

# Threat and Suicide Assessments Legal Implications and Best Practices



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Colorado law requires that schools prioritize school safety, going as far, even, as to require that every school board adopt a mission statement that specifically includes making student and staff safety a priority (22-32-109.1(1.5), C.R.S.). It is true that effective learning and teaching take place in safe, secure, and welcoming environments, and that safe schools contribute to improved attendance, increased student engagement, and community support. Further, schools in Colorado have a legally imposed “duty of care” over the faculty, staff, and students in their buildings. The [Claire Davis School Safety Act](#) (24-10-106.3, C.R.S.) imposes a limited waiver of sovereign immunity for a school that fails to exercise “reasonable care” to protect all students, faculty, and staff from “reasonably foreseeable” acts of violence that occur at school or at a school-sponsored activity. Although “reasonable care” is not defined in state law or by the courts, experts suggest this includes: compliance with the [Colorado Safe Schools Act](#) and procedures for threat and suicide assessments.

CSI schools should have threat and suicide assessment procedures in place to: identify students of concern, accurately assess for risk of a carried-out threat, mitigate harm, and build a plan to support the student. The following Q&A provides brief answers to common questions regarding school threat and suicide assessments. Although additional resources were consulted, the information provided relies heavily on the following two resources for “best practice” recommendations: [Enhancing School Safety Using a Threat Assessment Model](#) (United States Secret Services National Threat Assessment Center, 2018) and [Essentials of School Threat Assessment: Preventing Targeted School Violence](#) (Colorado School Safety Resource Center, 2020). The guidance is not to be construed as legal advice, though legal citations are included where applicable. Legal advice regarding any issue should be obtained from your own attorney.

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## Personnel and Training

### 1. Who can complete the assessments and how many trained staff should be present?

The Assessment Team (also known as the “Threat Assessment Team” or “Crisis Response Team”) is responsible for directing, managing, and documenting the threat assessment process. A school may choose to designate Assessment Team members in a school board-approved Threat Assessment Policy or in a school’s Threat Assessment or Targeted Violence Prevention Plan (see #18 below). Though the composition of the Assessment Team is not defined in state law, it is considered best practice to establish a multi-disciplinary Assessment Team consisting of administrators, staff, coaches, school mental health workers, etc. It is suggested that the team consist of no less than three members, with one acting as the central point of contact. Best practice is to have at least two trained staff conduct the initial screen, and at least three trained staff conduct the threat assessment.

If it is determined that a suicide assessment is needed, school mental health workers (broadly defined as school psychologists, social workers and counselors) who have received training in suicide assessment must be present<sup>1</sup>. Best practice is to have two trained mental health workers conduct the suicide assessment. If two trained mental health workers are not available, the assessment should instead be conducted by one trained mental health worker and one non-mental health (but trained) staff person. When only one trained mental health worker is present for an assessment, he/she should confer with another mental health worker from a neighboring school or consult with the community mental health center’s trained and licensed staff to be sure all necessary steps have been taken. If no trained mental health worker is available for an assessment, then 911 must be called.

### 2. What training is required, for whom and how often?

Though Assessment Team training requirements are not outlined in state law, it is recommended that Assessment Team members receive annual training about the school’s threat assessment and safety planning procedures and that the training include opportunities to reflect on best practices and lessons learned (tabletop/experiential exercises). Suicide assessments should be conducted by at least two mental health workers who have received training in suicide assessment (see #1 for exceptions).

Training in recognizing and reporting behaviors of concern should also be offered more generally to the school community, including staff, students and parents. Specifically, CSI’s [Safe Schools Policy](#) requires:

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<sup>1</sup> Although mental health workers can complete an assessment, schools are not absolved of their responsibility to hire CDE-licensed mental health clinicians to carry out individual duties in accordance with 1 CCR 301-101.

- training programs for staff and students in crisis prevention and management;
- training programs for staff and students in how to recognize and respond to behavior or other information that may indicate impending violence or other safety problems;
- training and support for students that aims to relieve the fear, embarrassment, and peer pressure associated with reporting behavior that may indicate impending violence or other safety problems; and
- procedures for safe, confidential reporting of security and safety concerns at each school building.

Schools should create a schedule so that trainings for staff, students, and parents are conducted at regular intervals. The frequency and method of delivery will vary according to the stakeholder group.

## Timing, Removal and Assessment Process

### 3. How soon after knowing information that a student might be at risk must we complete an assessment?

Schools should act quickly and decisively in response to reports received. Law enforcement should be contacted immediately if the student poses an immediate and identifiable threat to him/herself or others. **This is a crisis response, and additional questions via a screen or assessment will not change the threat level.** If there is not a perceived immediate threat, the school should complete a brief initial screening to determine if a full threat assessment is warranted. If the initial screening indicates that the student poses—or may pose—a safety risk, a full threat assessment should be conducted. The Assessment Team should be engaged soon after a student is flagged so that the team can work quickly to assess risk and identify strategies and supports to manage the risk. The team should engage law enforcement if at any time information suggests the need for law enforcement assistance and may otherwise choose to engage law enforcement when additional support is needed (e.g., to support with interviews, searches, welfare checks, etc.). If it is determined that a suicide assessment is warranted, the team should engage a trained clinician without delay.

### 4. Can schools conduct a threat or suicide assessment without parental/guardian permission?

Yes. State law permits schools to administer a threat and/or suicide assessment without consent of a parent or legal guardian (22-1-123(5)(g), C.R.S.). However, the parent/legal guardian(s) should be consulted and interviewed when it is determined appropriate by the Assessment Team, unless this contact is determined to be unsafe for the student. Parents should not be required to attend the assessment meeting and

schools should comply with a parent's request to obtain a copy of the assessment or assessment summary document.

## 5. When can/should the student be removed from school grounds?

Depending on the severity of the concern, a student may be “immediately and safely contained until safety procedures are initiated and the assessment process is activated.”<sup>2</sup> A school may choose to request that a parent/guardian assist with removing the student from school grounds (including transporting the student to a hospital) or request law enforcement support. Parents cannot deny a school's right to remove a threatening student from school grounds. A student may be required to remain off school grounds while the threat and/or suicide assessment is conducted.

## 6. What kind of information can a school gather during an assessment?

Schools may review school records (see #17 below), conduct student, parent/guardian, outside practitioner, and witness interviews, view a student's internet and social media history, lockers and/or personal belongings may be searched, but should be done in accordance with the school's search policy. If law enforcement personnel are called to the student's home, areas of the home may also be searched. Schools should seek to build rapport with the student as feasible and engage the student in the assessment process unless it is unsafe to do so.

*Pointer: Be careful of conducting assessments of media content only. A referral for a full threat or suicide assessment based on insular information that a student watches a certain television show, plays a certain video game or listens to certain music might be considered overreach. Use this information as opportunities to build relationships and connect with students. Do not ignore information you are provided and use it to respond with commensurate support.*

## 7. How can a school personnel develop rapport in the assessment process?

Try starting out with some questions such as:

- It seems like you're having a hard time [lately/today], what's been going on?
- If the student did not present to seeking help on their own, you can ask, Do you have any understanding of why we're meeting together or do you know why your friends or your teachers are concerned about you right now?
- Help me understand what you're going through right now.
- Do you foresee any changes that could make this situation better? Worse?

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<sup>2</sup> *Essentials of School Threat Assessment: Preventing Targeted School Violence*. Threat Assessment Work Group of the Colorado School Safety Resource Center, Apr. 2020, [https://cdpsdocs.state.co.us/safeschools/CSSRC%20Documents/CSSRC\\_Essentials\\_of\\_TA\\_2020.pdf](https://cdpsdocs.state.co.us/safeschools/CSSRC%20Documents/CSSRC_Essentials_of_TA_2020.pdf). (P. 14).

## 8. What is the role of responding to self-harm in an assessment?

Although students who are describing suicidal ideation should be asked about self-harm, and students who have identified self-harm behaviors should be queried about suicidal ideation, it is important to note that self-harm behavior does not equate to suicidal risk. School personnel should provide validation and safety, and react appropriately. At no time should a student be allowed to have devices to self-harm on school property, and measures should be taken to secure items students can self-injure with. If self-harm is noted and needs medical attention, the school nurse should be notified for appropriate treatment.

## 9. How might assessment procedures interact with suspension/expulsion decisions?

Though a successful threat assessment should improve the school's connection with the student and discourage suspension/expulsion, suspension/expulsion procedures may commence for certain offenses in alignment with the school [Suspension/Expulsion Policy](#) and Colorado law (22-33-106, C.R.S.). This may be determined prior to or as a result of the assessment.

*Pointer: The act of conducting a threat or suicide assessment should not be disciplinary in tone. Schools should not punish students for having suicidal or threat ideation. The intent should be to provide the student the appropriate level and direction of resources in response to his/her need. The tone and approach should be supportive, based in relationship-building and strengths-based, rather than punitive or condescending. If a school punishes students for their thoughts, the school risks the students not talking about them at all.*

## Support Plan, Re-entry and Readmittance

## 10. When should we create a Support Plan for a student? How do we taper a student off the plan?

Once a screening or assessment is complete and any immediate safety risks are addressed, it is suggested that the Crisis Response Team create a Support Plan to reduce the student's risk of engaging in violent or suicidal behavior (if such risk is identified) and identify appropriate supports and resources for the student (e.g., peer support groups, counseling, life skills classes, tutoring, mental health care). A Support Plan should be developed for medium-risk students and upon re-entry of high-risk students and may also be developed for students identified as lower risk. The Crisis Response Team may need to access community resources when a service needed is not available within the school building. The Support Plan should remain in place until the Crisis Response Team is no longer concerned about the student or the risk of violence towards themselves or others.

## 11. What must take place for a student's re-entry?

A re-entry meeting—or a meeting intended to prepare the student for his/her return to school—should be required for any student who is out of school for any length of time. The meeting should take place after the student has been assessed by the Assessment Team and the student and the parent/guardian have been advised of the Support Plan (where applicable). The Assessment Team must provide the parent/guardian with the meeting details including meeting expectations and the date, time, and location of the meeting and should make every effort to include the parent in the meeting.

## 12. What is required for the readmittance of a student who was suspended or expelled and offered readmittance through appeal?

A school may determine under certain circumstances that a suspension or expulsion is most appropriate for the student. When this occurs, the school [Suspension/Expulsion Policy](#) for the hearing, appeal and readmittance procedures (where applicable) should be followed in alignment with 22-33-105, C.R.S. Students who are suspended or expelled and offered readmittance through appeal must have a re-entry meeting as described in #11 above.

## Documentation

## 13. What are the requirements for record-keeping and records retention?

Assessment Teams should use standard forms and templates to assist with the record-keeping process and have procedures in place to help with tracking and storing the information collected (e.g., initial report(s), behavior(s) of concern, inquiry process, actions taken, basis for a determination, etc.). Records should be saved and archived in accordance with any applicable school policies, which should align with the [Colorado School District Records Management Manual](#). Specifically:

- When a student is disciplined or temporarily suspended and returned to school with no further rules infractions, records should be retained for three years; and
- When a student is suspended and subsequently expelled permanently, records should be transferred to the Student Permanent Record File and retained until student reaches the age of 21.

## 14. What information should be shared when a student transfers schools?

The [Colorado Attorney General's Office](#) recommends that when a student transfers to another school, the school of origin take reasonable steps to forward the student's behavioral reports, threat assessments, Support Plan and discipline records to the new school, and the new school take reasonable steps to obtain academic and behavioral records from the school of origin. If the information is not collected at the time of a student transfer, an Assessment Team can request this information as part of the Assessment process.

## Disclosure Under FERPA

### 15. What can be shared under FERPA?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student “education records” and governs how, and to whom, those records are shared. School personnel should be trained in FERPA so that they understand what information is subject to FERPA privacy restrictions, what information is *not* subject to FERPA privacy restrictions, and what exceptions exist where school safety is of concern. Specifically, the [Colorado Attorney General’s Office](#) has clarified that educators may share the following information, which is not considered an “educational record” under FERPA, with other educators and with law enforcement:

- observations and other personal knowledge about a student’s behavior;
- reports, whether written or spoken, about a student from a student’s friends or peers;
- threats of violence or other information shared on social media platforms; and
- records created and kept by school security personnel.

Educators may also share educational records without parental consent under two FERPA exceptions relevant here:

- Under FERPA’s “**emergency exception**”, school officials may disclose educational records “to appropriate persons” to respond to a health and safety emergency. This includes disclosure to those responsible for providing protection (e.g., law enforcement) and to those who may have information necessary to provide protection (e.g., administrators, school staff, current or former peers, mental health professionals, potential victim or parents of potential victim). The [Colorado Attorney General’s Office](#) has clarified that schools should not “adopt an overly restrictive approach to determining what qualifies as an ‘emergency’ [...and] should not delay disclosure until an emergency has materialized.” An emergency “may arise not just from an immediate, ongoing incident, but from less immediate urgent circumstances, such as a change in a student’s behavior.” The Colorado Attorney General’s Office urges educators to “err on the side of safety. Neither a school nor a school employee can be sued for claimed violations of FERPA.”
- Under FERPA’s “**school official exception**”, school officials may disclose educational records with school staff who have a “legitimate educational interest in the information” (including security personnel and Assessment Team members). Information about who qualifies as a “school official” should be provided to parents in the school’s Annual Notification of Rights.



## 16. What are the limits of confidentiality for licensed clinicians in school settings?

Health records in a school's possession are education records subject to FERPA. They are not subject to federal medical privacy laws (specifically, the federal Health Insurance Portability and Accountability Act, or "HIPAA"). As such, medical "treatment records may be disclosed to any party, without consent, as long as the disclosure meets one of the exceptions to FERPA's general consent rule<sup>3</sup>. School personnel and individuals contracted by the school to provide services such as counseling or therapy as part of a student's educational programming "should not promise students confidentiality nor should they allow confidentiality to create a barrier to sharing important information *related to the safety of the student or others*."<sup>4</sup>

Even mental health providers in private practice are permitted in Colorado law to share confidential communications made by clients "when a client, regardless of age, makes an articulable and significant threat against a school or the occupants of a school; or exhibits behaviors that [creates...] an articulable and significant threat to the health or safety of students, teachers, administrators, or other school personnel." The medical health provider must "limit the disclosure to appropriate school personnel and law enforcement agencies." School personnel to whom the information is disclosed should maintain the confidentiality of the disclosed information except when the disclosure is necessary to protect the health or safety of students or other individuals (12-43-218, C.R.S.).

## 17. Can the Assessment Team obtain a student's educational, medical and/or law enforcement records to support an assessment?

The [Colorado Attorney General's Office](#) has clarified that Assessment Team members are considered "school officials" with a "legitimate educational interest" under FERPA and may receive educational records—including medical records in the school's possession—to support an assessment. Under Colorado law, schools may also obtain information from law enforcement and criminal justice agencies, except medical and mental health records, relating to an incident that "rises to the level of a public safety concern" and may further obtain juvenile delinquency, arrest and probation records (19-1-302 et. seq., C.R.S). Relatedly, Colorado law allows for the "reciprocal sharing of information" between schools and state agencies in juvenile delinquency and neglect cases, and further requires schools to share disciplinary and truancy information with a criminal justice agency upon request when an agency is investigating a criminal case or truancy matter (19-1-303, C.R.S).

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<sup>3</sup> U.S. Department of Education., *Addressing Emergencies on Campus*. U.S. Department of Education, 2011, [https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/emergency-guidance.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/emergency-guidance.pdf). (p.11).

<sup>4</sup> Goodrum, Ph.D., Sarah, and William Woodward, M.P.A. *Colorado School Safety Guide*. Colorado Attorney General, 2019, [https://coag.gov/app/uploads/2019/10/coloradoag\\_schoolsafetyguide\\_final\\_electronic\\_v2.pdf](https://coag.gov/app/uploads/2019/10/coloradoag_schoolsafetyguide_final_electronic_v2.pdf). (p. 24)

## Mitigating Risk

### 18. What can we do to ensure we have a plan and procedures in place to identify students of concern, accurately assess for risk, mitigate harm, and build a plan to support the student?

Though not required, CSI Schools governing boards can adopt a Threat Assessment Policy that:

- authorizes school officials to conduct a threat assessment;
- establishes Assessment Team roles and responsibilities;
- establishes community partnerships;
- includes practices for maintaining documentation; and
- requires awareness training for staff and students.

Schools may also or instead choose to provide this information in a Threat Assessment or Targeted Violence Prevention Plan, which could be included as a component of the Emergency Operations Plan (EOP).

### 19. Are there other things we should do to mitigate our risk for threatening/homicidal students?

Schools that wish to mitigate their liability will integrate best practices for positive school climate as a preventive measure. This includes developing and sustaining evidenced-based, high quality Tier I supports such as embedding SEL curricula across all grade levels, establishing impactful restorative practices, ensuring clear norms and expectations in each classroom that are reflected in the mission and values of the school and regular, tiered professional development for students, staff and families on suicide, bystander and crisis prevention, intervention and response.

### 20. What research-informed threat and suicide assessment tools are available to our school?

The threat and suicide assessment tools a school selects should be determined as a team in consultation with your legal counsel. The [Colorado School Safety Resource Center](#) has developed research-informed tools for threat and suicide assessments and offers training on the tools at no cost to school personnel

## CONTACT INFORMATION

For additional questions, please contact the Legal and Policy Team at [LegalandPolicy\\_CSI@csi.state.co.us](mailto:LegalandPolicy_CSI@csi.state.co.us).