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How to Ask Questions

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Best Practices in Reducing College Student Suicide: A Law and Policy Perspective

Presented By

Association of Student Judicial Affairs

NASPA – Student Affairs Administrators in Higher Education
Presenters

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- Paul Joffe, clinical psychologist and director of the Suicide Prevention Program at the University of Illinois Counseling Center
Gary Pavela
Director, Judicial Programs
University of Maryland, College Park
Editor, *Synthesis, Synfax, ASJA Law & Policy Report*
"The suicide rate for [Americans 15 and 24 years of age] tripled between 1950 and 1994—from 4.5 to 13.7 per 100,000. Since then the youngsters' rate has drifted down to 11.1."

National Center for Policy Analysis at http://www.ncpa.org/iss/soc/2001/pd121401e
College Suicide Rate

The suicide rate for college-attending young adults is “roughly half the rate for young adults in the general population.”

Audience Question

- Do you know how many suicide threats and attempts occurred on your campus last year?
  - Yes
  - No
“About 10 percent of students report having seriously considered suicide. But the actual suicide rate is very low: 7.5 per 100,000 students, which is half of the rate for kids who aren't in college. So actually there's something protective about being in college--students have the social supports, and they have adults keeping an eye on things.”

Confusion with Depression

Data about completed suicides should not be confused with rates of depression. Some observers see a significant increase in depression rates, with nearly 1 in 2 students becoming “severely depressed” during their undergraduate years.

See “Curing campus blues” U.S. News November 1, 2004
http://www.usnews.com/usnews/health/articles/041101/1overwhelmed.htm
Antidepressant Drugs

National trends: “One in 10 American women takes an antidepressant drug such as Prozac, Paxil or Zoloft . . . In 2002, about 6 percent of doctor's office visits by children involved prescriptions for antidepressants, and about 14 percent of office visits by boys involved prescriptions for stimulant drugs . . .”

Higher Rates of Stress and Anxiety

‘I've seen a dramatic change in the stress level of these kids,’ says Carolyn Callahan . . . at the National Research Center on the Gifted and Talented at the University of Virginia. ‘They're going through the motions and not enjoying what they're doing.’ The perfection machine, what she calls a treadmill, ‘has created a situation where they don't feel they have a choice to get off . . .’

See May 5, 2002 Washington Post article by Laura Sessions-Stepp, “Perfect Problems: These Teens Are the Top in Everything, Including Stress”
Students as “Pre-Beings”

(pre-law, pre-medicine, pre-business)

My mind has adopted the form of my date book. I am constantly planning what I will do next and when I will be finished so that I can go on to the next necessary activity. . . . It’s rare that my mind is freed from thoughts like this, giving me the time to really dissect information introduced in class, reading, or by my friends.

Katherine Wiley in the Colgate University News/ Maroon, cited in “The mind as a date book” Synfax Weekly Report 99.42
Suicide Liability

The general legal rule regarding suicide liability was stated in *Jain v. State of Iowa*, 627 N.W.2d 293 (Iowa 2000): “the act of suicide is considered a deliberate, intentional and intervening act that precludes another’s responsibility for the harm.”
No Legal Duty - *Jain*

The court in *Jain* also wrote that “[t]he university’s limited intervention in this case neither increased the risk that Sanjay [Jain] would commit suicide nor led him to abandon other avenues of relief from his distress . . . [t]hus no legal duty on the part of the university arose” – including a duty to notify parents.
The duty of care may be expanded in college suicide cases. In Schieszler v. Ferrum College 236 F. Supp. 2d 602 (W.D. Va. 2002) a federal court in Virginia held that a private college had a legal duty of care to a known suicidal student in a residential setting.
Audience Question

- Is it clear on your campus who in the administration has the final word on matters related to self-harming behavior?

  - Yes
  - No
Imminent Probability

The court in *Schieszler* wrote that:

[T]he defendants required Frentzel to sign a statement that he would not hurt himself. This last fact, more than any other, indicates that the defendants believed Frentzel was likely to harm himself. Based on these alleged facts, a trier of fact could conclude that there was “an imminent probability” that Frentzel would try to hurt himself, and that the defendants had notice of this specific harm. Thus, I find that the plaintiff has alleged sufficient facts to support her claim that a special relationship existed between Frentzel and defendants.
Audience Question

Do you know how many students committed suicide on your campus last year? In the last five years? In the last ten years?

- Yes
- No
- Unsure
Shin – Aware of Problems

The reasoning in *Schieszler* was followed in a June 27, 2005 Massachusetts Superior Court summary judgment ruling in the case of *Shin v. M.I.T.*.

In the instant case, [MIT administrators] were well aware of Elizabeth’s mental problems at MIT from at least February 1999. [One administrator] received numerous reports from students at Random Hall about Elizabeth’s self-destructive behavior from February 1999 to April 10, 2000 . . .
The court in *Shin* concluded that:

The plaintiffs have provided sufficient evidence that [MIT administrators] could reasonably foresee that Elizabeth would hurt herself without proper supervision. Accordingly, there was a "special relationship" between the MIT Administrators . . . and Elizabeth imposing a duty . . . to exercise reasonable care to protect Elizabeth from harm.
Gross Negligence

Possible “gross negligence” by MIT medical professionals, the court wrote:

By not formulating and enacting an immediate plan to respond to Elizabeth’s escalating threats to commit suicide, the plaintiffs have put forth sufficient evidence of a genuine issue of material fact as to whether the MIT medical professionals were grossly negligent in their treatment of Elizabeth.
Immediate Evaluation

The evolving standard of care for credible suicide threats and attempts may be prompt referral for immediate evaluation and (possible) hospitalization.
Role for Hospitalization

See William Styron’s book *Darkness Visible*:

Many psychiatrists, who simply do not seem to be able to comprehend the nature and depth of the anguish their patients are undergoing, maintain their stubborn allegiance to pharmaceuticals . . . [T]he hospital was my salvation, and it is something of a paradox that in this austere place . . . I found . . . the assuagement of the tempest in my brain, that I was unable to find in my [home] p. 68-69.
A finding of duty is not a finding of liability. It still must be shown in a trial that the MIT administrators failed to exercise reasonable care in responding to Ms. Shin’s suicidal behavior.
Random Screening?

There is no indication courts in Massachusetts, Virginia, or elsewhere will impose a requirement that colleges randomly screen and predict which students will commit suicide and make timely interventions to save their lives.
Instead, institutions of higher education may face heightened risk of liability for suicide when they ignore or mishandle known suicide threats or attempts.
Misapply Shin/Shieszler

Administrators must not take counsel of their legal fears and misapply cases like *Shin* and *Schieszler* to routinely dismiss students at risk of suicide. Not only would such a practice be ethically and educationally indefensible (e.g. students sent home often have ready access to firearms, the most frequent method of suicide), it might also violate the Americans with Disabilities Act, thereby engendering more litigation.
Direct Threat Analysis

OCR letter rulings related to dismissal of students at risk of suicide make frequent reference to a required “direct threat” analysis.
Objective Assessment

A December 2004 OCR letter to Bluffton University states:

To rise to the level of a direct threat, there must be a high probability of substantial harm and not just a slightly increased, speculative, or remote risk. In a direct threat situation, a college needs to make an individualized and objective assessment of the student's ability to safely participate in the college's program...
Risk, Probability, Mitigation

Bluffton OCR letter continues...the “direct threat” assessment must determine:

“the nature, duration, and severity of the risk; the probability that the potentially threatening injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will sufficiently mitigate the risk.”
Grievance Procedures

Bluffton OCR “Commitment to Resolve” agreement stated that:

By March 7, 2005, the University will, in accordance with the Section 504 implementing regulation at 34 C.F.R. § 104.7(b), develop grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging discrimination based upon disability.
How can colleges responsibly undertake “direct threat” analysis, given the difficulties involved in predicting future behavior?
Audience Question

- Does your institution impose any formal consequences and/or requirements on students who threaten or attempt to kill themselves?

- Yes
- No
Focus on Conduct

The answer is to focus on specific conduct that violates reasonable institutional standards, evaluating any threat to self or others in light of proven violations in the past. A suicide threat, for example, is first of all a *threat of violence*. Threats of violence may be sanctioned through the campus disciplinary system (or an administrative equivalent), after appropriate due process.
Reasoned Assessment

Any resulting institutional response can be influenced by reasoned assessment of the future risk of violence, including specific statements made by the student respondent; the nature of family and social support systems; and available treatment options.
Aim – Keep in School

The aim is to keep students in school, not to dismiss them. Although mental illnesses must not be romanticized, more than a few students at risk of suicide will exhibit high levels of creativity. Others will be facing extraordinary life crises, which may later contribute to deeper understanding of themselves and others.

Coping with Stress

In his book *Adaptation to Life* (Little, Brown, 1977) Harvard Medical School psychiatrist George H. Vaillant wrote that “it is not stress that kills us . . . It is affective adaptation to stress that permits us to live” (p. 374).
Using and Managing Stress

Educators afraid of lawsuits, unfavorable publicity, of the expense of adequately funding a counseling center may try to remove troubled students from “stressful” environments. Most students, however, don’t need to be protected from stress; they need to learn how to use and manage stress.
“Lincoln didn’t do great work because he solved the problem of his melancholy; the problem of his melancholy was all the more fuel for the fire of his great work” (p. 68).

Message from Chief of Staff

"...Communicate in your words and actions that it is not only acceptable, but a sign of strength, to recognize life problems and get professional help to deal with them constructively . . . We must support and protect to the full extent possible those courageous people who seek help early, before the crisis develops..."

Depression Screening/Outreach

"Students for Mental Health Awareness" at the University of Virginia

See http://www.student.virginia.edu/~mental/

"Although National Mental Health month takes place in May, the SMHA decided to hold its event in March when more students were available . . . "We are here to publicize mental health issues and let people know about the resources out there and that mental health concerns are serious matters that need to be taken as such"

[SMHA president Matthew Whiting said]
http://www.cavalierdaily.com/CVArticle.asp?ID=22877&pid=1276
Depression Screening at UMD

"In a 2001 National College Health Assessment representative sample of University of Maryland students, 37 percent of males and 54 percent of females felt, at least once in the previous school year, too depressed to function."

http://www.diamondbackonline.com/vnews/display.v/ART/2005/10/07/4346164f20daa
"One of the most important things you can do for your residents is to get to know them as individuals. Pay attention to them. Greet them. Listen to their concerns. Develop group activities designed to help students form connections with others, including faculty mentors. Pay attention to 'loners' or students who seem left out. Enhanced personal connection is not a panacea for preventing suicide, but it should be an essential component of any suicide prevention program."
Cases Limiting Duty to Prevent Suicide

1. Bogust v. Iverson, 102 N.W.2d 228 (Wisconsin, 1960)


3. Donaldson vs. Young Women's Christian Association of Duluth, 539 N.W.2d 789 (Minn., 1995)

Negligent Referral

"[The Brown University psychologist] saw Daniel just three times, in keeping with Brown's policy that its psychological services be available only for short-term care. At the third meeting [the psychologist] gave Daniel a list of four people that he could contact for further treatment. None of those four people were psychiatrists . . . None specialized in suicide prevention . . . A jury certainly could have reasonably concluded that [the psychologist] was negligent in failing to refer Daniel to someone qualified in suicide prevention or to someone who could prescribe medication for Daniel that would reduce his suicidal inclinations".

"We lock people up, we take their civil liberties away if they are a danger to themselves. But we can't call the parents? What kind of nonsense is that?"

Dr. Paul R. McHugh, past chair of the Department of Psychiatry, Johns Hopkins University
The Importance of Confidentiality

"The imposition of a duty upon a psychiatrist to disclose to others vague or even specific manifestations of suicidal tendencies on the part of the patient who is being treated in an out-patient setting could well inhibit psychiatric treatment . . . Intimate privacy is a virtual necessity for successful treatment . . . We disagree with plaintiffs in their contention that Tarasoff v. Regents of University of California . . . created a duty on the part of the defendant . . . to breach the confidence of a doctor-patient relationship by revealing to them disclosures made by their daughter about conditions which might cause her to commit suicide."

—Bellah v. Greenson 146 Cal. Rptr. 535 (Court of Appeal of California, First Appellate District, 1978)
"The unauthorized revelation of medical secrets, or any confidential communication given in the course of treatment, is tortious conduct which may be the basis for an action in damages"

Stop Preventing Suicide—
Start Deterring Suicide

Paul Joffe, Ph.D.
Counseling Center
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Suicide is a cry for help

- Coined in 1961 (Norman Faberow & Edwin Schneidman).
- Has attained the status of a truism or common knowledge.
Suicide is a charged event

- For both individuals contemplating suicide.
- And communities in which suicidal behavior occurs.
Community beliefs about suicidal behavior

- Beliefs about what drives a person to commit suicide.
- Beliefs about how to best address suicide.
- Beliefs are culture-specific.
- Beliefs change over time.
Audience Question

- Does your institution have expectations for staff and faculty regarding the reporting of suicide threats and attempts?

- Yes
- No
Good Samaritan Era

- Currently Western countries are in what is termed the “Good Samaritan Approach” to suicide and suicide prevention.
- “Suicide is a cry for help,” lies at the heart of the Good Samaritan Approach.
The Persecution Era

- 200 years ago all Western countries were locked into a “Persecution Approach.”
- Suicide was seen as driven by a pact with the devil.
- Those who attempted and committed suicide were treated in a manner similar to witches.
Imposing Obligations Versus Extending Freedoms

- At the heart of any community’s relationship with its constituents are two competing processes.

- First, imposing obligations (rules, duties, etc.)

- Second, extending freedoms (rights, privileges, etc.)

- The presence of one extinguishes the existence of the other.
Persecution Era (700 AD to circa 1850)

- The paramount obligation of all citizens was loyalty to God.
- Suicidal behavior was viewed as a grievous betrayal of that obligation.
- Those who were suicidal lost all rights.
- The community gained the right to intercede with punishment/persecution.
Good Samaritan Era (Circa 1900-Present)

- Suicidal individuals are granted special rights, such as space, time, and privacy.
- The suicidal are granted a “holiday” from typical expectations.
- The suicidal are granted independence and freedom from interference.
- The community is obligated to listen and provide support and assistance.
Audience Question

- Is it clear on your campus who is in charge when it comes to determining whether a suicide attempt has occurred or not occurred (threshold determination)?

  - Yes
  - No
There’s nothing inherently Wrong in Reshuffling

- Obligations and freedoms.
- As long as it lowers the rate of suicide.
If the Suicidal Did What They Were Supposed to Do . . .

- The rate of suicide would plummet.
- Unfortunately, the suicidal don’t see suicide as a “problem” but as the solution to their problems.
- The suicidal don’t take steps to stop being suicidal.
- The suicidal don’t get help.
No Evidence

- That the Good Samaritan Approach lowers the rate of suicide.
- Research shows that suicidal behavior is not associated with appropriate help-seeking skills.
- 20 studies show suicidal behavior is linked with a denial that suicide is a problem and entrenched resistance to taking steps to not be suicidal.
The Good Samaritan Approach is based on Distress Model of Suicide which suggests that suicide is a natural response to overwhelming distress.

Research doesn’t support the Distress Model.

Distress is neither necessary or sufficient to commit suicide.
The Power and Control Model of Suicide

- Most people don’t deem themselves in charge of their “continued existence.”
- Most people defer to higher power, fate, or biological longevity.
- The suicidal deem themselves to be in charge of their continued existence.
- The suicidal become attached to this in-charge ness. It becomes woven into their identities.
Two Necessary and Sufficient Traits for Suicide

- The willingness to use forceful violence to achieve one’s goals.
- A lack of empathy for the object of that violence (oneself).
Violence

- Instead of thinking “helpless despair.”
- Think violence.
- Suicide is self-murder.
The Deterrence Approach

- Suggest we enter a new era of suicide deterrence.
- Based on the “Power and Control Model” of suicidal behavior.
- Suicide stems from a disorder of power and control.
- Suicide is a subtype of violent behavior in which victim and perpetrator happen to be the same person.
Aligning Ourselves with Traditional Violence Deterrence

- We don’t try to predict violence.
- We apply a common obligation to refrain from violence.
- We document violence once it occurs.
- We apply uniform consequences to breaches of common obligation.
- We permit no exceptions to common obligation (e.g., despair, helpless-ness).
The Deterrence Approach at the U of I--1984 to 2005

- In 1984, established a standard of self-welfare that all students were obligated to adhere to.
- In 1984, mandated all students who threaten or attempt suicide must receive four sessions of professional assessment or run the risk of withdrawal.
Results at U of I

- Overall, rate is about half of the prior rate.
- 2000 students have gone through program and not one has committed suicide.
- All suicides in last 20 years have been “out of the blue.”
- Only one student withdrawn and only for three months.
Discipline and Mental Health need to collaborate to create a layered approach to suicide deterrence.

The first layer is a common obligation of self-welfare and sanctions for breach of that obligation.

The second layer is mental health serving in a traditional deterrence-support role (e.g., court-mandated domestic violence referral).