

## Students

### Suicide and Depression Awareness and Prevention 1

Youth suicide impacts the safety of the school environment. It also affects the school community, diminishing the ability of surviving students to learn and the school's ability to educate. Suicide and depression awareness and prevention are important Board goals.

#### Suicide and Depression Awareness and Prevention Program

The Superintendent or designee shall develop, implement, and maintain a suicide and depression awareness and prevention program (Program) that advances the Board's goals of increasing awareness and prevention of depression and suicide. This program must be consistent with the requirements of *Ann Marie's Law* listed below; each listed requirement, 1-6, corresponds with the list of required policy components in the School Code Section 5/2-3.1663(c)(2)-(7). The Program shall include:

1. Protocols for administering youth suicide awareness and prevention education to students and staff. <sup>2</sup>
  - a. For students, implementation will incorporate Board policy 6:60, *Curriculum Content*, which implements 105 ILCS 5.2-3.139 and 105 ILCS 5/27-7 (requiring education for students to develop a sound mind and a healthy body).
  - b. For staff, implementation will incorporate Board policy 5:100, *Staff Development Program*, and teacher's institutes under 105 ILCS 5/3-14.8 (requiring coverage of the warning signs of suicidal behavior).
2. Procedures for methods of suicide prevention with the goal of early identification and referral of students possibly at risk of suicide. <sup>3</sup> Implementation will incorporate:

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<sup>1</sup> A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.1663(c), amended by P.A. 99-443. The first sentence of this policy is required by 105 ILCS 5/2-3.1663(c)(1), amended by P.A.s 99-443 and 99-642.

This policy contains an item on which collective bargaining may be required. ~~(See 105 ILCS 5/10-22.24b).~~ Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> Required by 105 ILCS 5/2-3.1663(c)(2), amended by P.A.s 99-443 and 99-642. While this law is titled Youth Suicide Awareness and Prevention, it requires the policy to include protocols for administering youth suicide awareness and prevention education to *staff* and students.

For student protocols, see 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7.

For staff protocols, see 105 ILCS 5/3-14.8, which requires the regional superintendents to cover the warning signs of suicidal behavior in teacher's institutes. In suburban Cook County, an Intermediate Service Center will perform the responsibilities that are performed in other locations by the regional superintendent. (P.A. 96-893).

<sup>3</sup> Required by 105 ILCS 5/2-3.1663(c)(3), amended by P.A.s 99-443 and 99-642. This policy adds *with the goal of and possibly* to modify the statute's use of "at risk of suicide." *With the goal of* acknowledges that identifying every student at risk of suicide is impossible. *Possibly* is added to inform the public that these identifications are not definitive. School staff members are not licensed medical professionals who are fully trained to make definitive determinations about whether a student is at risk of suicide, and parents/guardians should not take any referral under this requirement as such.

- a. ~~For students in grades 7 through 12, implementation shall incorporate~~ The training required by 105 ILCS 5/10-22.39 for ~~school guidance counselors, teachers, school social workers, and other licensed~~ school personnel and administrators who work with students to identify the warning signs of suicidal behavior in ~~youth adolescents and teens~~ along with appropriate intervention and referral techniques, including methods of prevention, procedures for early identification, and referral of students at risk of suicide; and
  - b. ~~For all students, implementation shall incorporate~~ Illinois III. State Board of Education (ISBE)-recommended guidelines and educational materials for staff training and professional development, along with ISBE-recommended resources for students containing age-appropriate educational materials on youth suicide and awareness, if available pursuant to *Ann Marie's Law* on ISBE's website.
3. Methods of intervention, including procedures that address an emotional or mental health safety plan for use during the school day and at school-sponsored events for a student identified as being at increased risk of suicide. Implementation will incorporate paragraph number 2, above, along with: <sup>4</sup>
- a. Board policy 6:65, *Student Social and Emotional Development*, implementing the goals and benchmarks of the Ill. Learning Standards and 405 ILCS 49/15(b) (requiring student social and emotional development in the District's educational program);
  - b. Board policy 6:270, *Guidance and Counseling Program*, implementing guidance and counseling program(s) for students, and 105 ILCS 5/10-22.24a and 22.24b, which allow a qualified guidance specialist or any licensed staff member to provide school counseling services.
  - c. Board policy 7:250, *Student Support Services*, implementing the Children's Mental Health Act of 2003, 405 ILCS 49/ (requiring protocols for responding to students with social, emotional, or mental health issues that impact learning ability); and
  - d. State and/or federal resources that address emotional or mental health safety plans for students who are possibly at an increased risk for suicide, if available on the ISBE's website pursuant to *Ann Marie's Law*.

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105 ILCS 5/10-22.39, amended by P.A. 100-903, eff. 1-1-19, requires ~~school guidance counselors, teachers, school social workers, and other licensed~~ school personnel and administrators who work with students in ~~grades 7~~ kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in ~~youth adolescents and teens~~ along with appropriate intervention and referral techniques. ~~The language of P.A. 99-443 states students, indicating intent to cover all students, not just students in grades 7 through 12.~~ While very little guidance is available for students in grades 6 and below, *Ann Marie's Law* directs ISBE to compile, develop and post these items on its website.

*Ann Marie's Law* requires ISBE to develop and recommend materials. See the discussion in f/n7 below on ISBE-recommended materials.

<sup>4</sup> Required by 105 ILCS 5/2-3.16~~36~~(c)(4), amended by P.A. s 99-443 and 99-642. For further discussion of 105 ILCS 5/10-22.24b, amended by P.A. 99-276, see f/n 2 in policy 6:270, *Guidance and Counseling Program*. This policy adds "for use during the school day and at school-sponsored events" to inform the public about the limitations concerning what schools can realistically provide students and their parent(s)/guardian(s). See the discussion in f/n 3 regarding the addition of the word *possibly*.

4. Methods of responding to a student or staff suicide or suicide attempt. Implementation of this requirement shall incorporate building-level Student Support Committee(s) established through Board policy 7:250, *Student Support Services*. <sup>5</sup>
5. Reporting procedures. Implementation of this requirement shall incorporate Board policy 6:270, *Guidance and Counseling Program*, and Board policy 7:250, *Student Support Services*, in addition to other State and/or federal resources that address reporting procedures. <sup>6</sup>
6. A process to incorporate ISBE-recommend resources<sup>7</sup> on youth suicide awareness and prevention programs, including current contact information for such programs in the District's Suicide and Depression Awareness and Prevention Program. <sup>8</sup>

#### Illinois Suicide Prevention Strategic Planning Committee

The Superintendent or designee shall attempt to develop a relationship between the District and the Illinois Suicide Prevention Strategic Planning Committee, the Illinois Suicide Prevention Coalition Alliance, and/or a community mental health agency. The purpose of the relationship is to discuss how to incorporate the goals and objectives of the Illinois Suicide Prevention Strategic Plan into the District's Suicide Prevention and Depression Awareness Program. <sup>9</sup>

#### Monitoring <sup>10</sup>

The Board will review and update this policy pursuant to *Ann Marie's Law* and Board policy 2:240, *Board Policy Development*.

#### Information to Staff, Parents/Guardians, and Students

The Superintendent shall inform each school district employee about this policy and ensure its posting on the District's website.<sup>11</sup> The Superintendent or designee shall provide a copy of this policy to the parent or legal guardian of each student enrolled in the District. <sup>12</sup>

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<sup>5</sup> Required by 105 ILCS 5/2-3.1663(c)(5), amended by P.A.s 99-443 and 99-642. See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Need/Problems* for information about building-level Student Support Committees. When sharing information from therapists and counselors, these committees are required to follow the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/ and the Children's Mental Health Act of 2003, 405 ILCS 49/.

<sup>6</sup> Required by 105 ILCS 5/2-3.1663(c)(6), amended by P.A.s 99-443 and 99-642.

<sup>7</sup> 105 ILCS 5/2-3.1663(b)(2)(B), amended by P.A.s 99-443 and 99-642, directs ISBE to "compile, develop, and post on its publicly accessible Internet website both of the following, which may include materials already publicly available: (A) [r]ecommended guidelines and educational materials for training and professional development, and (B) [r]ecommended resources and age-appropriate educational materials on youth suicide awareness and prevention."

<sup>8</sup> Required by 105 ILCS 5/2-3.1663(c)(7), amended by P.A.s 99-443 and 99-642.

<sup>9</sup> Optional. At the time of publication, the status of the Illinois Suicide Prevention Strategic Plan was unclear in light of *Ann Marie's Law*. However, the plan may be found at: [www.idph.state.il.us/about/chronic/Suicide\\_Prevention\\_Plan\\_Jan-08.pdf](http://www.idph.state.il.us/about/chronic/Suicide_Prevention_Plan_Jan-08.pdf). Its goals and objectives reflect the input of public and private organizations and stakeholders that are concerned with mental health. It is designed to reduce suicide through a positive public health approach. The target dates for implementing these goals and objectives started in 2010 with target dates of completion in 2012. See also the Suicide Prevention Resource Center and its Illinois page at [www.sprc.org/states/illinois](http://www.sprc.org/states/illinois) for more information on which goals in the Illinois Suicide Prevention Strategic Plan have been implemented. The Suicide Prevention Resource Center also had an awareness public prevention pilot program titled "It Only Takes One," available at: [www.itonlytakesone.org/](http://www.itonlytakesone.org/).

<sup>10</sup> Required by 105 ILCS 5/2-3.1663(d), amended by P.A.s 99-443 and 99-642.

<sup>11</sup> *Id.* See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Consult the board attorney about whether a signature is required to prove compliance with the law's specific requirement that *each school district employee and each student enrolled in the District* are informed of and/or provided a copy of the policy.

## Implementation

This policy shall be implemented in a manner consistent with State and federal laws, including the Children's Mental Health Act of 2003, 405 ILCS 49/, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

The District, Board, and its staff are protected from liability by the Local Governmental and Governmental Employees Tort Immunity Act. Services provided pursuant to this policy: (1) do not replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in suicide prevention, assessments and counseling services, (2) are strictly limited to the available resources within the District, (3) do not extend beyond the school day and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body. 13

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12 Id. Consult the board attorney about placing the policy in the student handbook instead of and/or in addition to providing a hard copy to each student's parent/guardian. Members of the Ill. Principals Assoc. (IPA) may subscribe to the IPA's Model Student Handbook Service, which are aligned with IASB's policy services. For more information, see: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

13 **Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act likely protects districts from liability for failure to properly identify and/or respond to a student's mental health issue that results in suicide. See 745 ILCS 10/3-108 and Grant v. Board of Trustees of Valley View School Dist. No. 365-U. 676 N.E.2d 705 286 Ill.App.3d 642 (Ill. App. 3d, 3rd Dist. 1997), appeal denied, 286 Ill. App. 3d 642 (Ill., 1997). However, attorneys have concerns that failing to inform parents/guardians that services required under *Ann Marie's Law* are limited may open districts to potential litigation if services provided under the policy fail or are deemed inadequate. Every situation is fact specific and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases (see discussions in f/ns 3 & 4) and ensuring other policies are followed. Ultimately, the best way to minimize liability is to be sure that the district's insurance policies cover the training and other requirements under Anne Marie's Law.

In addition to the Tort Immunity Act, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. See Sanford v. Stiles, 456 F.3d 298 (3d Cir., 2006); Martin v. Shawano-Gresham School Dist., 295 F.3d 701 (7th Cir., 2002), ~~Cert. Denied, 295 F.3d 70 (U.S. 2002)~~; Armijo v. Wagon Mount Public Schools, 159 F.3d 1253 (10th Cir., 1998). Yet, recent trends in student-on-student harassment cases are emerging where parents whose children die of suicide allege that a school's failure to properly identify or respond to the child's mental health issues was a contributing cause for the suicide.

In these cases, the parents ask courts to apply Davis v. Monroe County Board of Education, 526 U.S. 629 (1999), to *Section 504* cases. Under the *Davis standard*, parents must prove that: (1) their child was an individual with a disability; (2) their child was harassed based upon his or her disability; (3) the harassment was sufficiently severe or pervasive that it altered the condition of the child's education and created an abusive educational environment; (4) the school district knew about the harassment; and (5) the school district was deliberately indifferent to the harassment.

While not precedential in Illinois, two cases illustrate the uncertainty of liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student's mental health issues: Estate of Barnwell ex rel. Barnwell v. Watson, 44 Supp.3d 859 (E.D. Ark. 2014) (plaintiff parents allowed to move forward in litigation alleging that school district's *Section 504* failures contributed to their son's suicide) and Estate of Lance v. Lewisville Independent School Dist., 743 F.3d 982 (5<sup>th</sup> Cir. 2014) (found in favor of the school district).

LEGAL REF.: 105 ILCS 5/2-3.16~~63~~, 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b.  
745 ILCS 10/.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:120 (Education of Children with Disabilities), 6:270 (Guidance and Counseling Program), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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