

News

Dealing With the Depressed or Dangerous

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SAN FRANCISCO — How far can colleges go to stop students who are threatening to commit suicide?

It's a fundamental question for college and university officials who work in the fields of student affairs, counseling and mental health -- and for the lawyers who may have to deal with the aftermath, and sometimes see mental health issues as a minefield of potential litigation.

At a session Tuesday here at the annual meeting of the National Association of College and University Attorneys, experts in legal affairs and mental health urged colleges to do all they can to get students who are threatening to harm themselves into treatment, or to get them off campus if the situation continues to deteriorate.

In the past decade, the number of college students with severe mental health issues has climbed. The development is often attributed to better early intervention and psychiatric drugs that enable students to function normally and attend college who wouldn't have been able to do so in the past. "That's a wonderful thing," said Paul Lannon, an outside lawyer for several New England colleges who moderated the session.

But the increase has also been accompanied by several high-profile lawsuits, and the conclusion colleges and universities draw from those could be "damned if you do, damned if you don't."

After a Massachusetts Institute of Technology sophomore, Elizabeth Shin, committed suicide by setting her dorm room on fire in 2000, her family sued MIT for \$28 million. They argued that the university's counseling system failed Shin, who had a documented history of depression and threats before she killed herself. [The suit was eventually settled confidentially.](#)

In 2006, [Jordan Nott, a former student, sued George Washington University](#), claiming that he had been forced to withdraw from the university after seeking help for depression. [Nott also reached a confidential settlement.](#)

The federal government has intervened in some similar cases through complaints students filed with the Department of Education's Office of Civil Rights, which has come out against universities who force students to leave campus because of mental illness, including a case at [Bluffton University, in Ohio](#), in 2004.

In their presentation, three legal and mental health experts emphasized that a tough approach could have its place, as long as due process procedures are followed. Their advice included suggestions for ways to make sure students get needed care on campus, and for procedures

university officials can follow if they believe a leave of absence is in the student's, or the institution's, best interest.

They cited as an example the University of Illinois at Urbana-Champaign, which instituted a suicide-prevention program in the 1980s after a study of 19 students who had killed themselves between 1977 and 1984. Most had previously worked with psychologists or psychiatrists, but not on the campus, and had a history of suicide attempts, said Paul Joffe, a clinical psychologist at the university's counseling center.

The program required reporting of any suicide threats or attempts to the counseling center. The students who had made the threats, or who had tried to kill themselves, were required to attend four "assessment sessions," arranged through the campus counseling office. Students who did not comply could be withdrawn from classes.

The result shifted the followup on suicidal behavior from the mental health system into the judicial affairs system. Students weren't punished for being suicidal, but the university set the expectation that they would seek help and try to improve the situation, including attending the required assessment sessions, Joffe said. A mental health court was created to deal solely with suicidal threats and attempts, and students were given due process rights and sanctions if they did not comply with the assessment requirement. "In an instant, everything changed, as soon as we mentioned consequences," Joffe said.

In the 21 years that followed, the suicide rate dropped 45 percent, and those students who killed themselves did so "out of the blue," with no recorded previous attempts or threats.

From the legal perspective, litigation is far more likely in cases of students who threaten or attempt to commit suicide before actually doing so, as was the case with Shin at MIT, Joffe noted in a written handout distributed to attendees. "Out of the blue" suicides are far less likely to lead to lawsuits because they are less foreseeable. And requiring students to do something to help themselves, such as attending counseling, is less likely to lead to litigation than is withdrawing the students from classes, he said. A clear policy with requirements, like the assessment sessions, also puts institutions on more solid legal ground if they choose to force a student to withdraw.

Joffe disputed the common description of suicide attempts as a "cry for help," recasting them as a type of violence where a university zero-tolerance policy should apply. Before the 1984 study and the assessment requirement, suicide had been considered in a different category from other problems with students, he said. In cases like campus drinking, the university didn't hesitate to look at the individual students and the context, or to apply expectations for future behavior and next steps, he said.

But suicidal students were treated as victims, and they weren't given any expectations for how they should behave to improve the situation. "Is it in anyone's interest to do that?" he said. The new procedures gave students more responsibility.

Few students were withdrawn because of the University of Illinois policy. For campuses with a less thorough prevention system, Linda Schutjer, the senior associate legal counsel for the Colorado State University System, offered advice on dealing with students who pose immediate problems and are less forthcoming.

“You’ve got to do what you’ve got to do,” said Schutjer, who was an associate general counsel at George Washington University when Nott was withdrawn. (She did not discuss that case during the session.) Even if a student doesn’t want to leave campus, or if parents are adamant that they don’t want the student to come home, the university should force the issue if officials believe it will save the student’s life, she said.

She provided the college lawyers in the audience with an overview of due process proceedings for students who could be sent home for mental health reasons. Students whose psychological problems can’t be helped through “reasonable accommodation” can be withdrawn from school, she said, but they must be notified and have an opportunity to respond. Minimal due process can be taken under exceptional circumstances, she said.

“It may well be, unfortunately, that someone is in a psych ward in the hospital, and you have to deliver a letter to someone who’s in the psych ward to say, ‘We’re going to put you out involuntarily,’ ” she said, adding that the student might have 24 hours after release to respond.

Universities should seek as much information about students’ mental states as they can, she said. But in cases when documentation is incomplete or students refuse to have the records released, officials can make a decision with the information they have.

When students are asked to leave, there should be a clear process for determining when they are ready to return, said Richard Kadison, chief of mental health services at Harvard University. The more specific and individualized those requirements are, the more likely they are to succeed, Schutjer added.

All three members of the panel emphasized that as many officials as possible should play a role in getting students psychological or psychiatric help when they need it, but that sometimes that help might not take place on campus. “Academic institutions aren’t designed to be halfway houses and partial hospital programs,” Kadison said.

— [*Libby A. Nelson*](#)

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