

**Your Mind. Your Rights.**



# **Campus Mental Health: Know Your Rights**

**A guide for students who want to seek help  
for mental illness or emotional distress**

**Leadership21 Committee  
Judge David L. Bazelon Center for Mental Health Law  
Washington DC  
2008**

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**Campus Mental Health: Know Your Rights** is a guide for college and university students regarding legal rights when seeking mental health services. It also explains what you can expect in your interactions with mental health service providers and school officials, and what obligations you might have.

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### **The Judge David L. Bazelon Center for Mental Health Law**

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# Campus Mental Health: Know Your Rights

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# **CAMPUS MENTAL HEALTH: KNOW YOUR RIGHTS!**

## **Introduction**

Though we don't know you, and we may never meet you, **Campus Mental Health: Know Your Rights!** was created with you in mind. As a committee of mental health advocates, we worked together to provide information to assist you in finding help and protecting your legal rights.

Some of us have had direct experience with mental health problems and know first-hand how little information is available that is tailored specifically to the needs of students like you.

If you or someone you love has a mental illness or is experiencing extreme emotional distress, we know that what you're going through right now may be difficult. Although mental illnesses are extremely challenging, they are treatable, and people recover every day. We hope the information in this guide will enable you to find and use mental health resources on your campus and to safeguard your rights.

## **YOU ARE NOT ALONE**

Many college-age students suffer from anxiety, depression and other mental health concerns. Anxiety is the issue most often mentioned by college students who visited campus mental health services. Students also named depression as one of the top ten impediments to academic performance as well as stress, sleep difficulties, relationship and family difficulties. In the 2016 National College Health Assessment, 38.2% of the 33,512 students surveyed reported they "felt so depressed it was difficult to function" during the past year, and 10.4% said that they had "seriously considered

suicide” during the year.

More than 80% of all college freshman report feeling overwhelmed a great deal of the time—college women, even more (about 90%). In 2016, more than 19% of college students reported experiencing an anxiety disorder within the previous year. While anxiety disorders are common among individuals of all genders, women are twice as likely to have them as men. Eating disorders affect 20 million women and 10 million men, with the highest rates occurring in college-age women. Ten percent of students reported experiencing an emotionally abusive relationship in the last school year.<sup>1</sup>

If you are experiencing depression, anxiety, mood swings, sleep disturbances, delusions or hallucinations, or if you feel overwhelmed, immobilized, hopeless or irritable, there is treatment that can help. You may also benefit from therapy to address common issues such as body image or low self-esteem, to help with a crisis involving your relationship or family, or if you are in the middle of a transition, such as beginning a new school. Students who seek treatment are not “weak” or “crazy.” Therapy is a hopeful and affirming act of caring for yourself.

Many people have written compelling accounts of their experiences with mental health issues.<sup>2</sup>

## SEEKING HELP

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### **What can I do? Where do I go? On campus or off?**

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You should know that, as a college student, it’s easier to get professional help now than it may be after you leave school. This doesn’t mean you won’t run into any problems, but now is the time to get help. You’ll find confidential on-campus resources at your school’s counseling center, health center and places like a Women’s Center, if there is one on your campus.

Students sometimes feel embarrassed or scared to seek help. Talking about your problems actually takes an immense amount of strength, but it’s important to move past the stigma surrounding mental health issues to get the help you need.

Often, the best place to start looking for help is your school’s counseling center. Visit its website or call its main number to find out what it can offer you. Most on-campus centers provide two to eight free visits, so you can use their confidential services free of charge.

Counseling centers can offer a range of services, from individual sessions with psychologists or social workers, to group sessions for

people who share a common issue (such as body-image issues, grief and loss, or academic anxiety), to sessions with psychiatrists. Since services vary campus to campus, your best bet is to find out exactly what your school offers.

If your school doesn't have a counseling center, check with the school's health center; mental health professionals may be able to see you there.

Campus counseling centers provide a very valuable service. In addition to asking about the services the counseling center can provide, you may want to ask about the confidentiality policy and other policies that may apply, such as leave of absence policies. You may also ask the counseling center or Dean of Students about school policies and practices. See pages 14-18 for more information.

You also want to look into what health insurance you have (if you have it) and what it covers. If you don't want to see a clinician on campus, or if the number of free visits your counseling center will allow you isn't enough, your insurance policy may dictate what outside options are available to you. Be aware that if you are on your parents' health insurance, they may learn that you are receiving treatment from the insurer. You may want to ask your insurance company about its billing practices. Even if you have no insurance, there are agencies in most communities that offer services on a sliding scale. You can find them listed under "counseling," "social service agencies" and similar categories. Many religious groups operate family service agencies that provide a range of counseling services.

If you choose not to seek services on campus, your school's counseling center can be a resource for referral to practitioners and programs off campus. You may end up seeing a psychologist, psychiatrist, or social worker in a private practice near your campus or in your hometown. You can also go to a family doctor to discuss your symptoms, though it is a good idea that you follow up with a mental health professional since a general practitioner is unlikely to be the most knowledgeable about mental health issues.

If your school participates in ULifeline, an online resource that provides information about mental health issues and professional resources on and around many campuses, you can get additional information at <http://www.ulifeline.org>. Your school may have other online services; be sure to check the school's website.

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## **What will happen when I call to make an appointment?**

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When you call to make an appointment at the counseling center, the

receptionist will likely take your name, address, student information (class year) and ask why you are calling. You may not be asked directly, but if you are experiencing an emergency, you should say so immediately so you get in to see a clinician as soon as possible.

If you are calling an off-campus resource, spend a few minutes talking with the clinician on the phone, ask about his or her philosophy and approach to working with patients, and whether or not he/she has a specialty or concentration. If you feel comfortable talking further to the counselor or doctor, then make an appointment. If you call a professional off campus you may not get a return call right away, particularly if you are a new patient.

Especially if using an off-campus or independent therapist, use this checklist as a guide to set your goals for a first conversation. Many of these questions will probably be covered without your asking, but if not, don't be afraid to ask.

- What academic qualifications and training have prepared you to practice as a therapist?
- What specialized training and/or experience have you had in working with the issue I am dealing with?
- What professional associations do you belong to?
- What are your fees? Can you accommodate me if I don't have insurance? Is any payment required at the time of the visit?
- How will my insurance claim be handled?
- What type of therapy do you do (e.g., mostly talking, medication, role-playing, visualizing, hypnosis, artwork, "body-work")?
- Can you prescribe medication? If not, what arrangement do you have for doing so?
- What are your office protocols (booking appointments, payment for missed appointments, emergencies, etc.)?
- Can you accommodate my academic or work schedule?
- Can you give me a brief explanation as to what I can expect to happen in my first session?

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### **What are the steps for choosing a therapist?**

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If you are using on-campus resources, you may be assigned to a specific clinician based on your intake interview and the strengths of your counseling center. Most people at campus counseling centers have experience and genuine interest in working with college students

and regularly work with students who are dealing with similar issues. You may be seen by a therapist in training.

Ask your counseling center if you have questions or concerns about the therapist's experience. If a specific characteristic in a therapist is important to you, such as gender, ethnicity, sexual orientation or age, let the counseling center know and they will likely do whatever they can to accommodate your requests.

If you are not using on-campus resources, the following steps adapted from an article by the National Alliance on Mental Illness entitled "Finding a Mental Health Professional" may be helpful:

1. You may want to see your primary care physician to rule out a physical cause of your problems. If your thyroid is "sluggish," for example, symptoms—such as loss of appetite and fatigue—could be mistaken for depression.
2. Once you know your problems are not the result of a physical condition, you should find out what the mental health coverage is under your insurance policy or through Medicaid/Medicare.
3. If possible, it may be helpful to get a couple of referrals (from your counseling center, friends, online) prior to making an appointment. If a particular characteristic, such as age, sex, race, or religion, is important to you, you may want to mention that when asking for referrals.
4. Be sure the psychotherapist takes a unique approach to your treatment and does not believe that what works for one individual will necessarily work for another.
5. An important element of successful therapy is rapport. After your first visit, reflect on how you feel about your therapist.

If you felt comfortable with the therapist, schedule another appointment.

If for any reason the match does not feel right, it is perfectly common to discuss these concerns openly with the therapist. And, of course, you may choose to call another mental health professional from your referral list and schedule another appointment.<sup>3</sup>

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### **What happens if I call, and they can't see me for two, three or four weeks?**

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If it's an emergency, you should tell the receptionist right away—just as you would when making a doctor's appointment for a physical health problem. If you say that it is an emergency, they can try to fit you in right away.

If it is not an emergency but you still don't feel comfortable waiting weeks until your first appointment, ask the person at the counseling center if they can notify you if an earlier appointment becomes available and if there are any other resources for you in the meantime—for example, a Women's Center, an appropriate person at the health center, or a peer group. Otherwise, you may want to seek off-campus treatment through a clinic or a therapist in private practice that would likely be able to see you earlier.

While it may be frustrating to have to wait, sometimes waiting is unavoidable because the counseling center cannot give you the time you need until they have an opening.

### **If you are in crisis and need immediate help:**

If you are contemplating hurting yourself or attempting suicide, tell someone who can help immediately:

- Call your doctor's office.
- Call 911.
- Go to the nearest hospital emergency room.
- Call the National Suicide Prevention Lifeline at 1-800-273-TALK (1-800-273-8255) to be connected to a trained counselor at a suicide crisis center, or visit <https://suicidepreventionlifeline.org/>. The toll-free numbers are available 24 hours a day. (Note that the goal of these hotlines is to keep callers safe. If hotline staff believe the caller's life is in danger, they may tell the police or emergency medical services.)<sup>4</sup>

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## **What will happen when I get there? What should I expect at my first visit? What's the first session like?**

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If you have never been in therapy before, then it is natural to feel a little nervous about what will happen. As a result, the first session can feel pretty intense. But it is a good opportunity for you to see whether you feel comfortable talking with a counselor and think you might benefit from further sessions on a regular basis.

When you get into the counseling center you will check in for your appointment just like at a doctor's office. They may have you fill out a form about family history, insurance, and why you are there, or they may just wait until you are seen by someone. The waiting room is pretty much just like every other doctor's office.

If you use off-campus services, you may be asked how you will finance the visit when you make the appointment. When you arrive, you will be asked for financial documentation, such as insurance cards, who is responsible for payments, etc. You may be given other documents, such as the therapist's privacy policy.

Your first session will be a time for the therapist to get to know you and your needs and begin to develop a plan to proceed. It can be a little more basic than later visits, which should be more therapeutic, though it can also feel very intense if it's the first time you are talking about disturbing issues.

Therapy is a long-term process, so don't expect an instant solution on the first day. The goal is to help you develop ways to deal with issues over the long term. The first visit will cover what difficulties you are having, any changes/symptoms in your life, any family history of these problems and whether you are using medication, drugs, alcohol, or smoking. The therapist may have time to ask about your childhood, education, relationships, current living situation and ability to function in school. The questions may seem invasive and uncomfortable, but remember that this is your therapist's chance to learn as much about you as possible to devise the absolute best treatment plan for you. If you feel uncomfortable answering a question honestly, let the therapist know; don't make up an answer—you will only be hurting yourself and your chances of dealing with the disorder or problem if you're not honest. You may also discuss length of treatment, methods the therapist will use, and patient confidentiality. At the end, the therapist may ask if you have any questions.

If the therapist believes you are experiencing a mental disorder, he or she may ask you to complete a questionnaire to determine what disorder you are experiencing. This is normal and mental health professionals use these questionnaires routinely. Afterwards, the therapist may give you a tentative diagnosis. If so, the therapist will discuss treatment options and may recommend medication or ask you to speak with a psychiatrist, who may recommend medication (with rare exceptions, only psychiatrists and doctors may prescribe medication). You have a right to full explanation of the diagnosis, prognosis, and nature and consequences of the proposed treatment, including risks, benefits, and alternatives. If you have questions or concerns, don't be afraid to ask.

What follows is a checklist of questions you will want answered during the first session. Many of these will probably be covered without your asking, but if not, don't be afraid to ask.

Frequently Asked Questions About Psychotherapy, Psychotherapy 101 Nancy Schimelpfening, <https://www.verywell.com/frequently-asked-questions-about-psychotherapy-1067416>

- Can you give me a brief explanation as to what I can expect to happen in subsequent sessions?
- How often will I have therapy sessions and how long will each session last?
- Do we agree on the goals of my treatment?
- How many sessions is it likely to take to resolve my issue?
- What should I do in case of an emergency?
- How will my confidentiality be assured? If seeing someone on campus, you may want to specifically ask about whether and under what circumstances information will be shared with your parents or the administration (e.g., the Dean of Students).

## Who is licensed to provide therapy?

Many types of mental health professionals are licensed to provide therapy. Finding the right one for you may require some research. The most common mental health professionals are psychiatrists, psychologists, clinical social workers, licensed professional counselors, mental health counselors, certified alcohol and drug abuse counselors, nurse psychotherapists, marital and family therapists, and pastoral counselors.

See Mental Health America for a list of the different types of mental health professionals and suggestions for choosing one. <http://www.mentalhealthamerica.net/types-mental-health-professionals> Mental Health America (formerly known as the National Mental Health Association), visited June 13, 2017

## What are the different types of therapy?

Common types of therapy include psychotherapy, cognitive behavioral therapy, family therapy, group therapy, psychoanalysis, and drug therapy. You should speak with your mental health professional to learn what may work best for you. There is no one way for everyone to deal with mental health issues.<sup>5</sup> See the box on the next page for a description of the different types of therapy.

Depending on the size of your school, your campus counseling or health center may provide brief individual, group, and couples psychotherapy as well as referrals for students. Long-term, open-ended psychotherapy and after-hours emergency services may or may not be available through the school. School counselors are likely available for consultation to both parents and students, either by phone or by appointment.

Parents may want to be involved if they have any questions about services offered, how to assist their child, or how to obtain specific services on campus or in the community. While parents may get information about services and may share information with the

Fact Sheet: Mental Illness and the Family, Mental Health America <http://www.mentalhealthamerica.net/finding-right-care>, visited June 13, 2017

counseling center, information about a student, including whether they have sought treatment, is confidential and will not be disclosed to parents without the student's consent, except in very limited circumstances. For more information, see the Privacy section below.

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## **What happens if I don't like my therapist?**

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You should feel comfortable with and respected by your therapist. If your first choice in a therapist isn't working out, you have the right to choose another one with whom you have better rapport. Remember, the therapist works for you and it's appropriate for you to express any discomfort you feel—in fact, talking it through may be an important part of your treatment. If you feel the therapist is not listening to your concerns or providing enough feedback, let him or her know. If it still isn't working for you, don't be afraid to change. Although it's not easy to end any relationship, it helps to remember that the therapist is a professional.

The best way to find a good therapist is by word of mouth. Satisfied customers say a lot about the kind of therapy you will receive. Of course a therapist who was right for someone else may not always be right for you. Although you might feel embarrassed to ask friends or family for a referral, you should consider doing it anyway. It increases the odds that you will find a therapist who will really help you.

## **PRIVACY**

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### **What are my rights to privacy?**

#### **Can a therapist share what I have said during therapy?**

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All mental health professionals, whether on or off campus, are ethically bound to keep what you say during therapy confidential unless you specifically authorize the mental health professional to release information about your diagnosis and treatment. Even so, therapists may be required

to take certain steps if they believe you might harm yourself or someone else. These steps could include sending you to a hospital or calling your parents. Also, your therapist may need to share with your insurer information about your diagnosis, treatment goals, and the anticipated length of your treatment. Some campus counselors report threats of self-injury or hospitalization to administration officials.<sup>6</sup> You have a right to know about confidentiality and how information may be shared. Ask your therapist about the limits of confidentiality and who can be notified without your permission. Some settings provide brochures describing privacy issues.

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### **Will my parents find out if I seek treatment?**

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School counseling centers and outside providers generally will not release your medical information—including to family, parents/legal guardians or faculty—without your written authorization. But there are practical issues. If your parents get insurance statements or bills related to your care, they will know you are seeing a therapist. Also, as noted above, disclosure without your consent is permitted to protect your safety and the safety of others.

School administrators, faculty, disability services coordinators, resident advisors, and other non-clinicians are bound by different confidentiality restrictions. If mental health information is reported to a school administrator or disability services coordinator (in the application process, as part of a request for accommodation, or by a mental health professional in an emergency), the school administrator may be able to share that information with individuals if the school determines that those individuals have a “legitimate educational interest” in the information, as defined by law.<sup>7</sup> Those individuals may include the academic deans, residential advisors, counselors, faculty, or student judicial services personnel. The school must provide annual notice to students of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest. School administrators and faculty may also share information that they personally observe. They may also share information from your educational records with your parents if you are a dependent for tax purposes.

The law in this area is complex. The federal Health Insurance Portability and Accountability Act (“HIPAA”),<sup>8</sup> Family Educational Rights and Privacy Act (“FERPA”),<sup>9</sup> Public Health Service Act, as well as various state laws may apply to your situation. In some circumstances, these laws may allow disclosure of information without your consent to other treatment

providers, payers of health care, other sources of financial assistance, public agencies that oversee treatment providers, and others. These laws may also allow disclosure when you are considered incapacitated.

If you believe that your privacy rights have been violated, you can file a grievance within the school or a complaint with the Department of Education, Family Policy Compliance Office, <http://www.ed.gov/policy/gen/guid/fpco/index.html>

Given this complexity, you should discuss confidentiality with your treatment provider to understand if, under what circumstances and with whom your information will be shared, and how you will be notified if information is being released.

## ACADEMIC ACCOMMODATIONS

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### **What accommodations can I get from the school? How and whom do I ask for accommodations?**

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Federal law provides that individuals with disabilities—in general, those with physical or mental impairments substantially limiting one or more major life activities—are entitled to academic accommodations and reasonable modifications in school policies. That means that once the school is aware of your disability, it must take reasonable steps to revise policies and practices that create obstacles for you because of your disability.

In general, if you have a mental health problem that substantially limits you in one or more major life activities (sleeping, working, learning, speaking, caring for yourself, etc.), even if these symptoms are controlled by medications or some other form of treatment, or a history of such a problem, you may be protected by the Americans with Disabilities Act (ADA). To comply with the ADA, schools must provide academic accommodations and make reasonable modifications to policies and rules when necessary to accommodate the needs of students with disabilities. Schools need not make such changes, however, if doing so would fundamentally alter their operations, waive essential academic and technical requirements or cause them undue financial burden.<sup>10</sup>

A school also cannot discriminate against a qualified student based on a disability—for example, by forcing a student to leave because of a mental health problem if the student meets the school's basic

academic and technical requirements. Depending on your needs, the first place to ask for accommodations is the office of your disability services coordinator on campus. They will be able to help you with housing, academics, and other accommodations you may need. If your campus doesn't have a disability services center, it will still have an individual named as disability services coordinator. Or you could check with your resident advisor, academic advisor, counseling center, health center, Dean of Students office, or housing services to see what types of accommodations are available and tell them the types of accommodations you need. Your request need not take any particular form, but it may be best to put the request in writing. You may be asked to provide a medical professional's statement about your disability, including the nature of the disability and how it affects your ability to participate in and benefit from the academic program, before receiving accommodations or modifications. You have a right to see what this statement says.

If you have trouble obtaining accommodations after contacting the appropriate people on campus, contact the local or state mental health department or a local chapter of the National Alliance on Mental Illness, Mental Health America or, if your campus has a chapter, Active Minds. Local Protection and Advocacy organizations (<http://www.ndrn.org>) may provide legal advice about whether you are protected by the ADA or similar state laws and what accommodations or modifications would be considered reasonable.

### **Academic accommodations**

Academic accommodations for people with disabilities vary according to an individual's particular needs, but include such measures as:

- ◆ Allowing additional time to complete exams.
- ◆ Providing a private environment or alternate location in which to take exams.
- ◆ Permitting students to use equipment to take exams (e.g., a word processor or a machine that enlarges print).
- ◆ Allowing students to audio record lectures.
- ◆ Providing modified deadlines for assignments.
- ◆ Reducing course load or providing alternate work assignments.
- ◆ Providing preferential classroom seating.
- ◆ Providing early availability of syllabus and textbooks.
- ◆ Providing transportation services.
- ◆ Providing access to extracurricular programs.

- ◆ Providing orientation to campus facilities.
- ◆ Allowing excused absences.
- ◆ Allowing the student to postpone assignments and exams.
- ◆ Allowing the student to work from home.
- ◆ Allowing the student to drop courses.
- ◆ Allowing the student to change roommates or rooms.
- ◆ Allowing an aide or helper to stay in the student's room.
- ◆ Providing retroactive withdrawals from courses if academic difficulties were due to depression or another mental health condition.
- ◆ Providing a leave of absence.

Check with your school to see if these accommodations are available. At most schools, these services are standard and you shouldn't be afraid to ask for them. You will likely be asked to provide a mental health professional's explanation of why the accommodation is needed. If the school disagrees, it may request additional documentation or an independent assessment. If the school does not provide a needed accommodation, you have a right to file a grievance or a complaint with the Department of Education's Office for Civil Rights (see Resources on page 25).<sup>11</sup>

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### **What can I expect from my school?**

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Universities and colleges should offer the following:

- ◆ Access to an environment that is civil and non-discriminatory for study, work and day-to-day living, and
- ◆ Equal access to all university-sponsored programs, activities and benefits in the most integrated setting, meaning classes, activities and living arrangements within the general student population rather than those that are separate for students with disabilities.

If you have a documented disability—whether you are an undergraduate or graduate student, full- or part-time, in a degree or non-degree program, enrolled in credit or noncredit courses—you are eligible for services through the school's office of disability services or its equivalent. Your school should inform all students of the identity of the disability services coordinator and the location of a disability services office if there is one.

All schools that receive federal funds (or enroll students who receive

federal funds) must have a disability compliance officer who is responsible for handling grievances involving disability-based complaints. The school must also have disability grievance procedures that provide due process protections—notice, an opportunity to present information on your behalf and an opportunity to appeal—and must provide for prompt resolution of complaints. Contact information for the disability services coordinator and the disability grievance procedure should be in your school handbook or code of conduct.

Your school officials should provide an environment conducive to your mental health. This includes working to reduce stigma and discrimination; training staff to better recognize warning signs and assist students with mental illnesses; reducing barriers to mental health services; adequately staffing the mental health or counseling center; and maintaining active relationships with providers in the community who offer care to students. The school should appoint an individual and implement a coordinating group with the responsibility and authority to work toward these goals.

As a concerned college student, you should ask these questions of your Dean of Students or the director of the counseling center:

- Have staff and faculty received adequate training to identify and provide support for students who have mental illnesses or are experiencing extreme emotional distress?
- Are mental health services adequately available on your campus?
- Are support services available to families of students who are receiving mental health services?
- Have students received training and information about how to recognize warning signs in themselves or others?
- Does your college or university maintain relationships with available mental health providers in the community?
- Is there an adequate crisis management plan in place for students and staff to deal with a suicide or traumatic event?
- What are the school's policies regarding voluntary and involuntary leaves of absence, involuntary leaves of absence and confidentiality?

All students have a right to review and inspect their educational records. The educational record includes academic records as well as those in the offices of the registrar, residential life and student judicial services, among others. A request must be in writing and may need to be directed to multiple departments. The school handbook should instruct you how to request your records. The school must respond to a request for records within 45 days and may charge a fee for copies.

If the record contains information that is inaccurate, misleading or in violation of your privacy rights, you have a right to request that the school amend its records. If the school does not do so, you have a right to a formal hearing. If, after the hearing, the school does not amend the record, you have the right to place a statement in your educational record about the inaccurate information.

If you believe your school has discriminated against you, you can file a grievance with the school disability compliance officer. You can also file a complaint with the Department of Education's Office for Civil Rights at <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> (see the Resources section on page 25).

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## How do I generate awareness?

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You have an opportunity to take an active role in reducing the stigma of mental illness by generating awareness on your campus. One way is to engage your student peers to team up with the school's campus counseling services, disability services coordinator, office of student affairs or office of diversity to increase understanding of mental health problems and the importance of good mental health. Orientation, May (Mental Health Month) and the first week in October (Mental Illness Awareness Week) present particularly good opportunities to talk about these issues on campus. Some ideas for generating awareness may include:

- ◆ hanging signs about mental health problems and support services;
- ◆ presenting about these issues to classes or groups;
- ◆ organizing mental health information for student orientation sessions;
- ◆ using the media (internet, newsletters, etc.) to get the word out;
- ◆ organizing training opportunities for staff and students;
- ◆ showing relevant movies;
- ◆ offering free mental health screening;
- ◆ organizing an event such as a walk or benefit concert supporting this topic; or
- ◆ establishing a formal mental health-related student group/club.

You may want to join Active Minds on Campus, a peer-to-peer organization dedicated to raising awareness about mental health among college students. There are chapters at more than 400 college campuses worldwide.

## DISCIPLINE

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### **What should I do if my school wants to discipline me for something I think happened because of my illness?**

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You should not be disciplined for seeking help or because of behavior that is due to your illness. However, in recent years some schools have responded to students who have threatened to hurt themselves or who have had mental health crises by taking disciplinary action for violation of student codes of conduct. Schools may justify such responses as best for the student or for other students. Also the school may be concerned about potential danger and legal liability. School administrators may genuinely believe they are doing the right thing by removing the student or initiating disciplinary action.

Without knowing what school you attend, we cannot assure you that you will not be disciplined for any behavior brought on by a mental health crisis, but we can say it isn't the policy at most schools. But you may want to ask school administrators about your school's policies.

If university personnel seek to discipline you for something you think was caused by your illness, they must provide some type of hearing and/or appeal process. It may make sense at that point to disclose your illness, if you have not done so already. Obviously, this is a difficult and deeply personal decision. It also has legal implications, and you may want to seek legal counsel (see the Resources section below). However, offering information about your illness might help the school better understand the behavior they seek to discipline. As a reasonable accommodation, you can request that disciplinary action not be imposed or that it be modified when the offense was the result of your mental health condition. If your school takes extenuating circumstances into consideration in imposing discipline, it must take your disability into consideration.

It may be helpful to show that, with specific supports, services or accommodations, you can comply with university rules and/or the code of conduct in the future. Also, if a university has a policy that charges students with violation of university rules or its housing contract for engaging in behavior that poses a risk to life—the student's own or others'—a student with a mental illness can argue that an episode such as a suicide attempt or other self-injury should not subject him or her to the policy. The policy could be discriminatory when implemented against a student in need of mental health services whose self-injurious behavior was a result of mental illness.

If a student is disciplined for violation of a rule that prohibits disrupting a class, the student would need to disclose his or her disability, demonstrate how the disruption was caused by the disability and how it would not recur with accommodation in the form of appropriate supports and services.

In general, the more a student can support a claim that his or her disability contributed to the action, and the more specific the plan for addressing the behavior, the more likely it is that disciplinary action for disability-related behavior will be waived.

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### **Once I'm in trouble, must I tell them everything?**

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While disclosure and sharing information with university staff may be one way to help them understand your situation and make them less likely to discipline you, you are not required to provide a blanket release of all mental health information, nor should you do so. A blanket release could lead to a search through old records for evidence of past misconduct or risk to self. Some students reasonably fear sharing information that might touch on past sexual abuse or information that is otherwise private. You have control over what information is being released to the school, and you should release information carefully after assessing what is needed to demonstrate the existence of your disability and the likelihood of your future success and safety on campus.

To minimize the risk of disclosing something harmful, embarrassing or hurtful, it may make sense to write a letter disclosing the disability and to compile a subset of records (such as a doctor's letter summarizing the link between the illness and the conduct in question) instead of signing a blanket or full release. Additional requests for information from the administration could be addressed through carefully written releases permitting the university to converse with a specific provider or providers.<sup>12</sup> Again, how you should proceed will depend on the situation. Finding a lawyer (see Resources on page 25) may be helpful to you in navigating these issues.

# INVOLUNTARY LEAVE OF ABSENCE

## **Can my school require me to take leave?**

In recent years some schools have responded to students who have either threatened to hurt themselves, been hospitalized or experienced a mental health crisis by placing them on involuntary leave or by evicting them from their dormitories. These practices have been legally challenged. As a result, some legal standards have been developed.

The decision to impose a leave of absence should only be made in the uncommon circumstance that a student cannot safely remain at a university or meet academic standards, even with accommodations and other supports. The same applies to exclusion from university housing, which should be imposed only if a student cannot safely remain in the housing, even with accommodations.

A school should impose a leave of absence or require a student to live off campus only after an individualized assessment. The assessment should consider whether there is a significant risk that the student will harm him/ herself or another and whether the risk cannot be eliminated or reduced to an acceptable level through accommodations. Information from mental health professionals may be vital in making this assessment. If the school then does decide to act, the student is entitled to what are called "due process protections." These include notifying the student of the action the school is considering and an explanation of why the school believes that such an action is necessary. The student and his or her representative should have an opportunity to respond and provide relevant information.

The school may inquire into a student's current condition and request recent mental health information and records. But it can only request information and records that are necessary to determine whether the student is a threat. The school cannot insist on unlimited access to confidential information or records. You have a right to limit a release of information to specific dates, and you have a right to review and approve information that is being made available to the school.

At the very least, the school should provide the same arrangements for withdrawal from classes, incompletes, and refunds of tuition or other costs as it does for a student who takes a leave of absence or leaves college housing for physical health reasons.

If the school is considering action against you, you can take several steps that may turn things around. First, you can obtain an evaluation by

a psychiatrist or other mental health professional. You can suggest ways to address the school's safety concerns; for instance, that you be permitted to take classes but not live on campus. You should proceed with an honest and earnest tone and manner. But if the school administration disregards your efforts to communicate and does not engage in dialogue with you, it is probably time for you to obtain competent legal advice. If you are placed on involuntary leave of absence, you should have a right to appeal within the school. You can also file a grievance with the disability compliance officer and/or a complaint with the Office for Civil Rights (see the Resources section on page 25).

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### **Can a school put restrictions on my returning from leave?**

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Students on leave, whether voluntary or involuntary, may request to return to the school. Similarly, students excluded from housing may request to return to university housing. A university cannot require that your mental illness be "cured" before you return.

If you were on leave because of a direct threat to the safety of others or yourself, you will need to demonstrate that the threat no longer exists. The school may ask you to agree to receive treatment, including prescribed medication, before returning. A mental health professional, not the school administration, should make the decision about whether you need to continue treatment.

School officials may also ask you to sign a behavioral contract and agree to various conditions before they will allow you to return to school. For example, they may ask you to agree that you will leave the campus if there is another incident of self-injury. Keep in mind that a school cannot require that a mental illness be cured or that disability-related behavior not recur unless that behavior creates a direct threat that cannot be reduced to an acceptable level with accommodations. Therefore, be cautious about signing a behavioral contract that limits your rights. You may want to negotiate about the terms of any such contract. For example, rather than agreeing that the school can make you leave if you try to hurt yourself, you could agree to seek help if you feel like hurting yourself. These types of contracts may give you flexibility if the future does not go as well as you had hoped.

A student who wants to return to school after taking a leave of absence for mental health reasons should not be subjected to more rigorous standards or procedures than a student who wants to return after taking a leave for physical reasons. An opinion from the student's mental health professional that the student is fit to return should usually be sufficient.

In exceptional cases, a school may seek a second opinion.<sup>13</sup> The school may also ask for ongoing access to your mental health provider. In most cases, once you have demonstrated that you are not a threat, ongoing contact with your treatment provider is not necessary. However, if you allow ongoing contact, you may want to limit the communication to verification that you are attending treatment, without sharing the content of your treatment.

If your school is placing unreasonable conditions on your return, you can file a grievance with the disability compliance officer and/or file a complaint with the Department of Education's Office for Civil Rights (see Resources on page 25).

## GOING TO A PSYCHIATRIC HOSPITAL

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### How will I be admitted to a hospital?

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Most students seeking help—particularly if they seek help early on—will not need hospital care. But those who do will want to understand what occurs. There are different kinds of psychiatric hospitals and different reasons for going there. Some hospitals provide only psychiatric care. Often general medical hospitals have special units for psychiatric care, just as they may for cardiac care or pediatrics. Commonly, admission to a psychiatric hospital occurs either through a referral by a treating healthcare professional or by way of an emergency room in a general hospital.

Generally, when a student is admitted to a psychiatric unit it is because of an immediate concern about harm to self or others. Some people are admitted to better diagnose a mental disorder and treatment needs or for monitoring as they go through a change in their medication or treatment. Some seek admission because they're having trouble coping with life and want help, while others are involuntarily admitted on an emergency basis because they are behaving in such a way as to appear dangerous to themselves or others. In these instances, state laws differ about how long a hospital can keep people against their will—usually from 24 to 72 hours—without either a court order or the person's agreement to voluntary admission.

Here are some basics: When you arrive at the hospital, a mental health professional will talk to you to determine whether or not you should be admitted. Hospital staff will probably require you to surrender your personal belongings, and they may search you to be sure that you don't

have sharp objects, lighters, drugs or other objects that could harm you or other patients. If you have a mental health provider, the hospital may request that you sign a release of information to allow them to obtain information from that provider. Many hospitals have a memorandum of understanding with schools in the community in which they agree to ask students to release information about their admission to the school's campus counseling center. You are not required to sign any releases of information, and you have the right to choose what information is released and to whom it will be disclosed.

If you have made previous arrangements with your psychiatrist or doctor, the person admitting you will review why you are there and what you may hope to gain. If you have a crisis plan or a psychiatric advance directive (see page 23), now is the time to show it or say where to find it.

It's very important, if you have a history of trauma, such as sexual abuse, to tell the triage nurse (if you come in through an emergency room) and other professionals about it. Not only may this information help them better understand your problems, but some interventions and practices could be harmful to you as a result of your trauma history. The hospital should accommodate your needs.

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## **What's it like? What can I expect?**

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Going to a hospital for psychological issues can feel scary and difficult. In our society there are negative images of psychiatric wards. By definition, hospitalization is a response to a crisis and can be a jarring experience, even though the "snakepits" with lifelong confinement you may have seen in old movies no longer exist. Some people are in the hospital to keep them safe. For others, it is a place of recovery and respite. Particularly for someone coming from an environment that does not have an awareness of mental health issues, it may also be the first place to meet other people who are visibly undergoing severe emotional distress, drug addiction or other difficult experiences.

Psychiatric units look pretty much like other hospital units, though some are locked and have other restrictions. On the unit, there are generally nursing staff, social workers and administrative staff. You will likely be supervised by staff at all times, particularly when first admitted. If you are hospitalized because you have suicidal thoughts or attempted to harm yourself or someone else, you may be placed on special observation. You have the right to ask how the staff will decide when you will require less one-on-one monitoring.

Early on, you will have assessments by various professionals to better understand your problems and to develop a treatment plan, setting goals for your recovery and specifications for treatment. In most hospitals, you will participate in meetings with your treatment team to help formulate goals and treatment plans and to review your progress. You may say what forms of treatment you do and do not want.

Most hospitals have systems to encourage people to cooperate with their treatment plans. There is usually a set time for everyone to wake up, times for programs in which to participate, times to eat meals, times when you may go outside and a time to go to bed. The hospital may determine what visitors can see you and when. A nurse or social worker will work with you daily and take notes on your behavior in your medical chart. A psychiatrist will check in on you as well. You may also be offered group or recreational activities such as painting, drawing, sports, group therapy and so forth.

You have a right to practice your religion and to consult with clergy. You can expect to have basic privileges while in the hospital, which may include using the phone, watching TV, using the computer, taking a leave from the hospital, eating certain foods and having time outside of your room. Staff may adjust these privileges as they get to know you better and understand your needs better. Some of these privileges will be affected by your situation. For example, if you are hospitalized and in an abusive relationship, the abuser may not be allowed to visit.

In some hospitals, if you don't participate in the system they have established, privileges may be modified.

Unless there is a court order or danger of imminent harm, forced medication is not allowed (see page 24), though laws on this vary by state.

Most hospitals have a patient advocate to resolve grievances and help you assert your rights. You can request to speak with an advocate at any time. If you believe your rights have been violated, you can file a grievance with the hospital and the state department of public or mental health. You can also consult a lawyer (see the Resources section). As difficult as hospitalization may be, you should expect to be treated with dignity and respect and to get the help you need after you are discharged.

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## **What happens and what are my rights after I leave a hospital?**

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While you are still in the hospital, a social worker will meet with you to develop a discharge plan that will likely include referral to follow up treatment. You may be prescribed medications and asked to get your

prescriptions filled and to stay on the dosage that worked for you in the hospital. You can ask that the discharge plan include recommendations for specific accommodations at school, in your dorm or apartment and at work that will allow you to succeed. In general, your rights after discharge are the same as they were before you were hospitalized.

After you leave a hospital there should be appropriate services and supports in the community to help you recover your independence and pursue your life goals. If you wish, you should have access to appropriate psychological and psychiatric care. You should receive information about and have access to alternative treatments and therapies. You should also have access to emotional supports (see the section below on resources). You may have access to financial supports, such as Supplemental Security Income (SSI), if your disability is severe.

You may want to create a psychiatric advance directive (PAD). An advance directive is a legal document spelling out the health care you do or do not wish to receive “if an illness renders you unable to make decisions about your care.”<sup>14</sup> In it, you can designate someone to make decisions for you in such circumstances. An advance directive, whether for health care or psychiatric services, should also specify the conditions under which it can be implemented.

You should provide copies to trusted individuals and health professionals whom you want to know about the PAD. Laws about advance directives vary from state to state. You can work with a lawyer, paralegal or advocate to write a PAD or visit the National Resource Center on Psychiatric Advance Directives at [www.nrc-pad.org](http://www.nrc-pad.org) and create your own. The site has videos and easy-to-use information to get you started. Detailed information on PADs is also available from the National Empowerment Center (<http://www.power2u.org>).

You should provide copies of both types of advance directives—for health care and for mental health treatment—to trusted individuals and to the health and mental health professionals who are most closely involved with your care.

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## **What if I have difficulties after leaving the hospital?**

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You should seek support, whether through local peer organizations, trusted mental health professionals, family, friends or other supportive individuals as soon as you detect that you are having difficulties. If you feel that you need the support of round-the-clock care, you should discuss this possibility with people you trust to determine whether this is the best option for you, and whether you can receive the support you need in a community setting.

## FORCED MEDICATION

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### Can I be forced to take medication?

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In almost all cases, the answer to this is no. No one can force you to take medication when you go in for treatment unless you are found to be, or are on the verge of becoming, dangerous to yourself or others.

In general, states give the power to medicate without consent only to hospital staff and they must have either 1) a court order permitting it or 2) documentation meeting strict criteria based on safety concerns. In the unlikely event that your doctor seeks a court order for medication, you have a right to be represented by a lawyer.

Most states have involuntary outpatient commitment (IOC) laws under which, in certain circumstances, a person can be required to take medication as a condition of living in the community. Summaries of state statutes regarding IOC can be found at:

<http://lawatlas.org/datasets/involuntary-outpatient-commitment-1442865639>.

If you are being involuntarily committed to a psychiatric institution, you should seek competent legal help in your state.

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### What is informed consent? What are my rights to informed consent?

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Informed consent to treatment is consent obtained freely, without threats or coercion, after appropriate disclosure to the patient of adequate and understandable information in a form and language understood by the patient of:

- (a) the diagnostic assessment;
- (b) the purpose, method, likely duration and expected benefit of the proposed treatment;
- (c) alternative modes of treatment, including those that are less intrusive; and
- (d) possible pain or discomfort, risks and side-effects of the proposed treatment.<sup>15</sup>

As a patient, you have a right to an explanation of every procedure or treatment that a doctor or healthcare professional prescribes. Legally, a doctor or healthcare professional is responsible for:

1. Disclosing and explaining to the patient, in language which the patient can understand, the nature of a proposed procedures

- or treatment, its potential risks and benefits, and reasonable alternatives, if any exist.
2. Ensuring that the patient understands what has been explained.
  3. Determining whether the patient accepts any risks and consents to proceed.<sup>16</sup>

## RESOURCES

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### **What types of assistance and supports are available?**

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Every state has a Protection and Advocacy (P&A) program that safeguards the rights of people with mental disabilities. When problems arise, the P&A can pursue legal, administrative and other remedies to ensure protection of your rights. You can find contact information for the P&A in your state at [www.ndrn.org](http://www.ndrn.org).

You also have a right to file a grievance or a complaint with the Department of Education's Office for Civil Rights.<sup>17</sup> The OCR resolves complaints of discrimination based on race, color, national origin, sex, age or disability. Complaints must be filed within 180 days of the discriminatory event. You can view some legal decisions and OCR complaints on issues discussed in this guide on the Education Page of the Bazelon Center website (<http://www.bazelon.org/our-work/education/#campus>). Complaints based on FERPA may be filed with department's Family Policy Compliance Office.<sup>18</sup>

The National Empowerment Center, [www.power2u.org](http://www.power2u.org), "carry[ing] a message of recovery, empowerment, hope and healing to people who have been labeled with mental illness," has a toll-free information and referral line and may be able to provide information about support groups in your area: 1-800-769-3728.

On many campuses there are student-run support groups. Active Minds, "a peer-to-peer organization dedicated to the mental health of college students," is one, with chapters on more than 400 college campuses, <http://www.activeminds.org/>. You can also contact local chapters of Mental Health America, [www.mentalhealthamerica.net](http://www.mentalhealthamerica.net), the National Alliance for the Mentally Ill [www.nami.org](http://www.nami.org), the Depression and Bipolar Support Alliance, [www.dbsalliance.org](http://www.dbsalliance.org), the Suicide Prevention Action Network, [www.spanusa.org](http://www.spanusa.org), or the Suicide Awareness Voice of Education, [www.save.org](http://www.save.org).

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## Where else can I go for help?

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There are many other people you can talk to or places you can go. Your campus may have some of the following resources: support groups, a resident advisor or resident director, coach, faculty member or advisor, health center, women's center, LGBTQ center, spiritual center or Active Minds chapter. You can also access local mental health organizations such as those listed above, many of which have state or community based chapters that offer local resources. Some online resources include the Jed Foundation, [www.jedfoundation.org](http://www.jedfoundation.org), [www.ulifeline.org](http://www.ulifeline.org), <http://www.halfofus.com/>, and the National Institute of Mental Health <https://www.nimh.nih.gov/index.shtml>, all of which offer information that you may find helpful.

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## What are alternative approaches to mental health care?

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It is crucial to consult with your physical and mental health care providers about the approaches you are using to achieve mental wellness. Different treatments work for different people, and communicating with health care providers about what does and doesn't work for you is vital.

There are many alternative approaches about which you can educate yourself to find something that works for you. A short list includes: self-help groups, diet and nutrition groups, pastoral counseling, animal-assistance therapy, art therapy, dance/movement therapy, music/sound therapy, acupuncture, Ayurveda, yoga/meditation, *cuENTOS*, biofeedback, guided imagery or visualization, massage therapy, telemedicine, telephone counseling, electronic communications and radio psychiatry. A range of other alternatives—psychodrama, hypnotherapy, recreational and Outward Bound-type nature programs—offer opportunities to explore mental wellness.

Before beginning any therapy regimen, learn as much as you can about it. In addition to talking with your health care practitioner, you may want to go online or to a book store, health food store or holistic health care clinic for more information. Also, before receiving services, check to be sure the provider is properly certified by an appropriate accrediting agency.

## CONCLUSION

We hope this guide answered most of your questions and we wish you the best as you continue to learn more about yourself and take care of your mental health!

## NOTES

- 1 [http://www.acha-ncha.org/docs/NCHA-II\\_FALL\\_2016\\_REFERENCE\\_GROUP\\_EXECUTIVE\\_SUMMARY.pdf](http://www.acha-ncha.org/docs/NCHA-II_FALL_2016_REFERENCE_GROUP_EXECUTIVE_SUMMARY.pdf)
- 2 For example: R. Szabo & M. Hall, BEHIND HAPPY FACES: Taking Charge of Your Mental Health—A Guide for Young Adults, Publisher August 2007; E. Saks, The Center Cannot Hold: My Journey Through Madness, Hyperion, August 2007.
- 3 "Finding a Mental Health Professional," The National Alliance on Mental Illness <https://www.nami.org/Find-Support/Living-with-a-Mental-Health-Condition/Finding-a-Mental-Health-Professional>, visited June 13, 2017.
- 4 "Suicide Prevention," <https://suicidepreventionlifeline.org/>, visited June 13, 2017.
- 5 "Finding a Mental Health Professional," The National Alliance on Mental Illness <https://www.nami.org/Find-Support/Living-with-a-Mental-Health-Condition/Finding-a-Mental-Health-Professional>, visited June 13, 2017.
- 6 Bazelon Center for Mental Health Law's Model Student Policy, <http://www.bazelon.org/wp-content/uploads/2017/04/SupportingStudentsCampusMHPolicy.pdf>.
- 7 Family Education Rights and Privacy Act (FERPA), 20 U.S.C. §§ 1232g (a) (1), (b) and (d). See a guide issued by the Department of Education at <https://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf>.
- 8 See a summary of the federal privacy regulations under HIPAA, with protections for consumers, <https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html?language=en>. See also the guide listed in note 7.
- 9 <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.
- 10 Reasonable accommodations are modifications to rules, policies or practices that will enable a student with a disability to meet academic and technical standards. A school is not required to fundamentally alter the essential nature of its programs or its core degree requirements. A modification is unreasonable or a fundamental alteration if it compromises essential academic and technical requirements or places an undue burden on the school.
- 11 See the online complaint form at <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.
- 12 Bazelon Center for Mental Health Law, Model Student Policy <http://www.bazelon.org/wp-content/uploads/2017/04/SupportingStudentsCampusMHPolicy.pdf>
- 13 *Id.*
- 14 <http://www.nrc-pad.org/>
- 15 United Nations principles for the treatment of persons with mental illness and the improvement of mental health care, available at <http://www.un.org/documents/ga/res/46/a46r119.htm>
- 16 <https://www.ynhh.org/patients-visitors/patient-rights-responsibilities.aspx>
- 17 See the online complaint form and instructions at <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>
- 18 <http://www.ed.gov/policy/gen/guid/fpco/index.html>

