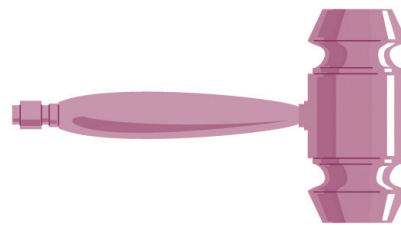


Legal Corner



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How to Respond to a Student Who Presents With a Mental Health Issue



It is no secret that student mental health and mental illness have become a major topic of discussion in education. In recent years, and certainly exacerbated by the pandemic and the culture wars raging around our youths, student mental health issues have been at the forefront of discussion both in the media and social media.

It hardly comes as a surprise to most school administrators that a significant population of students will have a diagnosable mental illness, or emotional, behavioral or mental health disorder prior to graduating. It is also not surprising that a significant number of those students who take their own lives will have had such an illness, disorder or condition. Of course, because students spend a sizable portion of their days in the school setting, such issues will often show themselves within the confines of school. As one judge recently noted, “[t]he interplay of depression, anxiety, and bullying in high school is not new to our educators.” *Byrne v. Springfield School District*, 2021 WL 4847804. Not surprisingly, such issues have also been reflected in recent law applicable to schools and school administrators.

In particular, in response to growing “safety” issues, the Pennsylvania Legislature somewhat recently passed legislation to address various aspects of student safety and more specifically, raising awareness and prevention of student suicide. As discussed in more detail below, the main purpose of such laws is to help school personnel recognize and identify conditions (both internal and external) that are precursors or may lead to students’ harming themselves or others, to address such conditions and thus prevent such occurrences. These laws outline specific duties and responsibilities now attendant upon school officials in such instances.

Moreover, in a slightly different vein, longstanding federal legislation – the IDEA and Section 504 of the Rehabilitation Act in particular – also address student mental health issues. Both the IDEA and Section 504 set forth a duty to identify, locate and evaluate children with disabilities who need special education, related services or accommoda-

tions because of those disabilities. Under both Section 504 and the IDEA, this obligation expressly includes the obligation to assess a student’s condition and specific needs in terms of mental and emotional status. Under both federal laws, the purpose is to identify the disability that may be interfering with the student’s ability to receive an education and to assess what special education or related services are required for the student to receive the full educational benefit. To that end, during such processes outlined in the law, school officials must review mental health concerns that are indicated or raised as they may implicate required services such as psychological counseling or the like. As these laws are expressly established for the protection of the rights of students with disabilities, and prescribe duties upon the school entity, the failure to adhere to such processes brings to bear not only the possible consequences attendant to neglecting such mental issues, but also potential legal liabilities for effectively interfering with such rights. Although the scope of this article is limited in terms of the IDEA and Section 504, suffice to say that school administrators are urged to follow their “child find” obligations with a keen eye toward emotional disabilities and to follow the processes outlined in the IDEA and Section 504 as applicable to ensure compliance as well as providing education opportunities and related services to such students.

In terms of the recent Pennsylvania laws referenced above, the purpose is spelled out as to the school entity’s requirements. For example, under Section 1526 of the School Code, school entities are required to have adopted an age-appropriate youth suicide awareness and prevention policy. 24 P.S. §15-1526. That policy is required to include:

- A statement on youth suicide awareness and prevention;
- Protocols for administering youth suicide awareness and prevention education to staff and students;
- Methods of prevention, including procedures for early identification and referral of students at risk of suicide;
- Methods of intervention, including procedures that address an emotional or mental health safety plan for students identified as being at increased risk of suicide;
- Methods of responding to a student or staff suicide or suicide attempt;

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- Reporting procedures; and
- Recommended resources on youth suicide awareness and prevention programs, including current contact information for such programs.

24 P.S. §15-1526(c).

To the extent that all school entities are required to have such a policy in place, it behooves all administrators to consult their school's policy. For those public-school entities that subscribe to the Pennsylvania School Boards Association's ("PSBA") policy service, the primary policy addressing suicide awareness is usually numbered Policy 819.

Section 1526 also requires that each school entity inform employees and the parents or legal guardians of their students of such policy and post such policy on the school entity's publicly accessible internet website. In addition, each school entity must include in its professional development plan four hours of training in youth suicide awareness and prevention every five years for professional educators in school buildings serving students in grades 6-12. 24 P.S. §15-1526(a). Again, as school administrators, you should review such policies and ensure that they have been properly posted on your school entity's website and are being communicated to your staff and parents. You should also ensure that such programs are included in professional development programs as required.

It is also noted that in accordance with Section 1526, the Pennsylvania Department of Education ("PDE") has developed a model youth suicide awareness and prevention policy which can be found on its website. PDE's model policy includes the establishment of a crisis response team, including administrators, counselors, school psychologists, school nurses, school social workers, school safety and security personnel and/or teachers and other members of the school's Student Assistance Program team.

The model policy includes that the superintendent or designee shall develop administrative regulations providing recommended guidelines for responding to a suicide threat. Most important to this discussion, PDE also includes the following provisions under "Intervention/Prevention":

1. Any school personnel who observe a student exhibiting a warning sign for suicide, or who has another indication that a student may be contemplating suicide, shall refer the student for risk assessment and intervention in accordance with the school entity's referral procedures. In the absence of an immediate warning sign for suicide, students demonstrating suicide risk factors that appear to be adversely impacting the student should be referred through an appropriate mechanism (e.g., Student Assistance Program) for follow-up.
2. If the student has been identified as being at increased risk of suicide, the school entity shall create a safety plan to support the student (unless a safety plan was previously developed, in which case the plan may be reviewed and/or revised). The safety plan should be developed collabora-



tively with input from the student and reviewed with the student's family.

3. For students with disabilities who are identified as being at risk for suicide or who attempt suicide, the appropriate team shall be notified and shall address the student's needs in accordance with applicable law, regulations and board policy.
4. If a student is identified as being at risk for suicide or attempts suicide and the student may require special education services or accommodations, the school entity's director of special education shall be notified and shall take action to address the student's needs in accordance with applicable law, regulations and board policy.
5. Any school personnel who are made aware of any threat or witnesses any attempt toward self-harm that is written, drawn, spoken or threatened shall immediately notify the principal or designee. Any threat in any form shall be treated as real and dealt with immediately. No student should be left alone, nor confidences promised. In cases of suicidal thoughts and behaviors, a student's confidentiality will be waived. The school entity's crisis response procedures shall be implemented.
6. If an expressed suicide thought or intention is made known to any school personnel during a before or after-school program, school-sponsored event or sports team and the principal or designee are not available, call [number for County Emergency Services], 1-800-SUICIDE or 1-800-273-TALK for help. Inform the principal of the incident and actions taken.

The model policy also notes that in compliance with state regulations and in support of the school's suicide prevention protocols, information received in confidence from a student may be revealed to the student's parents or guard-

ians, the building principal or other appropriate authority when the health, welfare or safety of the student or other persons is clearly in jeopardy. See 22 Pa Code. 12.12, (b). To that end, the PDE policy also includes “Procedures for Parental Involvement.” In relevant part, PDE sets forth that the parents or guardians of a student identified as being at risk of suicide must be immediately notified by the school and must be involved in consequent actions and provided with crisis and community resources. Moreover, if any mandated reporter suspects that a student’s risk status is the result

of abuse or neglect, that individual must comply with the reporting requirements of the Child Protective Services Law. The PDE model indicates that if the parents or guardians refuse to cooperate and there is any doubt regarding the child’s safety, the school personnel who directly witnessed the expressed suicide thought or intention will pursue an involuntary behavioral health assessment through the County Emergency Services.

PDE’s model policy also includes a segment on “Response to Suicide Attempt.” PDE indicates that the superintendent develop administrative regulations with recommended guidelines for responding to a suicide attempt on school grounds or during a school-sponsored event. In terms of a suicide attempt on campus, PDE indicates that the first school personnel on the scene of a suicide attempt on campus must follow the school entity’s crisis response procedures and immediately notify the principal or designee, and the school entity must immediately notify the parents or guardians of the affected student(s). In terms of a suicide attempt occurring off campus, the school entity will follow the school entity’s crisis response procedures as well as subsequent reentry procedures upon the student’s return to school, consistent with state and federal laws and regulations, and ensuring the student’s readiness to return to school.

To the extent that your school district has adopted the PDE model policy as its own in response to Section 1256, such guidance is clear and straightforward. In the absence of such a district policy, school administrators would still be wise to follow such steps as outlined above.

In addition to Section 1526, with the passage of Act 18 in June of 2019, effective with the 2021-22 school year, each school entity must also establish at least one “threat assessment team” for the assessment of and intervention with students whose behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others. 24 P.S. §13-1302-E. Again, for those public-school entities that sub-

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scribe to PSBA’s policy service, the threat assessment policy is generally numbered Policy 236.1.

Under Section 1302-E of the School Code, the threat assessment team must include individuals with expertise in school health, counseling, school psychology or social work, special education and school administration. The team must also include the school safety and security coordinator. Other staff or community resources may also serve as regular team members or be consulted as deemed necessary and appropriate by the team, including school security personnel, law enforcement, behavioral health professionals, the individual identified

to receive reports from the Safe2Say Something program, individuals who serve on the Student Assistance Program and juvenile probation professionals. The threat assessment team must undergo training addressing the responsibilities of team members, the process of identifying, reporting, assessing, responding to and intervening with threats, including identifying and avoiding racial, cultural or disability bias and confidentiality requirements under federal and state laws. According to the statute, the threat assessment team is responsible, at a minimum, for the following:

1. Making informational materials available to students and staff regarding recognition of threatening or at-risk behavior, ensuring that they are aware of who has been appointed to the team and how to report their concerns;
2. Assisting in assessing and responding to reports received through the Safe2Say Something program;
3. Assessing and responding to reports of students exhibiting self-harm or suicide risk factors or warning signs as provided for under Section 1526;
4. Assessing, responding and making appropriate determinations and referrals based on the information available to the team; and
5. Providing required information to the chief school administrator or designee.

24 P.S. §13-1302-E(b).

Under Section 1302-E, applicable to this discussion, upon a preliminary determination that a student’s behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others, the threat assessment team shall immediately notify the chief school administrator or a designee, the student’s building principal and the school safety and security coordinator. The building principal or designee shall then immediately notify the student’s parent or guardian.

Following notification of the parent or guardian, the team may refer the student, as appropriate, to a student assistance program, a law enforcement agency, an evaluation under the IDEA or Section 504, a student's existing IEP team or existing team established to implement a student's Section 504 service agreement. However, prior to a team referring a student to a behavioral service provider, health-care provider or a county agency, the student's parent or guardian must provide consent.

Section 1302-E specifically notes that nothing precludes school employees from acting immediately to address an imminent threat and that imminent threats and emergencies shall be promptly reported to law enforcement. In addition, nothing in Section 1302-E limits the responsibilities of school employees or other mandated reporters to report suspected child abuse as required by law. Moreover, nothing in that section limits the authority of a school entity to refer a student to the student assistance program without referral by a team, so long as the student's behavior does not indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others.

School administrators are always under heavy scrutiny in exercising their responsibilities in the governance of their schools and programs. As I mentioned at the beginning of this article, the incidence of mental health issues, and suicides in particular, sadly are no stranger to school administrators. However, the state and federal laws discussed

previously provide not only the expressed obligations on the part of school entities and school officials but also provide examples of what can be thought of as "best practices" in terms of addressing what appear to be mental health issues exhibited in the schools which either interfere with student opportunities or worse, create identifiable dangers. School administrators are thus urged to review these laws as well as the resulting school policies enacted and enforce them as stated. They not only provide guidance to address such issues and procedures to follow but also establish the reasonableness and appropriateness of such responses in rebuttal to potential legal challenge. In addition, when addressing student mental health issues, it is imperative for school site administrators to consult with central administration and their solicitors to coordinate and ensure that a response, if any, is proper under the circumstances.

Of course, the underlying issue – the recognition of mental health issues and especially those that evidence suicidal or violent tendencies – is not always easy or a simple process. Students do not present their mental health issues in the same manner or in the same degree. One cannot address warning signs unless one can recognize them. Therefore, in addition to the referenced legal guidance, part of this process also requires administrators to engage in training specifically geared toward recognizing such issues.

How a Social-Emotional Learning Model Supported Students who are Deaf or Hard of Hearing and their Teachers During Unprecedented Times

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preschoolers use phrases such as "I don't like it when you ____, I like it when you ____" when solving a conflict with a peer. Families report they have seen a change in confidence in their children and are even learning from them as well. One parent stated, "Angela reassures me that it is okay if I make a mistake. She will tell me, 'It's okay mommy you can try again. You can take a breath.'"

The success of social-emotional learning initiatives, and the benefits for staff and students, rely on the example set by administrators. Their attitude paves the way for students, staff and families to utilize models like Conscious Discipline with confidence and proficiency. An ongoing focus on training, implementation and sharing is key.

Our director takes pride in implementing such strategies throughout our school. She shared, "During a time in education where professionals are being asked to face unprecedented circumstances, Conscious Discipline takes into account the social-emotional well-being of the adults in a school setting in addition to our students' needs."

School administrators are successful in these initiatives when they:

- Make positive connections with the entire school population.
- Are well informed about the importance of social-emotional development.
- Provide continuous professional learning opportunities for staff and families.

- Think deeply about how to implement and reinforce a model effectively.
- Provide a supportive culture within the school setting.

With Conscious Discipline in place at Clarke, our students made strides in their social-emotional development – whether they were learning virtually or in person. They have used language to build positive relationships with peers and adults. They have grown more in tune with their emotional states and learned methods for self-regulation. When the right strategies are directly taught, modeled and practiced, it is remarkable to watch these children grow into their authentic selves with such pride and joy.

For further information, please contact the author at tsuper@clarkeschools.org

Author's Note: The names of students mentioned in the article have been changed to protect the students' identities.

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