School Crisis: Ethical and Legal Issues for Best Practices

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Training/Awareness

School crisis has increasingly been incorporated into the curriculum in university training programs, but there is a need for practical examples to address the myriad of complex contextual issues that can occur. I have had personal involvement in many of the cases discussed.

This presentation will provide information focusing on legal actions against school districts and school personnel related to school crises as well as present practical suggestions for implementation of best and ethical practices.

NASP Principles for Professional Ethics/Advocacy

School psychologists consider children to be their primary responsibility and act as advocates for their welfare. We also understand the public policy process to assist us in our efforts to advocate for children.
Death and Children

- What are the three leading causes of death for children in order?
- What responsibility if any do school psychologists have for prevention?
- What are the prevention programs to address these leading causes of death for children that have been implemented in your school and community?

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- Despite general principle that 3rd party will not be held liable when another inflicts self harm—there are two exceptions:
  - If the third party caused the suicide (usually restricted to torture or abuse)
  - Or the third party had a duty to prevent the suicide

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- Youth suicide is a significant health problem
- Schools have a legal and ethical responsibility to intervene
- Schools are logical and natural sites for suicide prevention
- Schools have the greatest potential to identify and secure needed services for suicidal youth
- School psychologists need to take a leadership role in selecting and evaluating prevention programs
Reality

The reality is that schools and school personnel such as administrators, counselors, psychologists and teachers have been sued after numerous crises.

The most common basis for the lawsuits were failure by school personnel to notify parents when they had reason to believe that the student was suicidal.

Schools Have Been Sued For:

- Failure to offer suicide and bullying prevention, intervention, and postvention programs
- Failure to notify parents of student suicidal ideation and/or self-injurious behavior
- Failure to provide appropriate training and/or documentation for crisis intervention and response
- Negligent supervision for foreseeable injuries related to absence of appropriate supervision and parent notification

Corales vs. Bennett et. al. Montclair Schools

- 8th grader died by suicide after receiving discipline consequence of missing next school dance for truancy from AP
- Parents sued claiming their son was denied constitutional right to attend an immigration rally and the discipline consequence contributed to his death
- How would you defend the school and the AP?
- What information would you request?
Best Practices

- Suicide prevention, intervention and postvention recommendations have been made by all relevant school professional organizations (NASSP, NASP, NASN and ASCA to name a few)
- Suicide is the third leading cause of death for children in the United States and there are both state and national prevention initiatives and schools need to link with community resources and agencies to work on prevention

2007 YRBSS RESULTS: U.S.

- Surveyed 15,000 H.S students and in the last year
- 28.5% reported being sad or hopeless
- 11.3% made a suicide plan
- 6.9% made an attempt in last year

Best Practices

- Schools are encouraged to form a suicide prevention task force to review the incidence and to develop policies and procedures and prevention programs
- The task force will be the most effective when community mental health, medical personnel, law enforcement and clergy are represented in addition to school leaders
Best Practices

- Annual awareness training on warning signs for all staff and suicide lethality assessment training for key staff
- Knowledge of evidenced based programs recommended by S.P.R.C. [www.sprc.org](http://www.sprc.org)
- Create policies and guidelines for parent notification, supervision and support services for suicidal students that include referral procedures for community services and monitoring and follow up at school

Best Practices

- Keep up with prevention literature and current trends for example hanging deaths that may be result of “choking game” have increased for middle school age youth
- Implement depression screening programs such as SOS and Teenscreen which research studies have found effective and these programs are recommended by many professional associations

Legal Issues

- Suicide liability and school is a very complex issue and the outcomes of court cases have varied considerably
- Many cases were settled out of court and can not be used as legal precedent
- Courts have in most cases upheld immunity for schools but schools are the most vulnerable when students talk or write openly about suicidal plans and schools fail to increase supervision, and notify parents.
- Anchorage consultation example.
Legal Terms/Issues

• School personnel have immunity if their conduct does not violate constitutional rights of which a reasonable person would have known
• School attorneys have argued that suicide is an “intervening force” that breaks the chain of causation between events even if negligence and cause and effect have been established
• School attorneys have argued that if you develop policies and procedures for prevention then you are more likely to be sued

Legal Terms

• “In loco parentis doctrine” raises the question of whether a special relationship exists between school officials and students as students are released by parents for control and supervision by school officials
• Negligence involves injury or damage to another person through breach of a duty owed

Legal Terms

• “Forseeability” the student's actions/behavior would have caused a reasonable person to conclude the student was at risk for suicide and to take action to prevent the suicide
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<th>Landmark Cases</th>
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<td><strong>Eisel Vs. Board of Education Montgomery County</strong>: 2nd Federal Court found that even when a student denies suicidal intent a collaborative school team has an obligation to notify parents if the team suspects the student to be suicidal.</td>
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<td><strong>Wyke vs. Polk County School Board</strong>: 11th Federal Circuit Court found the district liable for not offering a suicide prevention program, providing inadequate supervision of a suicidal student and failing to notify parents when their child was suicidal.</td>
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<td><strong>Szostek vs. Fowler and the Cypress-Fairbanks School District</strong>: 189th District Court found the school had not negligently disciplined the student who died by suicide and were entitled to sovereign immunity. This case highlights that school discipline has been a common precipitating event for suicide and raises the question how to discipline with sensitivity to the possibility of suicide.</td>
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Landmark Cases

• Brooks vs. Logan: Idaho Supreme Court found the teacher and the district were immune from liability for failure to warn parents even though the student who died by suicide had written extensively about suicidal plans for his class assignment.

Choquette vs. Onstedt Schools

Elementary age students on school bus viewed a suicide victim.
• Parents were called immediately and a group activity provided next day for all bus riders (grades 1 to 6) by psychologist and counselor.
• One family did not want their 1st grade daughter to be told the truth and later pulled her out of school and sued.
• The suit for $10 million claimed she had PTSD as a result of intervention provided.

Activity

• What do you think of the merits of the Choquette lawsuit?
• How would you defend the school psychologist and counselor?
• Was it appropriate to conduct one intervention for bus riders grades 1 to 6?
• Should parent permission have been obtained prior to the intervention for students?
### Cases of Interest

- **Braski vs. Union Township Schools**—a fourth grader attempted suicide at home and parents sued claiming that homework stress, and the school's failure to identify him with emotionally disturbance led to his suicide attempt which resulted in brain damage.

- **Mares vs. Shawnee Mission Schools**—parents sued the school for failing to implement postvention procedures after the suicide of their first son that might have prevented the suicide of their second son.

### Schools and Postvention

- Do schools have any postvention responsibilities after the suicide of a student?
- What steps if any should be taken?
- Should there have been outreach to the surviving Mares brothers after the first suicide?

### Suicide Cluster Example

- The school psychologist in a Midwestern school system is aware that 6 students died by suicide the first semester.
- What responsibilities does he/she have to do something to prevent further suicides?
- How might they best proceed?
- Who is at risk to be the next suicide victim?
Bullying and Suicide

- Latest term is “bulicide” as a number of parents have sued schools claiming that their child's death by suicide was the result of the school’s failure to stop the bullying
- Jasperson vs. the Anoka-Hennepin ISD was one such case as the parents blamed bullying at school for the suicide of their child. The court found in favor of the school system in summary judgment

CIRCLES OF VULNERABILITY
MAPPING BY THREE DIMENSIONS

- Geographical Proximity
- Population at Risk
- Psychosocial Proximity

Most common precipitating event to adolescent suicide attempt is an argument with parents
- Family problems, lack of peer support, and disengagement from school also heighten risk
- Access to means, previous attempts, plan in place, preoccupation with death

Evidence of planning behaviors such as giving away possessions, and verbalizations such as “when I’m gone”
- Substance abuse and/or previous mental health diagnosis

CSPC, Tel Hai College, Kiryat Shmona
### American Association of Suicidology: School Suicide Prevention Accreditation Program

- Designed for support and mental health professionals
- Become your school/community authority
- Know best/evidenced based practices
- Reading list and sample exam provided
- Includes membership and ongoing support
- [www.suicidology.org](http://www.suicidology.org)

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### Lawsuit over Self Injury Notification

- Coulter Vs. Washington, Township
- Issues
- Student deposition/insight into factors
- Parent deposition
- Counselor deposition

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### Self Injury: Role of Support Staff

- Increase faculty awareness
- Dispel the myth that it is only for attention
- Instruct students on dangers of sharing blades etc. and the importance of getting adult help if a friend is cutting
- Increase student coping skills
- Increase student impulse control
Non Helpful Responses

- Isolating SI from person’s history
- Hospitalization
- Setting requirement that student/client not self injure---to be in therapy
- Respond with horror and disapproval

Helpful Counselor Response

- Matter of fact, low key compassionate
- Teach substitute behaviors
- Help student understand the need to notify their parents
- Encourage parents to focus on stress child is experiencing
- Know the resources and best treatments

Scenario for A Teacher

- You have noticed one of your students who has never worn a short sleeve shirt has a bandaged wrist on several occasions
- What do you hope the teacher would do?
Case Situation

- A teacher has referred a 13 year old girl to you for self mutilation concerns
- The girl readily admits to you that following an argument at home she cut her arm last night to feel better and shows you the bandages.
- You are the counselor/psychologist-- what do you do as she begs you not to tell her parents?

Scenario

- A student has been referred to the school psychologist for depression and anxiety.
- The 13 year old admits to cutting in the past and shows you an old scar and states that she doesn’t do it anymore.
- What do you do?

Best Practices for Schools

- Keep up with the literature and develop policies and procedures for suicide prevention, intervention and postvention
- Review your state requirements and initiatives for suicide prevention
- Train school personnel annually on the warning signs of suicide and the importance of working as a team member
Continued

• Keep records that school staff were trained in crisis/suicide prevention and include aides and bus drivers in addition to teachers
• Secure specialized training for personnel such as counselors, psychologists, nurses and social workers
• Include suicide prevention, intervention and postvention in school crisis plans
• Implement and sustain bullying prevention programs
• Develop procedures and plans to address self injury

Continued

• Keep records of specialized training and membership in professional associations
• Develop policies for supervision of suicidal students and prompt and same day parent notification and be familiar with local emergency procedures as some states have enacted legislation to address suicidal emergencies
• Parent notification is recommended in person so that the suicidal student can be handed off to parents
• The only time parents would not be notified of the suicidal behavior of their child would be if the parents are suspected of abuse and then protective services would be called

How Can School Psychologists Protect Themselves from Liability

• Maintain liability insurance
• Seek supervision/consultation from colleagues
• Keep good records
• Document crisis/ethics training
• Provide best practice responses
More Information

• spoland@nova.edu
• www.scottpoland.com

Final Thought

“Children are the world's most valuable resource and its best hope for the future”
John F. Kennedy