

# Legal Issues Related to Student Suicide for Schools

School Resources to Support Military-Connected Students is a project by the Clearinghouse for Military Family Readiness an applied research center at The Pennsylvania State University and is funded by the Department of Defense Education Activity Grant number HE1254-19-0009.

For more information on these resources click on the links below:

<https://schoolresources.militaryfamilies.psu.edu/>

<https://militaryfamilies.psu.edu/>

<https://www.psu.edu/>

<https://dodeagrants.org/>

Our goal is to provide school personnel with free, evidence-based resources to support military-connected students. This training is part of our Suicide Prevention series.

## Important Reminders

Before starting this training, please read the items below carefully and check the box in front of each item to indicate your understanding.

- The following content discusses suicide and may be upsetting to some individuals.
- Follow all district, local, state, and federal regulations. This training is **NOT** intended to replace or override existing procedures or laws.

## Introduction

### What is the purpose of this training?

Court decisions, including *Kelson v. The City of Springfield* (1985) and *Eisel v. Board of Education of Montgomery County* (1991), suggest schools need clear policies and procedures for suicide prevention and staff must be adequately oriented to district policy and procedures (Jacob, Decker, & Hartshorne, 2011). Given the potential for legal liability and the realities of role confusion, role saturation, and limited capacity of training programs, it is important for school systems to take a more deliberate and active role in supporting continuous education and training on prevention and intervention of suicide and other non-suicidal self-injurious (NSSI) behaviors beyond graduate school for their student support personnel.

## Objective

The goal of this training is to increase your confidence in your ability to:

Identify key legal areas for schools related to student suicide.

*How confident are you in your ability to do this now?*

Please click on the link below to submit your response.

[https://pennstate.qualtrics.com/jfe/form/SV\\_6Gp3iBHlvhcTluR?modulenumber=suicide05](https://pennstate.qualtrics.com/jfe/form/SV_6Gp3iBHlvhcTluR?modulenumber=suicide05)

Verify that you have completed each of the tasks below before proceeding with this training.

Answered the survey question in the link.

Clicked the arrow underneath the survey question to submit your response.

Recorded the ID number provided after you submitted your answer to the survey question. You will need it to complete the survey at the end of this training.

## Research

### What is most important for me to know?

Erbacher, Singer, and Poland (2015) highlight six key legal areas for schools related to student suicide. A brief review of these issues follows.

#### Negligence

Schools can be found negligent for a student's suicide when they have not met their duty to care for a student, and this is causally connected to a suicide. Examples of typical issues in negligence litigation include failing to notify parents and not providing adequate supervision of students at risk. Schools should hold annual trainings so that school personnel are informed of their duty to care; these trainings should be documented.

#### Foreseeability

If a reasonable person would have been able to recognize that a student was in danger –the risk was foreseeable– school administration can be held liable for harm. This is most relevant to the lack of appropriate supervision for a student in emotional distress as well as a lack of appropriate policies or procedures for a foreseeable suicide. This principle underscores the importance of the standard operating procedures (SOPs), and the fact that a risk assessment must be conducted when suicidal ideation is suspected.

#### State-Created Danger

If harm was foreseeable and school personnel in authority over the student caused danger, either through action or lack of thereof, this could result in state-created danger which violates the constitutional rights of a student who attempts suicide.

#### Immunity

In most cases, school districts and entities have immunity while individual school employees can be sued. An exception occurs when policies or procedures of the school board or administration violate their duty to protect.

Schools are not typically liable for failure to prevent student suicide, except when school actions are reckless such as in *Armijo v. Wagon Mound Public Schools* (1998). (<https://caselaw.findlaw.com/us-10th-circuit/1274775.html>)

Remember that suspensions may serve as a trigger for suicide attempts; as discussed later in the module, parents should be notified if it is necessary to remove their child from school, and students who are suspended during the school day should not be sent home to an empty house.

#### In Loco Parentis Doctrine

Schools are legally responsible to act “in the place of a parent” while a student is at school, which requires schools to act in the student's best interests.

#### Intervening Force

Whatever happens in between school personnel's negligence and a student's suicide may be argued as an intervening force, or the real reason for the harm. This argument against school personnel liability gains traction with longer amounts of intervening time between the negligence and a suicide attempt.

Again, as a student support staff member, you do not have immunity and can be sued. This most often occurs for the following reasons:

- Failure to notify parents regarding suicidal communications
- Failing to intervene when a student communicated a plan
- Failing to follow established policies and procedures

Cases are often found in favor of schools, but this outcome does not avoid the pain of litigation or the death of a student. To protect from suicide liability issues, Erbacher, Singer, and Poland (2015) recommend that student support personnel should do the following:

- Maintain liability insurance
- Seek out consultation and supervision
- Keep good records
- Document crisis trainings
- Follow best practice in prevention, intervention, and postvention
- Use all school resources, including mental health personnel

## Application

How might this look in my professional practice?

Remember that the goal of this training is to increase your confidence in your ability to:

**Identify key legal areas for schools related to student suicide.**

In the questions below, a series of errors related to student suicide response is presented. Identify the legal area each error is exemplifying.

1. Student tells a teacher she'd be better off dead and the teacher brushes it off.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: b) Foreseeability

2. After suicide, school offers no support services to prevent contagion.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: c) State-Created Danger

3. A student is suspended and sent home to empty house instead of ISS.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: d) Immunity

4. Counselor thinks self-injuring student isn't serious.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: b) Foreseeability

5. Teacher assigns reading which has themes suggesting suicide is a way to end pain.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: c) Stated-Created Danger

6. The school psych forgot to call home about a student's suicide statement.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: a) Negligence

7. A teacher does not tell anyone about a student's suicidal statement.

- a) Negligence
- b) Foreseeability
- c) State-Created Danger
- d) Immunity

Correct Answer: a) Negligence

## Implementation

**How can I effectively implement this content in my professional practice?**

Please review the considerations below regarding potential implementation strategies, barriers to implementation, and collaboration strategies related to this content. This will help you coordinate the next steps as you begin to incorporate the information presented in this training into your professional practice.

**This information can also be found on a handout that you will be able to download at the end of this training.**

## Implementation Strategies

- Explicit, documented, and regular training related to the school's own suicide prevention plans and crisis procedures should be a routine part of school personnel professional development/ professional training.
- If your school district does NOT have procedures and forms for suicide it is imperative that these procedures be established.

## Overcoming Barriers to Implementation

- Although some professionals may not understand the legal realities of failing to follow procedures related to suicide, the consequences are no less severe. Providing training and regular consultation access to teachers and other professionals is critical.

## Collaboration Strategies

- All teachers and staff should know who to contact and what to do if they suspect, or are informed of, suicidal thoughts or behaviors from any student.

## Resources

### Are there any resources available to help me implement this content?

Click on the link below to download a tool that you can use to implement this content in your professional practice.

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:efc4aad0-b369-4491-b72e-31f0ef13287a>

## Feedback

### How can I help improve this training?

The objective of this training was to increase your confidence in your ability to:

#### Identify key legal areas for schools related to student suicide.

Answer the questions in the link below to let us know how well this training increased your confidence in your ability to accomplish this objective. Once you have answered all of the questions, click the blue arrow button underneath to submit your responses.

[https://pennstate.qualtrics.com/jfe/form/SV\\_d771mLr9ZgW3kyx?modulenumber=suicide05](https://pennstate.qualtrics.com/jfe/form/SV_d771mLr9ZgW3kyx?modulenumber=suicide05)

Verify that you have completed each of the tasks below.

Answered all of the survey questions above. You may have to scroll to see all of the questions.  
Clicked the arrow underneath the last survey question to submit your responses.

## Additional Readings

### Where can I learn more about this content?

The following resources were used to create this training. If you would like more information about the information presented in this training, we encourage you to start here.

Erbacher, Terri & Singer, Jonathan & Poland, Scott. (2015). *Suicide in schools: A practitioner's guide to multi-level prevention, assessment, intervention, and postvention*.

Jacob, S., Decker, D. M., & Hartshorne, T. S. (2011). *Ethics and law for school psychologists* (6th ed.). John Wiley & Sons Inc.

## Thank You!

Thank you for taking the time to complete this training. If you have any questions or comments, please email us at [schoolresources@psu.edu](mailto:schoolresources@psu.edu).

### Proceed to the next training

Click on the link below to move on to the next training titled *Ethical Issues for School Mental Health Personnel*. In this training, you will increase your confidence in your ability to identify key ethical standards for student support personnel.

[https://learning.militaryfamilies.psu.edu/school-resources/modules/suicide\\_06-ethical-issues-for-school-mental-health-personnel\\_201022/](https://learning.militaryfamilies.psu.edu/school-resources/modules/suicide_06-ethical-issues-for-school-mental-health-personnel_201022/)

## Return to the module directory

Click on the link below to return to the module directory.

<https://schoolresources.militaryfamilies.psu.edu/modules/>