

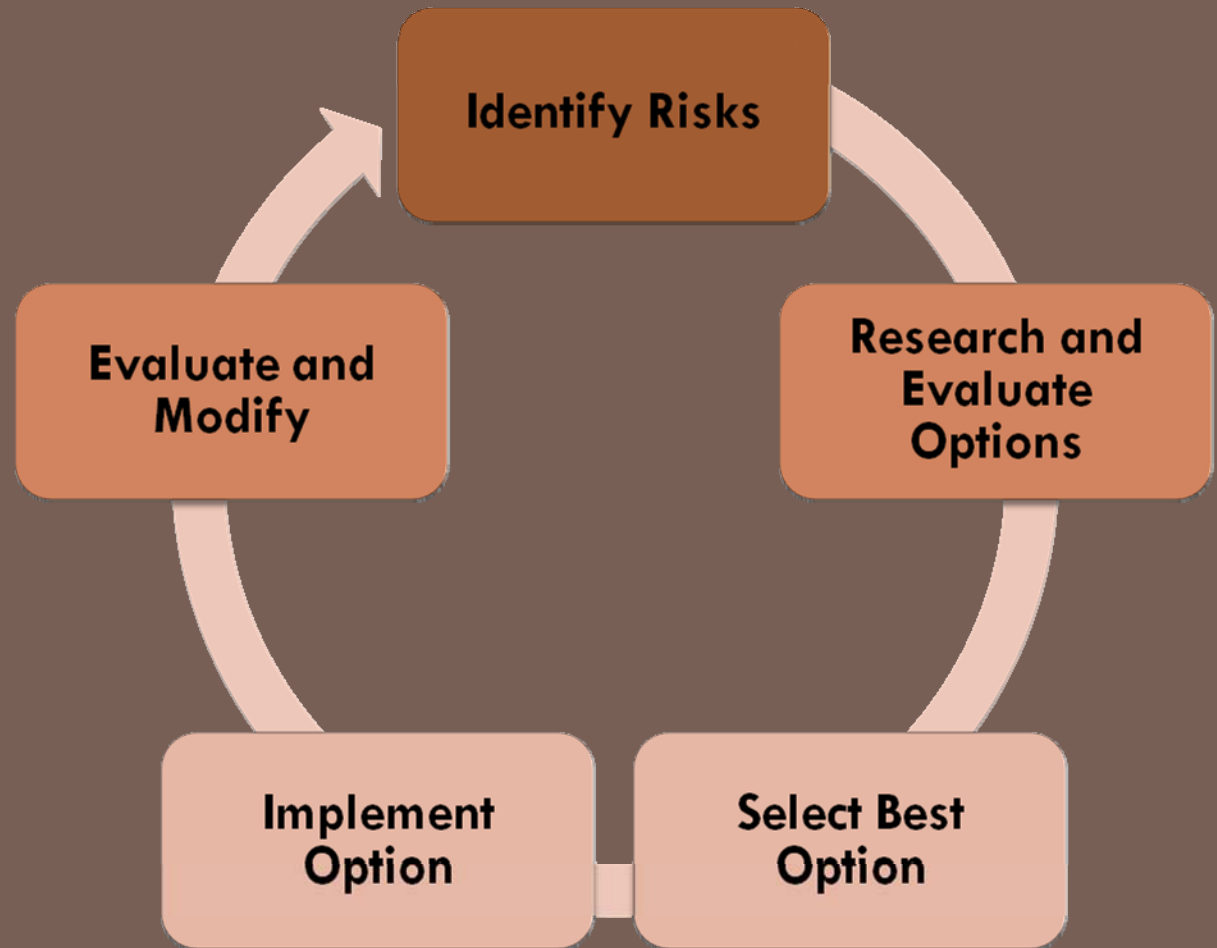
# The Power of Collaborative Teams: Employing Environmental Management Techniques to Abolish Information Silos and Enhance Campus Safety and Security

THE CENTER FOR EXCELLENCE IN  
HIGHER EDUCATION LAW & POLICY  
at Stetson University College of Law

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Stetson University College of Law/January 2009

# Background: Risk Management

Process of analyzing potential and perceived risks and taking steps to avoid or minimize those risks.

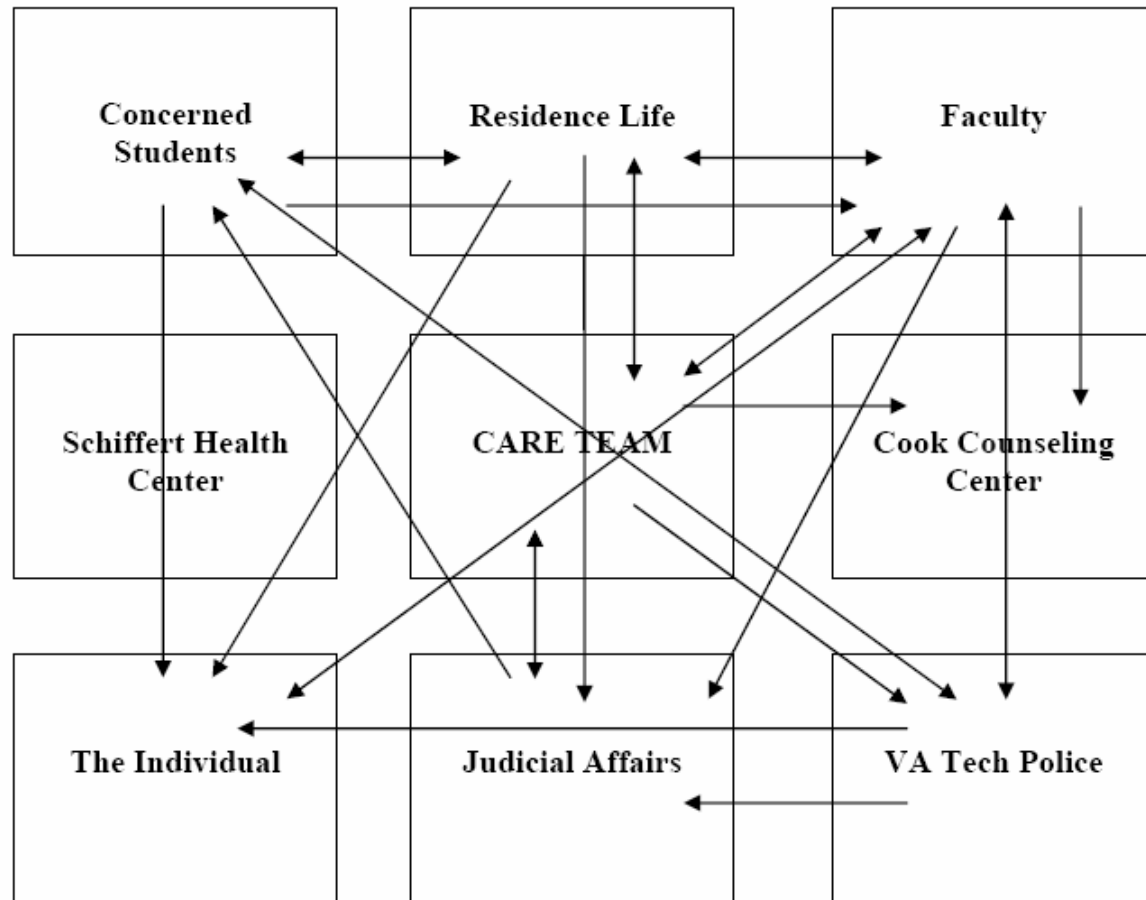


# Eras of Risk Management on Campus



# Mahoney v. Allegheny College

- “We believe the ‘University’ has a responsibility to adopt prevention programs and protocols regarding students['] self-inflicted injury and suicide that address risk management from a **humanistic and therapeutic as compared to just a liability or risk avoiding perspective.**”
- ▣ *Mahoney v. Allegheny College*, Memorandum and Order (Court of Common Pleas of Crawford Co, Pa., Civil Division, Dec. 22, 2005), available at <http://www.asjaonline.org/attachments/articles/35/Allegheny%20college%20SJ%20decision.pdf>



Virginia Tech

CARE Team

Misunderstandings of law

Federal Report – “No more silos”

# Environmental Management

- Public-health concept
  
- Success in the alcohol and other drug prevention context
  - ▣ Endorsed by the U.S. Department of Education's Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention,  
<http://www.higheredcenter.org/>

# Environmental Management

- **Multiple** prevention strategies that affect the campus environment as a whole
  - Strategic, planned
  - Physical, social, legal, economic
  - Comprehensive, not piecemeal
  
- Involve those who **impact**, or who are **impacted by**, the **campus environment**
  - Collaboration and communication
  
- Collaborative risk-management teams, specifically **student at-risk behavioral teams**, are just one part of a comprehensive approach to campus safety and security.

# Student At-Risk Response Teams

- Identified as a “good practice” in The Jed Foundation, *Student Mental Health and the Law* (2008), <http://www.jedfoundation.org/assets/TJFLegalResource.pdf>
- Multidisciplinary
  - Student Life
  - Residence Life
  - Campus Safety/Police
  - Academic Deans
  - Judicial Affairs <?>
  - Athletics
  - Registrar
  - Disability Services
  - Counseling Service
  - Office of International Students
  - General Counsel
- Collaborative
- Frequent communications
- Not a “one size fits all” situation
- Case Management Team (this name no longer recommended)
- Threat Assessment Team (often recommended as a different team)
- Sample names:
  - South Carolina: Behavioral Interventional Team
  - Stetson Law: Student Support and Emergency Team (SSET)
  - Virginia Tech (and others): CARE Team
  - Lynn University: ALERT
  - Lake Superior State: StART (Student Assistance Response Team)
  - Be sensitive about the name (e.g., BAIT)

# Prevalence

- Some schools have teams that date back decades
- Many schools initiated teams after 9/11
- Even more initiated teams after the Virginia Tech and Northern Illinois shootings
- Late 2007 survey in Massachusetts: 65 IHEs/50%
- Less frequent on two-year campuses
  
- Becoming an industry standard for purposes of negligence analysis?
  - ▣ December 2008 United Educators presentation: “Pretty much a necessity in today’s world.”

# Emerging Good Practices

- **Establish a central team (multidisciplinary)**
  - Ensure appropriate resources – human and financial
- **Ensure team visibility**
  - Emphasize caring role/clarify misperceptions
  - Link to academic success and campus safety
  - Ensure people can reach the team/team members (web, etc.)
- **Establish an information-sharing system**
  - Regular meetings
  - Interim communication (*Shin*)
- **Develop protocols/ensure follow-up**
  - Notes/minutes
  - Person/date for follow-up
- **Acknowledgements:** Joanna Locke (Jed) and Laurie Davidson (Suicide Prevention Resource Center)

# Some Practical Advice

- Support of top leadership
- “Top leader” should be involved, but not too involved
  - ▣ Review minutes
  - ▣ Attend meetings occasionally
  - ▣ Stay in flow; act as a resource
- Follow-up, follow-up, follow-up
  - ▣ End-of-the-semester reviews
- Training, training, training
  - ▣ Table-top exercises

# Challenges

- Lack of personnel/time
- Team composition
- Scope/duties
  - Students, employees, visitors?
  - Types of issues handled
- Lack of knowledge about student behaviors
  - MentalHealthEdu
  - Regular training
- Silos/insularity of departments (particularly Admissions)
  - *Estate of Butler ex rel. Butler v. Maharishi University of Management (S.D. Iowa Dec. 11, 2008)*
- Interim communications (e-mail?)
- Delays in follow up
- Reluctance of faculty, staff, students, etc. to share information with the team
  - Getting someone in “trouble”
  - Misplaced “duties of confidentiality”
- Misunderstandings about FERPA, HIPAA, state privacy laws, and professional confidentiality requirements
- Fears about disciplining students with disabilities
- Concerns about sharing information (*Note: Dec. 2008 amendments to FERPA*)
  - Parental notification
  - Faculty/staff notification
- Reporting/disclosure/FOI
  - Disclosure to student
  - Inadvertent disclosure
  - Licensing boards
- Referrals
  - Accepting anonymous referrals
  - Follow up with referral source
- Fear of assuming legal duties
- Protocols written, or not?

# Additional Resources

# Campus Violence

- Helen Smith et al., *Violence on Campus: Practical Recommendations for Legal Educators*, 32 Oklahoma City Law Review 443 (2007) [available on Westlaw].
- Linda Langford, *Preventing Violence and Promoting Safety in Higher Education Settings: Overview of a Comprehensive Approach* (The Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, Feb. 2004) [available for download at <http://www.higheredcenter.org/files/product/violence.pdf>].
- *Violence Goes to Campus* (John Nicoletti, Sally Spencer-Thomas & Christopher Bollinger eds., 2d ed., Charles C. Thomas Publisher Ltd., forthcoming 2009).
- Center for Personal Protection and Safety, DVD, *Shots Fired — When Lightning Strikes* (office and classroom versions), available for preview at <http://www.shotsfiredvd.com/>.
- The Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, Variety of materials on Environmental Management, <http://www.higheredcenter.org/services/publications/keyword/14.1>.
- Darby Dickerson, *Background Checks in the University Admissions Process: An Overview of Legal and Policy Considerations*, 34 J.C. & U.L. 419 (2008).

# Collaborative Teams

- Darby Dickerson & Peter F. Lake, *A Blueprint for Collaborative Risk-Management Teams*, *Campus Activities Programming* 16 (Apr. 2006) [available for download at <http://ssrn.com/abstract=1093566>].
- Darby Dickerson, *Lessons in Collaboration: Learning from the Post-Virginia Tech Task Force Reports*, *Campus Activities Programming* 20 (Oct. 2007) [available for download at <http://ssrn.com/abstract=1087815>].
- Joanna Locke, *Case Management Teams* (Mar. 31, 2008), <http://www.jedfoundation.org/assets/ACPA2008.pdf> (powerpoint).
- Joanna Locke & Laurie Davidson, *Case Management Teams* (Jan. 17, 2008), <http://www.jedfoundation.org/assets/NASPA2008%20FINAL.pdf> (powerpoint).

# Threat Assessment

- John H. Dunkle et al., *Managing Violent and Other Troubling Students: The Role of Threat Assessment Teams on Campus*, 34 *Journal of College & University Law* 34 (2008) [available on Westlaw].
- Materials from Audio-conference on *Optimizing an Institution's Threat Assessment Team*, by Gene Deisinger, Steven J. McDonald & Marisa Reddy Randazzo (United Educators, Dec. 3, 2008) (includes an annotated bibliography) [available for download by UE clients via the UE Risk Management Library, [http://www.ue.org/membersonly/member\\_login.asp?URL=/membersonly/member\\_library.asp?](http://www.ue.org/membersonly/member_login.asp?URL=/membersonly/member_library.asp?)].
- Gene Deisinger et al., *The Handbook for Campus Threat Assessment & Management Teams* (Applied Risk Management, LLP, 2008) (available from Amazon.com and other sources).
- Virginia Tech Department of English, *Responding to Disturbing Creative Writing: A Guide for Faculty and GTAs* (Aug. 2007), <http://www.epi.elps.vt.edu/Perspectives/DisturbingWriting.pdf>.
- Gavin DeBecker, *The Gift of Fear* (Dell 1999).
- United States Secret Service, *National Threat Assessment Center*, <http://www.secretservice.gov/ntac.shtml> (various materials).

# Legal Liability Related to Student Suicide

- Ann Franke, *When Students Kill Themselves, Colleges May Get the Blame* (United Educators 2004) [available for download by UE clients via the UE Risk Management Library, [http://www.ue.org/membersonly/member\\_login.asp?URL=/membersonly/member\\_library.asp?](http://www.ue.org/membersonly/member_login.asp?URL=/membersonly/member_library.asp?)].
- Peter F. Lake, *Still Waiting: The Slow Evolution of the Law in Light of the Ongoing Student Suicide Crisis*, 34 *Journal of College & University Law* 253 (2008) [available for download at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1123303](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1123303)].
- Peter F. Lake & Nancy Tribbensee, *The Emerging Crisis of College Student Suicide: Law and Policy Responses to Serious Forms of Self-Inflicted Injury*, 32 *Stetson Law Review* 125 (2002) [available for download at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1123286](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1123286)].
- Ann MacLean Massie, *Suicide on Campus: The Appropriate Legal Responsibility of College Personnel*, 91 *Marquette Law Review* (2008) [available for download at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1017347](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1017347)].
- Marlynn Wei, *University Policy and Procedural Responses to Students at Risk of Suicide*, 34 *Journal of College & University Law* (2008) [available for download at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1031405](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1031405)].

# FERPA/HIPAA/Privacy

- U.S. Department of Education, *Final FERPA Regulations* (Dec. 9, 2008), <http://www.ed.gov/legislation/FedRegister/finrule/2008-4/120908a.pdf> (see also the related “Dear Colleague Letter” concerning the new regulations and the section-by-section analysis).
- Steven J. McDonald, *The Fundamentals of FERPA* (Stetson/NASPA National Conference on Law & Higher Education, Feb. 2008) [available for download at <http://justice.law.stetson.edu/excellence/Highered/archives/2008/Fundamental%20FERPA.pdf>] (also see the accompanying powerpoint presentation).
- AACRAO, *FERPA Online Guide and Training Faculty and Staff on FERPA* (both available to members at <http://www.aacrao.org/compliance/ferpa/index.cfm>) [your university registrar is likely a member].
- Marlo M. Del Percio, *U.S. Department of Health and Human Services and U.S. Department of Education Publish Joint Guidance on the Applicability of FERPA and HIPAA to Student Health Records*, available at <http://hklaw.com/id24660/PublicationId2519/ReturnId31/contentid53438/> (Holland & Knight LLP Education Alert, Dec. 30, 2008).
- United Educators, Reference Packet, *Between a Rock and a Hard Place: Meeting the Challenge of Students with Severe Mental Health Issues* (2007/2008) [available for download by UE clients via the UE Risk Management Library, [http://www.ue.org/membersonly/member\\_login.asp?URL=/membersonly/member\\_library.asp?](http://www.ue.org/membersonly/member_login.asp?URL=/membersonly/member_library.asp?)].
- Christine R. Williams, *FERPA, GLBA & HIPAA: The Alphabet Soup of Privacy* (NACUA 2007) (available to NACUA members for download at <http://www.nacua.org/fileStreamer/default.asp?file=/pubs/alphabetsoup.pdf>).

# FERPA/HIPAA/Privacy - continued

- Melissa Bianchi, *The HIPAA Privacy Regulations and Student Health Centers* (NACUA 2006) (available to NACUA members for download at <http://www.nacua.org/fileStreamer/default.asp?file=/pubs/HIPAAASHC.pdf>).
- Association for University & College Counseling Center Directors, *Statement on Parental Notification, Mandatory Counseling and Counseling Center Director Status* (Sept. 28, 2007), [http://www.aucccd.org/img/pdfs/Statement\\_091807.pdf](http://www.aucccd.org/img/pdfs/Statement_091807.pdf).
- Nancy Tribbensee, *Mental Health and the College Student: Recent Developments in Law and Policy Relating to Student Wellness* (Stetson/NASPA National Conference on Law & Higher Education, Feb. 2008) [available for download at <http://justice.law.stetson.edu/excellence/HigherEd/archives/2008/Tribbensee%20-%20Mental%20Health%20and%20the%20College%20Student.pdf>].
- United Educators, *Students with Mental Health Problems: When Should Parents Be Notified?* (Risk Research Bulletin — Student Affairs, Apr. 2005) [available for download by UE clients via the UE Risk Management Library, [http://www.ue.org/membersonly/member\\_login.asp?URL=/membersonly/member\\_library.asp?](http://www.ue.org/membersonly/member_login.asp?URL=/membersonly/member_library.asp?)].
- Catholic University of America, *General Counsel Clearinghouse*, <http://counsel.cua.edu/> (includes helpful material on FERPA, HIPAA, and Campus Security).

# Involuntary Leaves/Withdrawals

- Darby Dickerson, *Mandatory Withdrawal and Leave of Absence Revisited*, NASPA Leadership Exchange 28 (Sept. 2007) [available for download at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1156124](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1156124)] (excerpted from “Legal Issues for Campus Administrators, Faculty, and Staff,” in *College Student Mental Health: Effective Services and Strategies Across Campus* ch. 3 (Sherry A. Benton & Stephen L. Benton eds., NASPA 2006)).
- United Educators, *Administrative Leave and Other Options for Emotionally Distressed or Suicidal Students* (Risk Research Bulletin — Student Affairs, Apr. 2006) [available for download by UE clients via the UE Risk Management Library, [http://www.ue.org/membersonly/member\\_login.asp?URL=/membersonly/member\\_library.asp?](http://www.ue.org/membersonly/member_login.asp?URL=/membersonly/member_library.asp?)].



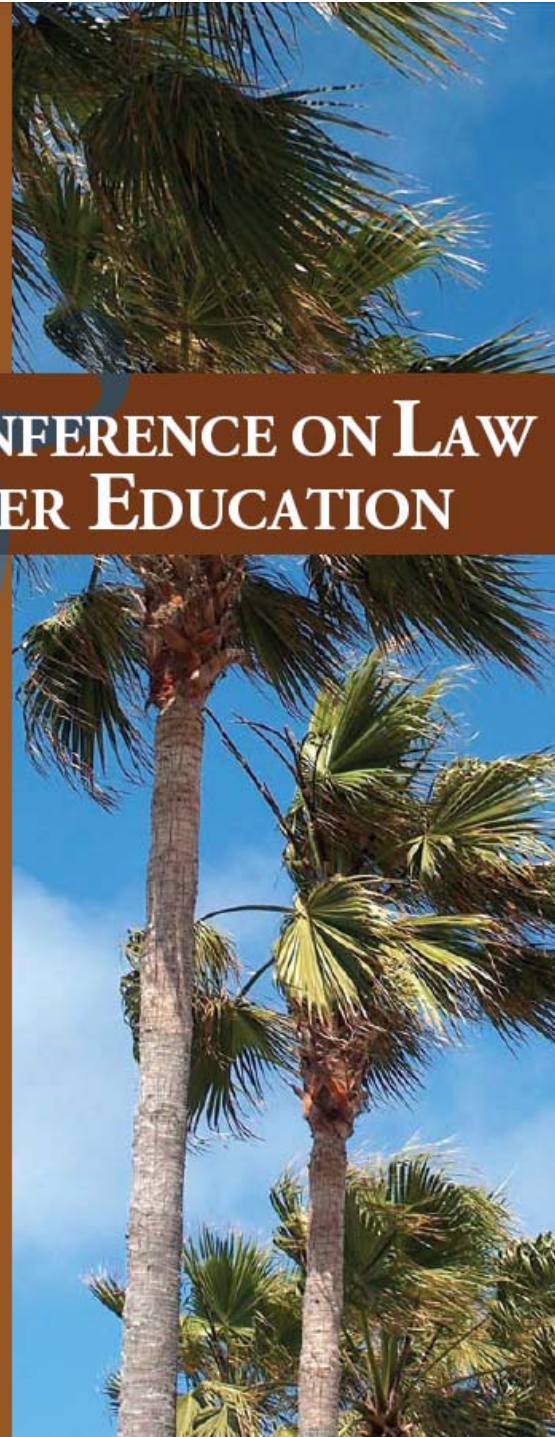
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