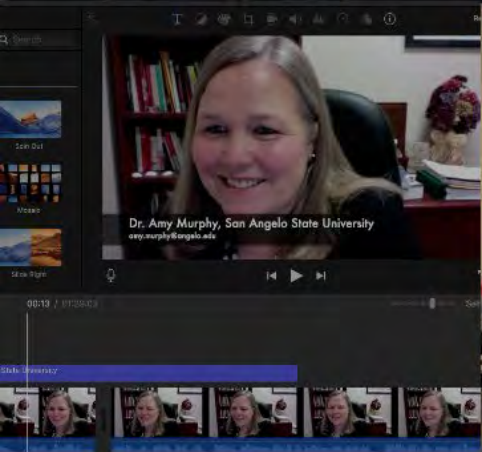




The Legal Landscape of Threat Assessment

**Understanding Legal Risks and
Best Practices for BIT/CARE Teams**



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The background of the slide is a close-up photograph of numerous autumn leaves. The leaves are in various shades of yellow, orange, and brown, with some showing water droplets. The leaves are scattered and overlapping, creating a textured, natural background.

Legal Landscape

- Understand the legal frameworks shaping BIT/CARE work
- Examine key case law and federal guidance
- Identify legal risks and compliance pitfalls
- Strengthen team protocols through a legal lens



Why is this important?

Why is this important?

- Legal compliance protects students, staff, and the institution
- Ensures the confidentiality, integrity, and lawful sharing of student information
- Prevents civil rights violations and supports disability inclusion
- Shields the institution from legal liability and reputational harm
- Establishes clear operational boundaries and decision-making standards
- Promotes trust, accountability, and collaboration across campus

FERPA

"An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent of the student if the disclosure is... to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals." (34 CFR § 99.36)

Graham Burton and Hamilton College

A 2018 suicide where many knew of the escalating depression, but parents were not notified. A reminder to not see FERPA as a barrier to sharing concerns.

Graham Burton, a student at Hamilton College in Upstate New York, died by suicide by hanging in fall 2016. Three out of four of Graham's professors were concerned about his mental health the majority of the fall semester. He had frequent absences, academic struggles, failing grades and, when he did attend classes, he wore the same clothing day after day.

Before Graham's death, there were emails exchanged between his professors, academic adviser, and the academic dean, Vivyan Adair, in which the professors expressed their observations and concerns. In one such e-mail, Maurice Isserman, Graham's academic adviser, reached out in writing to Adair stating, "Obviously what's happening here is a complete crash and burn. I don't know what the procedures/ rules are for contacting parents but if this was my kid, I'd want to know." Isserman also communicated to Adair on another occasion, describing the situation with Graham as "a complete crash and burn."

In addition to the aforementioned emails among one another, his professors reached out to Graham via email regarding their concerns about his absences and related grades. As a result, Graham agreed to meet with Adair, the academic dean, who has since claimed she told Graham to talk to his parents if he felt depressed. She also added that she did her job of working with him on his academics, and did not see anything of concern in regard to his mental health. Adair stated she would have taken additional steps had she detected anything wrong.

The college did not have any type of protocol or procedures that prevented faculty or staff from contacting a student's parent(s) when they were concerned about mental health or suicidality. It has since been discovered that nobody had contacted the counseling center in regard to Graham despite the concerns among faculty. The university did not share any concerns with his parents, citing FERPA regulations as prohibiting their ability to do so. Though the college had a "Students of Concern" (SOC) list, Graham's name was not listed within. After his death, Graham's mother indicated she had discussed with Graham the need to get some help and testing, but he assured her that he was doing well and looking forward to the future.

HIPAA

"The Privacy Rule does not apply to elementary or secondary schools and only applies to higher education institutions if they are not subject to FERPA." (45 CFR §160.103, §164.501)

ADA & Section 504

“A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability...” (28 CFR § 35.130)

“No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination...” (Section 504 of the Rehabilitation Act, 29 U.S.C. § 794)

Justice Department Reached Agreement with Princeton's Administration

Princeton agreement with DOJ after attempted suicide suit

Case 3:14-cv-01893-JAP-TJB US District Court/District of New Jersey

Allegation: The university mishandled the plaintiff's attempted suicide in February 2012. The plaintiff claimed that after the incident, the school locked him out of his residence hall and refused to allow him to attend classes. The university then told him to voluntarily withdraw, or he would be forced to withdraw due to mental health reasons.

The agreement resolves a compliance review that began in May of 2014 and concerned the university's policies and practices related to requests for reasonable modifications, withdrawals, and leaves of absences. The agreement details specific steps Princeton will take to strengthen its policies, practices, and training to benefit all current and future Princeton students with disabilities.

Under the agreement, Princeton will:

- revise its policies to explicitly describe: the types of accommodations students with disabilities may request, including modifications to University policies, rules, and regulations; where students may submit each type of accommodation request; and how Princeton will evaluate those requests;
- revise the websites for its Office of Disability Services and its Office of the Dean of Undergraduate Students to direct students to relevant policies and procedures related to requesting reasonable accommodations;
- revise its leave policy and practices, consistent with regulations implementing Title III of the Americans with Disabilities Act (ADA); and
- provide annual training, including references to updated policies, on Title III of the ADA, with a focus on mental health disability discrimination, to all faculty and staff responsible for evaluating and/or deciding requests from students for reasonable accommodations.

Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a)

Clery Act/VAWA

“Institutions must issue timely warnings... and include policies on reporting and responding to sexual assault, domestic violence, dating violence, and stalking.” (34 CFR § 668.46)

Case Study (Jordan)

Jordan (they/them), a sophomore art student, has been struggling socially and academically since returning from medical leave the prior semester. They've missed multiple studio classes, and their portfolio work is weeks behind. A concerned professor, Dr. Simms, received a late-night email from Jordan that read:

"I'm sorry I keep letting everyone down. I know I'm not normal, and I probably don't belong here. Sometimes I think it would be easier for everyone if I disappeared. I know I'm not supposed to talk about this, but it's just how I feel right now. Please don't tell anyone. I'll be fine in the morning."

Case Study (Jordan)

Dr. Simms, unsure of what to do, replied with:

“Jordan, you’re not a burden. I won’t tell anyone if you don’t want me to, but please hang in there. You’re incredibly talented. Try to sleep and maybe email me again tomorrow?”

After a long weekend, Dr. Simms forwarded the message to the department chair “just in case,” and mentioned the exchange to another faculty member. No one contacted counseling services or the Dean of Students office. The BIT/CARE team found out four days later when a residence director raised concerns about Jordan’s roommate reporting that Jordan hasn’t left the room, isn’t eating, and may be “talking to themselves.”

Case Study 2 (Ryder)

Ryder is a 21-year-old junior majoring in English who lives on a quiet floor in campus housing. He has no prior history with the BIT/CARE team and has not been the subject of any conduct issues or wellness interventions. Ryder has a documented diagnosis of Autism Spectrum Disorder and currently receives academic accommodations, including extended test time and a reduced-distraction testing environment. While his behavior is sometimes socially unconventional, there have been no previous reports indicating safety concerns or policy violations.

Case Study 2 (Ryder)

Resident Advisor:

Ryder often stands silently in common areas for long stretches, sometimes late at night. He “startles” people by showing up unexpectedly. Once he said: *“You know, Ted Kaczynski was actually right about some things.”* He left immediately after.

Roommate:

Ryder has been mumbling in his sleep and hoarding old newspapers. He keeps a notebook filled with what the roommate describes as “detailed descriptions of how people die in war movies.” No threats, but “it creeps me out.”

Faculty Member:

In class, Ryder submitted a short story in which a protagonist fantasizes about blowing up a laboratory. It ends with, *“I’d never do it, but the fantasy helps me sleep.”* The professor notes this isn’t the first time Ryder’s writing has been “dark,” but this piece felt different.

Case Study 2 (Ryder)

Hall Director:

A group of students came in requesting Ryder be removed from the residence hall. They say, "He gives off school shooter vibes." One student says, "If something happens, and you all did nothing, we'll sue."

Counseling Center Staff (informal):

A student mentioned "feeling unsafe" around Ryder. The clinician asked the student to file a report, but they declined. The clinician is letting BIT know informally.

Dean of Students Office:

A parent of another resident called after hearing secondhand about Ryder's presence and asks why "someone like that" is allowed in housing.

Campus Counsel

- The relationship with campus counsel should be collaborative, not adversarial or bureaucratic.
- Counsel is not there to control or override the BIT/CARE process but to support decision-making through a legal and risk lens.
- When integrated early, legal input can prevent avoidable mistakes, especially around FERPA, ADA/504, involuntary withdrawals, and complex conduct issues.
- BIT/CARE teams should cultivate regular, trust-based communication with legal counsel — invite them to a meeting once per semester, or schedule briefings when laws shift.

Campus Counsel

Involve Campus Counsel When...

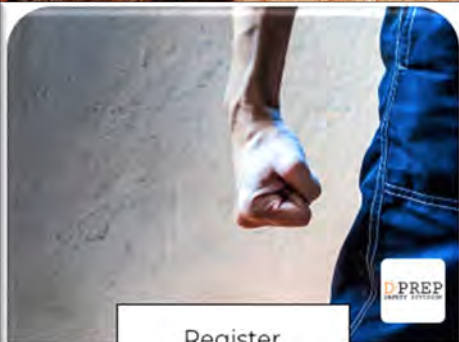
- Facing a lawsuit or OCR/DOJ complaint risk
- Considering an involuntary withdrawal or leave
- Navigating disability accommodations or ADA/504 overlaps
- Responding to threats involving social media, bias incidents, or law enforcement
- Creating or updating BIT policies, protocols, or forms
- Dealing with First Amendment or protest-related referrals
- Handling cases involving parents, attorneys, or high-level administrators

Legal Insight/Practical Impact

- Laws and guidance shape, but don't limit, BIT/CARE work
- Legal literacy is a shared responsibility
- Collaboration with legal counsel isn't a last resort, it's part of the process
- The stakes are high: student safety, civil rights, and institutional trust



Questions?



Register

Violence Risk and Threat Assessment Certification

September 15 • 11:30 AM EDT
From \$399



Register

Strengthening Case Management in BIT/CARE

September 18 • 1:00 PM EDT
Free



Register

BIT/CARE Framework Certification

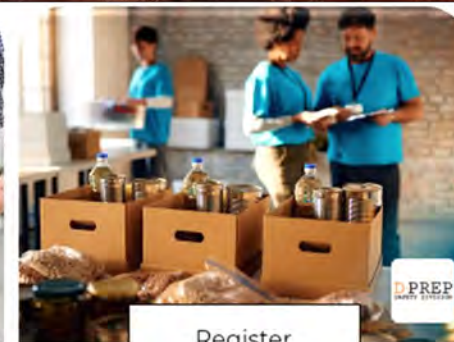
Sep 25 & Oct 2 • 12:00 PM EDT
From \$299



Register

Case Study: The Ratio of People to Cake Is Too Big

September 30 • 1:00 PM EDT
Free



Register

Helping Students Thrive: Meeting Basic Needs

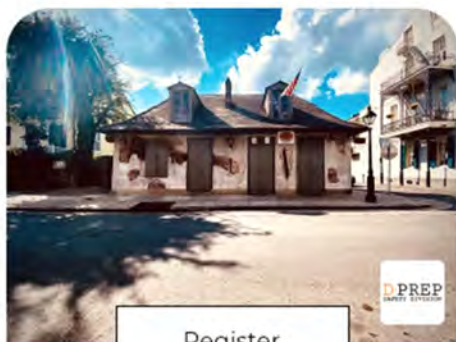
October 6 & 13 • 12:00 PM EDT
From \$299



Register

Case Management in Action: A BIT/CARE Panel Discussion

October 16 • 1:00 PM EDT
Free



Register

Threat Assessment in Practice | New Orleans

October 20 & 21 • 11:00 AM CDT
From \$969



Register

Case Study: I Won't Be Here Much Longer

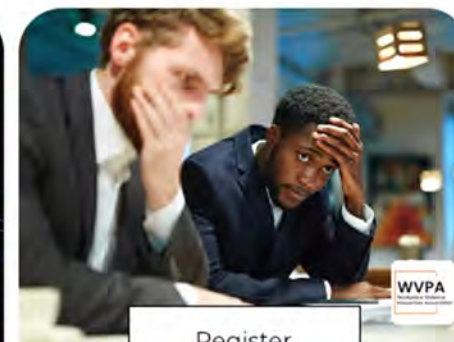
October 28 • 1:00 PM EDT
Free



Register

Violence Risk and Threat Assessment Certification

November 17 • 11:30 AM EST
From \$399



Register

Case Study: To Whom It May Concern

November 18 • 1:00 PM EST
Free

www.dprepsafety.com/feedback

D·PREP

SAFETY DIVISION