

Katie Lowitzki

CSA 543: Legal and Ethical Issues in College Student Affairs

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*Your Choice.* Identify a key legal issue facing the department or program area where you work. Based on what you have learned in this course (or perhaps from new research you need to do), devise an action plan for addressing this issue. Your action plan should include (1) an overview of the problem, (2) a review of related case law or legal guidelines appropriate for the problem, and (3) a list of specific steps that should be taken to address the problem.

### **Mental Distress and Self-Harming Behaviors**

#### **Overview of the Problem—My Experience:**

As a Residence Director at Azusa Pacific University (APU), one of the problems facing the students I work with is mental distress, which more and more frequently has been expressed in students' lives through self-harming behaviors such as cutting and burning. Since I have started in my position at APU, I have talked with at least three students who were harming themselves for a variety of reasons. The reasons have included an overwhelming amount of stress in one's life enhanced by family problems, struggles adjusting to APU's culture, troubles with relationships, and difficulty with grades. Although all of the situations have been different, at the core of the self-harm seemed to be a need for coping skills to deal with the hardships that life brings.

In the process of working with the students who participate in self-harming behaviors I have learned some ways that I can play a supportive role. I can refer these students to the Counseling Center at APU, an outside counseling source, and get them connected with mentors and other people in the APU community. I have also worked with my supervisor to place these students on a behavioral contract, outlining the university's expectations of their behavior if they want to remain as a resident on campus. Most often, a requirement for these students to attend counseling and sign a release so that I can talk with the counselor is the biggest component of the behavioral contract.

One of the frustrations that I have had in working with students who self-harm is feeling that our Department of Residence Life at APU has not provided enough training for the Residence Directors to adequately deal with these students. My learning in this area has all come after I have learned of a student who is harming themselves. I have not observed our department being proactive to deal with these situations. So, my hope in creating an action plan for mental distress of students, specifically in the area of self-harm, is to help myself and my department understand these issues in greater depth and be more proactive in how we work with them. Before looking at the legal issues surrounding mental distress and self-harm and creating my action plan, it is necessary to define “self-harm” by looking into current literature and research.

### **Overview of the Problem: Self-Harm According to Current Research and**

#### **Literature:**

Self-harm can be defined as “the deliberate, direct destruction or alteration of body tissue without conscious suicidal intent but resulting in injury severe enough for tissue damage to occur” (Walkington, Engel, & Olivo, 2004). Reasons that people choose to self-harm may include difficulty dealing with emotions, escaping from an empty feeling, trying to find a sense of security, trying to express a feeling they do not know how to express through words, and other events causing large amounts of stress (Walkington, et. al, 2004; Secret Shame-Self Injury Information-<http://www.selfharm.net/>). People who self-harm may do so to deal with a particular situation; once the situation has been resolved, they will stop harming themselves. Other people self-harm for long periods of time whenever stress and pressures come up in their lives (Young people and self harm website-National Children’s Bureau (2004)-

<http://www.selfharm.org.uk/index.php>). An important point to make about self-harm is that it is not an attempt at suicide; more accurately, self-harm is a means of dealing with life's problems, not yielding to them (Walkington, et. al, 2004; National Children's Bureau, 2004).

It is difficult to determine the extent to which self-harm occurs. This is for several reasons: people who self-harm often do so secretly, people may never ask for help from either counselors or medical personnel, there is no definition of self-harm that is recognized as a norm, and there are no national statistics regarding self-harm (National Children's Bureau, 2004). Even though it is hard to show exact statistics about self-harm, information shows that approximately three times more women self-harm than men and most of the people who self-harm are over the age of 13 (National Children's Bureau, 2004). When looking at college students in particular, Walkington, Engel, and Olivo (2004) reviewed a study that discovered 14% of students reported self-harming behaviors at least once during their lives.

The above information gives a general overview of the problem of self-injury; hopefully, this provides a framework showing that self-injury is a problem that students deal with on college campuses. Though detailed information is not known in terms of statistics, both my experience and information that can be found on the web show that self-injury is an issue that needs to be addressed by those working closely with college students.

#### **Related Case Law or Guidelines Appropriate for Mental Distress/Self-Injury:**

In a session titled "Distressed and Distressing Students" at the Legal Issues in Higher Education Conference, Tribbensee, Weinman, and Stevens (2004) noted several

important legal factors when working with distressed students. The laws and terms the presenters discussed included the following: foresee ability, the counselor's role, and FERPA. Foresee ability is described as a person's or institution's ability to determine if a student is going to harm him/herself or another person; the student must present an immediate threat of harm in order for an institution to force the student to take a psychiatric withdrawal. The counselor's role becomes very important in assessing foresee ability because a psychiatrist is the *only* person who can use diagnostic language in measuring a student's mental health. It is also very difficult to prove that a student is an immediate threat to him/herself or another person; often, this can only be done if a student tells someone that he/she is going to hurt them self or others (Tribbensee, et. al, 2004).

FERPA stands for the Family Education Rights and Privacy Act; this act protects the privacy and records of students. Two cases illustrate when FERPA does not apply. *Tarasoff v. Regents of the University of California* (1976) and *Ewing v. Northridge Hospital Medical Center* (2004). In both of these cases, a counselor was notified (in the first case by the patient and in the second case by the patient's father), that the student they were seeing was going to kill another person. In both cases, the girlfriends of the student who had made the threat were not notified. The courts determined that the institutions had a legal responsibility to let the girlfriends know of the threat (Tribbensee, et. al, 2004). All of these concepts are crucial when working with students who may or may not be mentally distressed.

A second source discussing legal issues surrounding mental disorders is an article by Gary Pavela (2003) titled, "Responding to Students with Mental Disorders". Pavela

(2003) talks about psychiatric withdrawal in the sense that it is very difficult to give students fair due process. The only instance that constitutes a psychiatric withdrawal is if a student poses a direct threat to him/herself or others that cannot be accommodated by other means. This article mentions that mental disorders in some ways fall into the same categories as dealing with the ADA concerns. For instance, an institution cannot release a student simply because they do not agree with their behavior; there has to be a true threat or violation of school policy for an institution to force a psychiatric withdrawal. Pavela (2003) affirms how difficult the psychiatric withdrawal process is to prove within legal terms!

**Action Plan (specific steps to address the problem):**

After looking into mental disorders, especially self-harming behaviors, I have developed an action plan including tangible steps that I can take to help deal with these concerns. First, I will talk with my supervisor about my learning. Though I know that he is aware of these issues at APU, I want to share the statistics and resources that I have with him. Next, I will talk with the Counseling Center to discover what plans they have in place to work with students who self-harm. I hope to ask questions and learn from the Counseling Center about ways that I can better help the students I work with as an RD. After talking with both my supervisor and the Counseling Center, I would love to help in the creation of more defined protocols for various mental health issues. Though I know that every case is different, I think it would be good for APU to have protocols in place so that people at all levels know what is expected of them when responding to students with mental health issues. It also seemed that from the legal perspective, protocols are necessary when working with students with mental disorders (Tribbenssee, et. al, 2004;

Pavela, 2003). As part of working to create protocol, it would be helpful to create a basic template of a contract that can be given to students struggling with self-harm. The protocol should include information about who is responsible for what steps of the process, who will follow up with the student, and when parents would/should be contacted. One last step that I would like to take is to develop some type of training for the Resident Advisors relating to self-harm issues. Often, the RAs are the first people to learn of self-harm. I believe it is important to equip the RAs with information and resources so that they know how to respond to these students.

**Sources Used for Self-Harm:**

Pavela, G. (2003). "Responding to Students with Mental Disorders". Presented at the Legal

Issues in Higher Education Conference, Vermont.

"Secret shame-You are not the only one". Online, retrieved October 16, 2004.

<http://www.selfharm.net/>

Tribbensee, Weinman, & Stevens. (2004). "Distressed and Distressing Students".

Presented at

the Legal Issues in Higher Education Conference, Vermont.

Walkington, B., Engel, C., & Olivo, E. (2004). Bodies under siege: Helping residents who cut

themselves". Presented at NASPA conference, Denver.

"Young people and self harm website". (2004). National Children's Bureau. Online, retrieved

October 16, 2004. <http://www.selfharm.org.uk/index.php>