creates expedient and quick decisions
- ◆ Allows for your defense to be based on measurable facts and figures
- ◆ Indicates you are impersonal by not appearing to favor anyone
- ◆ Demonstrates you are consistent in making and applying rules

Spirit of the Law

You take into account the totality of the individual's circumstances. You look more deeply to find the root cause of the problem to make a decision tailored to each individual's situation.

You might ask yourself these questions:

- ◆ What is the person's explanation?
- ◆ Were there mitigating circumstances? Did anything "beyond the person's control" cause the unwanted result?
- ◆ What is the person's overall history or track record?
- ◆ Is this a "first offense" or part of a pattern of inappropriate behavior?
- ◆ What effect will this decision have on the person and/or family?
- ◆ Will this decision promote the well being of the whole community?

Benefits of this approach:

- ◆ Creates a compassionate and caring environment
- ◆ Allows for an open forum where parents and family members feel free to bring their concerns knowing they will be fully heard
- ◆ Identifies you as a decision maker with wisdom and compelling interpersonal skills

attention early childhood administrators

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The *Program Administration Scale* (PAS) is used to assess early childhood leadership and management practices in center-based programs. This four-day intensive reliability training is designed to teach technical assistance specialists, quality monitors, consultants, researchers, and other professionals how to use the PAS reliably and become certified assessors.

For more information, go to
<http://cecl.nl.edu/evaluation/pas.htm>
or contact Jill Bella at jill.bella@nl.edu.

BUSINESS ADMINISTRATION SCALE (BAS) RELIABILITY TRAINING

Monday through Wednesday
July 9–11, 2012

The *Business Administration Scale for Family Child Care* (BAS) measures the quality of professional and business practices in family child care programs. The McCormick Center offers a three-day intensive reliability training for assessors seeking certification. All trainings can be customized to meet the needs of your local or state quality improvement initiative.

For more information, go to
<http://cecl.nl.edu/evaluation/bas.htm>
or contact Robyn Kelton at robyn.kelton@nl.edu.

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Monday through Saturday
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This empowering and life-changing leadership development program will inspire you to embrace change. Through in-depth sessions and the support of a mentor, you'll be able to implement lasting change, pursue center accreditation, or achieve a new quality rating level. Illinois directors, apply today. Not in Illinois? Call us to see if there is an active program in your state.

Taking Charge of Change begins with an intensive six-day residential summer institute July 30–August 4, 2012. A follow-up retreat takes place November 15–17, 2012 where participants report on progress in implementing a program improvement plan. Taking Charge of Change culminates May 15, 2013 prior to the McCormick Center's national Leadership Connections conference.

For more information, go to
<http://cecl.nl.edu/training/tcc.htm> or contact
Debra Trude-Suter at debra.trudesuter@nl.edu.

TAKING CHARGE OF CHANGE™ (TCC) TRAIN-THE-TRAINER (TTT)

Our TCC Train-the-Trainer initiative is designed to provide trainers outside of Illinois with the tools needed to create sustainable change in early childhood programs. Participants learn how to deliver the Taking Charge of Change model in their home states.

For more information, go to
<http://cecl.nl.edu/training/ttt.htm>
or contact Sue Offutt at sue.offutt@nl.edu.

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deepens with each decision we make. Sometimes, second guessing yourself is more debilitating than productive. Ask yourself: "Is my decision fair enough?" If your answer is "yes," move on. Another decision awaits your immediate attention anyway.

Knowing that our gut decisions are often our best decisions builds trust in our own judgment. That trust and our underlying confidence make our legal decisions less ponderous to make.

One final thought: Although you may see yourself as preferring one definition of fairness over another, know that both processes are available to you. If a Letter of the Law decision doesn't sit well with your conscience, be open to making a more equitable decision. If your highly interpersonal decision feels off, perhaps a Letter of the Law decision will sit better with you. Knowing that you have options in decision making will help you prevent legal issues from flaring up.

Holly Elissa Bruno, author, keynote speaker, attorney, and radio host teaches leadership and law courses for both Wheelock College and the McCormick Center for Early Childhood Leadership.

This article is adapted from Holly's forthcoming book (co-authored with Tom Copeland), *Dousing Brush Fires Before the Wind Picks Up: Preventing Legal Issues From Flaring Up in Early Childhood Programs*, to be published by Teachers College Press.

Sandy Vavra takes a fresh look at family orientation practices

I have always been passionate about children and the quality of care they receive. As a new director at The Children's House–Lake Meadows (TCH–LM), I was eager to learn how to be an effective leader! So, I jumped right in and took advantage of as many professional development opportunities as I possibly could. It was the quality of professional development I received through the Chicago Public Schools Community Partnership Programs (CPS–CPP) and the McCormick Center for Early Childhood Leadership that gave me the skills needed to reach the quality of care I longed to achieve at my center.

When we began the Quality Counts–Quality Rating System (QRS) process, my teaching staff formed teams that went into all of the classrooms to observe using either the *Early Childhood Environment Rating Scale–Revised* (ECERS–R) or the *Infant/Toddler Environment Rating Scale–Revised* (ITERS–R). I focused on overall program quality using the *Program Administration Scale* (PAS).

After several months of preparation, we finally had our QRS assessment visit. I have always tried to "reach for the sky" in everything I do. So, needless to say, I just knew we were going to achieve the top star level. I really reached! Much to my dismay, we didn't score as high as I had anticipated. But not reaching my goal actually encouraged me to double my efforts to increase the quality of my program. I knew the answer was more training, more skill development, and yes, more work using the PAS.

I applied for and was accepted into Taking Charge of Change (TCC), a year-long leadership training provided by the McCormick Center, where I learned a great deal about being an

effective director, including how to use the PAS to strengthen my program. My final project for TCC was putting together an orientation packet for new families at our center. As I pondered how to create the orientation packet, I confidently opened the PAS book and turned to Item 16, Family Communications, knowing that I would find exactly what I needed.

I began by reading the Notes section on page 40 to find out what to include in the orientation process. One of the first things stated in Item 16 is that centers must have written orientation procedures for new families...I stopped right there! While we give new families a handbook about the program when they enroll children and we have a process for orienting families, none of this was in writing. All of the things I did when families first enrolled, such as introducing parents to staff, giving them time to observe in the classrooms, and introducing them to the family support specialist, were not written down as part of our orientation procedures.

Using the PAS as a reference, I realized that there were other things I should include such as discussing our discipline policy and giving new families information about health requirements, center operations, fees, and the schedule. The PAS also indicated that orientation procedures should include gathering information from families about their children. So I added information about a child's strengths, developmental history, and likes and dislikes to the orientation procedures. I realized these procedures are more likely to happen consistently when they are in writing. Following the



enrollment process gives parents a good idea of what our program consists of, and a way to know exactly how their family is supported by TCH–LM.

I also created a family orientation checklist. Now, when a new family comes into the center I begin the checklist process. I then give the checklist to the family support specialist who follows through with the parents and helps them to become involved in their child's education. After one week of being at the center, I check with the parents to see if everything is satisfactory. Later, I review the completed orientation checklist to ensure that the parents and the family support specialist have signed off verifying that the orientation procedure has been implemented consistently with each family.

As you can see from my experience, the PAS provided the guidance I needed to ensure I could achieve the high-quality results I was seeking. The PAS can do it for your program too!

Sandy Vavra is director of The Children's House–Lake Meadows in Chicago, Illinois. She is also a mentor in the McCormick Center's Coaching for Results initiative.

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