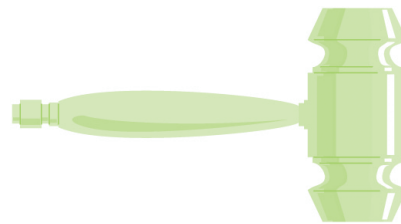# Legal Corner

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Threat Assessments: A Principal's Role and Responsibilities in Keeping a Safe, Secure Environment in Schools

Although still statistically rare, the number of incidents of targeted violence in K-12 schools has increased in recent years. The 2017-2018 Safe Schools' Annual Report from the Pennsylvania Department of Education ("PDE") Office for Safe Schools showed that reported incidents such as assault, fighting and weapon possession have increased since 2015. In 2017-18, Pennsylvania public schools reported 75,722 incidents of violence, bullying and harassment, including 2,819 incidents involving weapons on school grounds. A 2019 statewide survey of school districts found that 42.5% of superintendents and 31.1% of building principals identified school safety and security as their top challenge. A 2017 Pennsylvania Youth Survey (PAYS) showed increased rates of youth reporting experiencing threats of or actual violence. One in five students reported being threatened with violent behavior on school property; 8.3% reported actually being attacked; and 1.2% of students reported bringing a weapon to school at least once. In addition, 38.1% reported feeling sad or depressed most days and 16.5% reported they had seriously considered attempting suicide; 10% of these said they had attempted suicide at least once in the past year.

Given this backdrop, school administrators are more than ever tasked with providing students with a safe environment to learn and teachers and staff a safe place to work.

School Safety and Security Coordinator

To that end, in June of 2018, the legislature added Article XIII-B (School Safety and Security) to the School Code. 24 P.S. §§13-1301-B *et seq.* ("Article XIII-B"). Article XIII-B created the School Safety and Security Committee ("SSSC") within the Pennsylvania Commission on Crime and Delinquency ("PCCD"). Article XIII-B required that the chief school administrator of each school entity appoint a school administrator as the School Safety and Security Coordinator for the entity[1] no later than August 31, 2018.

The School Safety and Security Coordinator ("the Coordinator") is required to oversee all school police offic-ers, school resource officers, school security guards, policies and procedures in the school entity and report directly to the chief school administrator. The Coordinator is further tasked with reviewing the school entity's school safety and security policies and procedures for compliance with federal and state laws and coordinating training and resources for students and school entity staff related to: **(a)** Situational awareness; **(b)** Trauma-informed approaches; **(c)** Behavioral health awareness; **(d)** Suicide and bullying awareness; **(e)** Substance abuse awareness; and **(f)** Emergency procedures and training drills (related to fire, natural disaster, active shooter, hostage situation and bomb threats). The Coordinators must manage school safety and security assessments as necessary and serve as the school entity liaison with the SSSC, PDE, law enforcement and other organizations on matters of school safety and security. The Coordinator is required to make a report no later than June 30, 2019, **and each June 30 thereafter**, to the school entity's board of school directors on the school entity's current safety and security practices that identify strategies to improve school safety and security. The Coordinator is also required to organize a tour of the school entity's buildings and grounds biennially, or when a building is first occupied or reconfigured, with the law enforcement agencies and first responders that are primarily responsible for protecting and securing the school entity (to discuss and coordinate school safety and security matters).

The SSSC was tasked with developing the criteria school entities are to use in performing school safety and security assessments, issuing a survey to school entities to measure school safety and security preparedness and administering grants. On September 26, 2018, the SSSC adopted an initial set of criteria to assist schools in guiding their school safety and security assessment, which is a strategic evaluation of a school's facilities and programs used to identify potential safety and security threats. Assessments are to include consideration of the safety and security of a school's physical environment, climate and behavioral health environment and related policies and trainings. The school safety assessment criteria is a compilation of best practices and recommendations as developed by the SSSC.

Threat Assessment Teams

In 2019, the legislature enacted Act 18 of 2019 which added Article XIII-E (Threat Assessment) to the School Code, 24 P.S. §§13-1301-E ("Article XIII-E"). Article XIII-E requires

the establishment of threat assessment teams ("Team(s)") for all school entities[2] in Pennsylvania by the beginning of the 2021-22 school year. Members of the school entity's Team(s) must be identified by the chief school administrator in consultation with the Coordinator. The school entity must designate a Team Leader for each Team. A Team must include individuals with expertise in school health; counseling, school psychology or social work; special education; and school administration as well as the school safety and security coordinator.

It is expected that many school administrators will be members of these Team(s). Those that are not officially part of the Team(s) should still play an invaluable role in the observation and assessment of student behavior and the reporting of such threats as well as the documentation thereof.

Team(s) are responsible 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." Team(s) will direct, manage and document the school entity's threat assessment process and are responsible for receiving reports from school community members regarding behaviors and situations that are concerning gathering additional information, evaluating the risk posed to the community and developing appropriate intervention and management strategies. School entities may satisfy these requirements by assigning threat assessment responsibilities to an existing Team(s), including Student Assistance Program (SAP) teams, Crisis Response Teams or "Safe2 Say Something" Teams. A Team(s) may also serve one or more schools within the school entity. The key responsibilities of the Team(s) are to provide materials for students, school employees and parents/guardians; assess and respond to reports of threat from varying resources; make appropriate determinations, referrals and notifications; and provide information necessary for annual reporting.

Each school entity is responsible for developing procedures and guidelines that meet the needs of their school community. In accordance with the statute's requirements, the SSSC approved its *Model K-12 Threat Assessment Procedures and Guidelines* in order to support school entities in developing their own policies and threat assessment teams in compliance with the expectations of Act 18.

Threat Assessments

In the *SSSC guidelines*, "threat assessment" is defined as a fact-based process for the assessment of and intervention with students whose behaviors may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others. A "threat" is defined as communication or behavior that indicates an individual poses a danger to the safety of school staff or students through acts of violence or other behavior that would cause harm to self or others. The threat may be expressed/communicated behaviorally, orally, visually, in writing, electronically or through any other means. These actions can be considered a threat regardless of whether

they are observed by or communicated directly to the target of the threat or observed by a third party, regardless of whether the target of the threat is aware of the threat. Threats are defined by the level of imminent risk:

- *Low Risk Threat*: The individual/situation does not appear to pose a threat of violence or serious harm to self/others and any exhibited issues/concerns can be easily resolved.
- *Moderate Risk Threat*: The individual/situation does not appear to pose a threat of violence or serious harm to self/others at this time, but exhibits behaviors that indicate a continuing intent and potential for future violence or serious harm to self/others; and/or exhibits other concerning behavior that requires intervention.
- *High Risk Threat*: The individual/situation appears to pose a threat of violence, exhibiting behaviors that indicate both a continuing intent to harm and efforts to acquire the capacity to carry out the plan; and may also exhibit other concerning behavior that requires intervention.
- *Imminent Threat*: An individual/situation appears to pose a clear and immediate threat of serious violence toward others that requires containment and action to protect identified or identifiable target(s); and may also exhibit other concerning behavior that requires intervention.
- *Direct Threat*: An individual/situation poses a significant risk to the health or safety of themselves and/or others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. The direct threat standard applies when the Team or school entity administration determines that an individual/situation poses a direct threat and that applicable disciplinary procedures are not available or sufficient to mitigate the threat.

By nature, threat assessment is intended to be a prevention strategy. School communities work together to identify student threats *before* they become acts of violence and students receive assistance through early identification. In this regard, the school administrator is invaluable.

As noted in the SSSC *guidelines*, a threat assessment is a fact-based, investigative approach to determining how likely a person is to carry out a threat of violence; a means to identify, assess and manage individuals who are at risk for violence against themselves or others; a way to identify someone who has the potential for violence in many forms. These could include self-harm, assault, risk-taking behaviors, suicide, substance abuse and other aggressive or dangerous behaviors, and is focused on a given individual(s) as a potential threat, conducted as the need arises (i.e., examines people, not things).

Notably, according to the SSSC *guidelines*, the focus of a threat assessment process is to understand the situation and how best to mitigate safety concerns and is not the same as a criminal or disciplinary investigative process. Therefore, as part of the threat assessment process, administrators and team members should:

- Identify the person or situation whose behavior has raised some concern about potential violence
- Inquire/ask questions and gather additional relevant information about the person and situation
- Assess the person and situation based on the totality of information that is reasonably available to determine whether the person or situation poses a threat of violence or harm to others and/or self
- Manage the threat by implementing an intervention, supervision and/or monitoring plan to prevent harm where possible and to reduce/mitigate impact of the situation

If the behaviors are noticed early and dealt with through the strategies that are in place in the school, then appropriate measures can be taken to assist the student before the violence occurs. Whether part of the Team or not, school administrators are in a unique position to identify and assess such behaviors and information.

At-Risk Behaviors

In practice, once a Team(s) receives a report of a potential threat, it is their job to assess and intervene with the student and determine the level of threat. However, sometimes, the threat is not reported or apparent but comes from observed behavior. There are observable behaviors which may not be normal or are out-of-character for most students. These behaviors may lead to acts of violence. Some observable, at-risk behaviors include:

- Unusual social distancing or isolation of individuals from peers and family members
- Sullen or depressed behavior from an otherwise friendly and positive person
- Out of context outbursts of verbal or physical aggression
- Increased levels of agitation, frustration and anger
- Confrontational, accusatory or blaming behavior
- An unusual interest in weapons

- Fixation on violence as a means of addressing a grievance

As noted in the SSSC *guidelines*, although Team(s) may receive a wide range of reported concerns, its role is limited to intervening only in situations with the greatest likelihood the behavior could result in harm. The threat assessment process is not intended to replace existing supports, referrals and services provided through other school-based intervention efforts like SAP, MTSS/PBIS, Crisis Teams, etc.

Team(s) should identify prohibited behaviors that are unacceptable and warrant immediate intervention. Where applicable, school administrators must act immediately to address imminent threats. These include students threatening or engaging in violence, bringing a weapon to school, bullying or harassing others, as well as other concerning or criminal behaviors. However, school administrators should also consider ways to identify behaviors that may not necessarily be indicative of violence but also warrant some type of intervention. These include a marked decline in academic performance; increased absenteeism; withdrawal or isolation; sudden or dramatic changes in behavior or appearance; drug or alcohol use; and erratic, depressive and other emotional or mental health concerns. If a student is exhibiting out-of-character behaviors, administrators should seek help and report the instances in a timely manner, following school protocol for reporting procedures. Interventions should reflect the level of risk and an evaluation of the unique needs of each student.

Communication with Law Enforcement and Parents

Imminent threats and emergencies must be promptly reported to a law enforcement agency. If a student's behavior indicates a threat to the safety of the student, other students, school employees, school facilities, the community or others, the Team(s) should immediately notify:

- The chief school administrator or a designee
- The building principal
- The School Safety and Security Coordinator

Upon a preliminary determination that a student's behavior may indicate a threat to themselves or others, the student's building principal (or designee) must immediately notify the student's parent or guardian, respond and make appropriate determinations and referrals based on the information available to the Team. Parents/guardians must be notified whenever determinations/referrals take place. A parent/guardian must provide consent prior to a team referring a student to a behavioral service provider, a health care provider or a county agency. Following notification of the parent/guardian, the Team may refer the students, as appropriate to:

- The Student Assistance Program
- A law enforcement agency
- An evaluation under the Individuals with Disabilities Education Act (IDEA)
- A student's existing individualized education program (IEP) team established under IDEA and 22 Pa. Code Ch. 14 (relating to special education services and programs)

- An existing Team established to implement a student's section 504 service agreement established under section 504 of the Rehabilitation Act of 1973 and 22 Pa. Code Ch. 15 (relating to protected handicapped students)

The law does not preclude school entities from acting immediately to address an imminent threat, including prompt reporting to law enforcement. In fact, as noted, Pennsylvania state law requires that reports regarding student behaviors involving weapons, threats of violence, physical violence or concerns about an individual's safety should immediately be reported to local law enforcement in accordance with the procedures set forth in the school entity's Memorandum of Understanding with local law enforcement and board policies.

When reporting an incident to local law enforcement, specific information must be provided which will help inform law enforcement of the best way to work with the school entity in handling the situation and meeting the needs of all students involved. The notification must contain specific information regarding the student and incident, which includes:

- Nature of the incident
- Names and ages of the individuals involved
- Weapons involved in the incident (and whether they have been secured)
- Injuries
- Whether the incident involves a student with a disability, the type of disability and its impact on the student's behavior
- Other information as is known to the school entity and believed to be relevant to the incident

Student Information

Obviously, threat assessments rely upon behaviors as well as information. Sometimes that information is not "public" information. Article XIII-E explicitly provides Team(s) with access to the following student information, to the extent necessary for fulfilling their duties and allowed by federal law:

- Student health records
- Prior school disciplinary records
- Records or information shared with the school entity related to adjudication
- Records of any prior behavioral or mental health or psychological evaluations or screenings maintained by the school entity
- Other records or information that may be relevant to evaluating a threat or determining treatment/referral options for a student that are maintained by the school entity

In accordance with the SSSC *guidelines*, student records and information must be handled, created and accessed only to fulfill responsibilities for completing the threat assessment process, and in accordance with applicable law, regulations, board policy and the school entity's Student Records Plan. The rights and privacy of students and their families should be respected at all times.

Training and Information

School entities are required to facilitate training opportunities for members of their Team(s). This training must address: **1)** Responsibilities of Team members; **2)** The process of identifying, reporting, assessing, responding to and intervening with threats, including identifying and avoiding racial, cultural or disability bias; and **3)** Confidentiality requirements under federal and state law related to student and staff information. There is no discernable reason why building administrators should not receive this training as well, whether they serve on the Team(s) or not.

Building administrators should help ensure that their ***employees*** are informed of the existence and purpose of the Team(s) and make sure that information is available to school employees regarding recognition of threatening or at-risk behavior and how to report their concerns, including through the "Safe2Say Something" Program or another school hotline and the steps school personnel can take to safely and appropriately intervene with concerning situations.

Building administrators should also help ensure that their ***students*** are informed of the existence and purpose of the Team(s). Building administrators should assist Team(s) provide age-appropriate information to students regarding recognition of threatening or at-risk behavior as well as how to report their concerns, including through the "Safe2Say Something" Program or other school hotline. Information should be offered focusing on the important role students play in promoting a safe, positive and inclusive school climate, including ways they can safely step in and intervene if needed. Finally, building administrators should help to ensure that information is available for ***parents and families*** regarding the threat assessment process in place at their child's school, their role in that process and clear instructions on who to call, when and what information they should be ready to provide.

Ultimately, the goal of the threat assessment process is to ensure the safety of the school community, and also to ensure that the student presenting the threat receives assistance where possible. Building administrators can and must play an important role in this process whether as members of the Team(s) or simply in their role as administrators.

End Notes

[1]Under Article XIII-B, a school entity is defined as a school district, intermediate unit, area career and technical school, charter school, cyber charter school, regional charter school, approved private school, chartered school for the education of the deaf or the blind or private residential rehabilitative institution.

[2]"School entities" include school districts, Intermediate Units (IUs), career and technical centers (CTCs), charter schools, regional charter schools and cyber charter schools.