

Dear Colleagues:

As a Jesuit institution of higher education, our profession - and our mission - calls us to care for all our students and particularly those who may be in distress. We have created resources on campus - including the CARE Team, the Class Deans, the College Chaplains, and other support services - who serve to identify and support students of concern. Through these programs, we endeavor to identify students experiencing suicidality and connect them with the appropriate resources. Recognizing and caring for students in distress is our professional responsibility.

In May 2018, a Massachusetts court formally codified this responsibility. In *Nguyen v. MIT*, the Massachusetts Supreme Judicial Court recognized that colleges and universities have a limited duty of care to prevent a student's death by suicide. This case created new law in Massachusetts that colleges and universities must follow. The good news is that this legal regulation is consistent with what we want faculty and staff to do when they become aware of a student who may be suicidal.

The attached FAQ outlines the information regarding this case, the new limited duty of care of colleges and universities to prevent student deaths by suicide, the factors that trigger the limited duty, and how those institutions must respond once the duty is triggered. It also attempts to clarify other questions directly or indirectly related to the case.

I thank you for your attention to this matter and invite you to follow up with any questions or concerns.

Additional contact information:

- Chair of CARE: Paul Irish, Assoc. Dean of Students, [pirish@holycross.edu](mailto:pirish@holycross.edu) / 508-793-2669
- Department of Public Safety (DPS) 508-793-2222
- Report a Concern online form: [www.holycross.edu/reportaconcern](http://www.holycross.edu/reportaconcern).

Sincerely,

Denielle

Denielle Burl, J.D.  
Chief Risk and Compliance Officer,  
Chair, Threat Assessment Group

## **STUDENT SUICIDE REPORTING PROTOCOL**

### **FREQUENTLY ASKED QUESTIONS**

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#### **I. Contact Information**

You will need the following contact information to comply with this protocol:

- Chair of the CARE Team: Paul Irish, Associate Dean of Students, [pirish@holycross.edu](mailto:pirish@holycross.edu) / 508-793-2669
- Department of Public Safety (DPS) 508-793-2222
- Report a Concern online form: [www.holycross.edu/reportaconcern](http://www.holycross.edu/reportaconcern).

#### **II. Questions Regarding the Student Suicide Protocol**

##### **Q: What does this case require?**

A: As a result of this case, college employees in Massachusetts have the following new reporting obligation:

When you learn of:

- A student's suicide attempt while enrolled at the College or recently (within a year) before matriculation (whether during vacation, summer, leave, study-abroad, suspension, or on or off campus) or
- A student's stated plans or intentions to attempt suicide (as distinguished from generalized statements about suicidal thoughts)

You must notify immediately:

1. The Department of Public Safety (508) 793-2222 or call 911 off campus immediately if you believe an emergency situation exists, or
2. The chair of the CARE Team, Paul Irish, Associate Dean of Students, in a non-emergency situation.

When reporting to the chair, you may cc the student's Class Dean to expedite communication and coordination of care. However, any time a student is referred to the the CARE Team, the student's class dean will be notified and involved.

*You do not have an obligation to assess or probe the student for further information.*

**Q: How does this change what we've always done?**

A: Our expectation is that this response is consistent with how faculty and staff have responded to issues of student suicidality in the past. When dealing with student suicidality, whereas faculty may have previously contacted the Class Dean, now they are to contact the chair of the CARE Team (at which point they can include the Class Dean). We discuss the reasons for this below.

**iii. Interpreting / Applying The Protocol**

**Q: How do I distinguish between “stated plans or intentions” to attempt suicide and “generalized statements” about suicide?**

A: Although this question is a good one, the challenge with this question is that it starts to move into *assessing* whether or not - or the degree to which - a student may pose a threat to themselves.

Instead, we provide the following framework: If, at any point, you become aware of information that meets the criteria outlined above, you are required to notify either DPS or the chair of the CARE Team, accordingly. If you're not sure, please report the situation to a member of the CARE Team, for example the student's class dean.

The default should always be to report concerning behavior.

**Q: When I encounter a situation, should I try to probe further?**

A: Faculty members do not need to probe further. If a student makes a straightforward disclosure, you are to contact the chair of the CARE Team (or DPS in an emergency). If a faculty member is not sure whether a disclosure is reportable, we encourage you to contact the chair of the CARE Team (or DPS in an emergency). When so communicating, you may copy in or include the student's Class Dean.

**Q: Can a faculty member be trained to assess suicide risk?**

A: No. Assessing the risk of suicide is extremely difficult. While revealing concrete plans to attempt suicide is a warning sign, it is not the only warning sign. In addition, some people who plan to attempt suicide will try to hide their plans and will not be forthcoming when asked directly. Suicidal behavior is a complex mental health issue that is best managed by trained experts.

**Q: If a faculty member either holds a degree in psychiatry, psychology, counseling or a related field or is a clinician in some capacity outside the College, should the faculty member exercise their professional judgment in making the determination?**

A: As faculty members are not employed as medical professionals or clinicians by the College, the College does not expect those faculty members make a clinical decision or assessment prior to reporting. In fact, there are ethical and legal contraindications to functioning in a clinical role when not employed by the college in such a role. Therefore, faculty are to rely upon the criteria identified above to determine whether to report an issue.

**Q: May I consult with one of these credentialed faculty members for advice regarding my suicidal student? They likely have expertise that would be helpful.**

A: This would not be appropriate. Although they may have expertise related to mental health, these faculty members are not treating your student. Therefore, it would be unethical for them to provide professional advice on that student. By insisting that they do so, you are asking them to jeopardize their professional ethics, which puts them in the difficult position of risking the collegial relationship or potentially violating their ethical obligations.

**Q: What if the student has asked me to keep the matter confidential?**

A: We recognize that this is a difficult issue. Unless protected in your role at the College by state licensing laws governing confidentiality, it is more appropriate to talk with students about your ability to maintain privacy and discretion, as warranted, while also fulfilling your responsibilities at the college.

#### **iv. Questions On The College's Response / Other Resources**

**Q: If the Class Dean serves as the faculty's liaison to CARE, why aren't we contacting the Class Dean?**

A: As we seek to comply with this new legal mandate, we would like all reports to fall to one individual who has received training on this requirement and can coordinate information and referrals. That person is the chair of the CARE Team, who will work closely with each Class Dean to coordinate and provide appropriate resources.

You may include the Class Dean in any communication to the chair of the CARE Team, which may expedite communication and coordination of services.

**Q: What will the College do if it receives a report that may trigger its duty of care?**

A: The College, through the CARE Team, first will assess the report and then will take reasonable measures to address the situation. If the duty is triggered, the CARE Team will use its suicide prevention

protocol. In emergency situations, the Department of Public Safety (or emergency responders off campus) will be contacted.

**Q: How do I refer a student according to the suicide protocol?**

A: The best practice is to contact the chair of the CARE Team (Paul Irish, Associate Dean of Students, [pirish@holycross.edu](mailto:pirish@holycross.edu) / 508.793.2669) directly. You may also use the [www.holycross.edu/reportaconcern](http://www.holycross.edu/reportaconcern) form. If there is an immediate emergency or threat, please call public safety at x2222 if on campus or 911 off campus.

**Q: May I refer a student to Counseling Services directly?**

A: Yes, but you must also contact the chair of the CARE Team. Due to confidentiality laws, the Counseling Center clinicians will typically only be able to share information with the CARE Team about a client if the client gives permission.

Whereas the Counseling Center provides support directly to the student of concern, the CARE Team connects with other individuals throughout the College to understand how the student is showing up in other arenas and how best the College as whole can support that student.

Whenever the CARE Team is contacted, a professional Counseling Center staff member who is on the CARE Team will help assess student needs.

**Q: What are the hours of the Counseling Center?**

A: Students can make an appointment by calling or visiting the Counseling Center, Monday through Friday from 9:00 a.m. - 12:00 noon and 1:00 - 5:00 p.m.

For urgent situations in which a student needs to be seen the same day, the Counseling Center maintains Urgent Care Services on Monday - Friday at 10:00 a.m. and 3 p.m. A student just needs to arrive at the Counseling Center at either 10 a.m. or 3 p.m. in order to meet with a clinician.

For psychological crises that occur after hours when the Counseling Center is closed, an on-call crisis counselor can be reached by calling the Counseling Center (508-793-3363) and following the prompts.

**Q: Who do I contact in the event of an emergency?**

A: If there is an immediate emergency or threat, please call Public Safety at x2222 if on campus or 9-1-1 off campus.

**Q: Are there other instances in which faculty should refer students to the CARE Team?**

A: Yes. The purpose of the CARE Team is to coordinate campus resources to provide support and assistance to *students of concern*, those students experiencing significant emotional distress. At any time

you become aware of a student who may be experiencing such distress, please refer that student to the CARE Team, either through the student's class dean, the chair of the CARE Team, or the online reporting form at [www.holycross.edu/reportaconcern](http://www.holycross.edu/reportaconcern).

**Q: I don't feel like I have the training to meet my obligation here.**

A: We appreciate that although their intentions were good, the Supreme Judicial Court's guidance may not be as clear cut in practice as perhaps the court thought it would be. As our colleagues have noted, disclosures about suicidality, non-suicidal self-injury, and related phenomena are extremely complex and involve specialty training at the graduate level to navigate. In recognition of this, we offer the following bright-line rule: If a student makes a straightforward disclosure, you are to contact the chair of the CARE Team (or DPS in an emergency). If you are not sure whether a disclosure is reportable, you are not required to obtain any additional information from the student, but are encouraged to contact the chair of the CARE Team (or DPS in an emergency).

For more information about responding to students in distress, please see the [Faculty and Staff Guide for Responding to Students in Distress](#).

## V. Questions About The Case

**Q: Where can I read the case?**

A: The case, Nguyen v. MIT, is available at:  
<https://law.justia.com/cases/massachusetts/supreme-court/2018/sjc-12329.html>.

We also liked the article, "What the State Supreme Court Decision about a Suicide at MIT Means" by Boston Magazine, available at  
<https://www.bostonmagazine.com/education/2018/05/08/mit-suicide-lawsuit/>.

**Q: What happened in that case?**

A: Han Nguyen's family sued MIT, as well as two professors (Birger Wernerfelt and Drazen Prelec) and an assistant dean (David Randall) after Nguyen, a 25 year old Ph.D. candidate in MIT's graduate marketing program, jumped to his death from a MIT building. His family argued that MIT, Wernerfelt, Prelec and Randall were each negligent in failing to prevent Nguyen's death by suicide.

With respect to the MIT faculty member defendants, the family believed that because the professors (Wernerfelt and Prelect) (a) knew that Nguyen was having serious issues and seeing a psychiatrist, (b) thought Nguyen was at risk, and (c) had communications with Nguyen that were upsetting to Nguyen (including immediately prior to his death by suicide), the professors were negligent in not having prevented Nguyen's death by suicide and sued them as individual defendants (i.e., as well as MIT).

The questions before the court were (1) is there a duty of care to prevent a student's death by suicide and (2) if so, what are the parameters of the duty of care to prevent a student's death by suicide.

The court determined that under limited circumstances a college or university employee has a duty of care to take reasonable measures to prevent student suicide. However, the court determined that, in this case, neither MIT nor the individual professors or dean were liable for the student's suicide because the circumstances triggering the duty of care were not met.

**Q: How does a case create a “law”?**

A: There are three sources of law: the constitution, statutes (federal and state rules we ordinarily envision when we think of laws), and case law. Case law is judge-made law that comes from legal decisions. Another example of case law is the Supreme Court case, *Brown vs. Board of Education*, in which the Supreme Court determined that racial segregation of children in public schools is illegal under U.S. laws.

**Q: Who may I call if I have any further questions about this?**

A: You may contact [Paul Irish](#), Associate Dean of Students and the Chair of the CARE Team, or [Denielle Burl](#), Chief Compliance Officer.