

## Active Minds Position Statement

# Recommendations for Leave of Absence and Return from Absence Policies for Mental Health Concerns at Higher Education Institutions

### Background

Mental illness affects nearly 20% of Americans every year.<sup>1</sup> A majority of mental illnesses manifest between ages 14 and 24, when adolescents and young adults are enrolled in high school and college.<sup>2</sup> Mental illness can be detrimental to academic success; studies on the impact of mental illness found that college students with depression had lower GPAs and double the drop-out rates compared to their non-depressed peers.<sup>3,4</sup> A 2015-2016 study found that about 20% of U.S. college students engaged in non-suicidal self-injurious behavior, 10% engaged in thoughts of suicide, 4% had a suicide plan, and 1% made a suicide attempt.<sup>5</sup> It is not uncommon for students who engage in suicidal and non-suicidal self-injurious behaviors to be placed on involuntarily leaves of absence.

Institutions of higher education are subject to the provisions of the ADA and/or Section 504 of the Rehabilitation Act of 1973,<sup>6</sup> which prohibit discrimination based on disabilities, including those related to mental health conditions. Additionally, institutions must abide by Section 504 when seeking to take adverse action against a student whose conduct resulting from a disability poses a direct threat to the health or safety of others. The imposition of an involuntary leave of absence after the determination of a direct threat to others is an example of a situation in which Section 504 applies.<sup>7</sup>

In some cases involving the imposition of involuntarily leave of absence, the U.S. Department of Education's Office of Civil Rights (OCR) has identified instances of discrimination against and denial of benefits to students by their institutions throughout the duration of a leave of absence.<sup>8,9,10</sup> The OCR delineated areas for improvement for leave of absence policies on each respective

campus, setting guidance for future policies for voluntary and involuntary leave of absence at institutions of higher education nationwide.

## **Recommendations**

As a national leader for young adult mental health advocacy and suicide prevention, Active Minds seeks to promote policies for mental health-related leave of absence and return from absence at higher education institutions that are in keeping with the provisions of the Americans with Disabilities Act of 1990 (ADA)<sup>11</sup>, Section 504 of the Rehabilitation Act of 1973, and best practices recommended by the Judge David L. Bazelon Center for Mental Health Law.<sup>12</sup>

**In general, an institution’s policy for leave of absence for mental health reasons should be lawful, flexible, easy to understand, and on par with leave of absence policies for medical/physical health reasons.** The following statements comprise Active Minds’ recommendations on the issues of leave of and return from absence policies for mental health reasons at institutions of higher education. Active Minds encourages institutions to develop a single, universal policy that applies to all enrolled students, regardless of major or standing, who request a leave of absence or return from absence for mental health reasons. The policy should encompass the following elements:

- The leave of absence and return from absence policies should be easy to access on the institution’s website.
- The mental health leave of absence and return from absence policies should be no more rigorous or punitive than the leave of absence and return from absence policies for medical/physical health reasons.
- The policy should specify the steps involved in successfully processing a leave of absence or return from absence.
- The policy should make explicit the financial and academic consequences of taking or returning from a leave of absence.
- The leave of absence policy should include provisions connecting students on leave with lifelines or points of contact on campus throughout the duration of their leave.

- The leave of absence policy should permit students to withdraw from courses retroactively if past academic difficulties can be attributed to a psychological disability.
- Determinations regarding the duration of a leave of absence and the amount of times a student can take a leave of absence should be made on an individualized basis that promotes student success.
- Only a student's primary mental health treatment professional should be prescribing a treatment plan, in collaboration with the campus counseling center to promote the success of the leaving, and returning, student. College administrators or treatment professionals who are not responsible for the student's ongoing treatment should not be placing requirements on the kind or course of treatment that should be undertaken while on a leave of absence.
- Students on leave for mental health reasons, whether voluntarily or involuntarily, should be able to request to return to campus at any time.
- If evaluation is necessary to determine if a student is fit to return, an evaluation from a student's regular mental health provider should suffice (i.e., students should not be subjected to additional assessment from the campus counseling center unless under extenuating circumstances).
- The campus should create a health success plan with students returning from a health-related leave of absence that specifies the support offices and staff that are available upon return and how to access them.

### **Recommendations Specific to *Involuntary* Leave of Absence for Mental Health Reasons**

- The process for involuntary leave of absence should be individualized, not done based on a simple legal decision, and done only when a student is a direct threat to others.
- The policy should clearly outline the administrative process, including criteria for imposition of leave.
- When possible, the policy should require that administrators give written notice to a student at least 24 hours prior to the imposition of an involuntary academic leave and before dismissing a student from on-campus housing.

- The policy should outline the process for an affected student to present information regarding their condition to staff and administration (i.e., “hearing” or “due process”).
- The policy should outline a process through which a student can appeal an involuntary leave of absence to a higher-level administrator.

## Additional Resources

Active Minds offers resources to students wishing to implement policy change that is conducive to mental well-being and help-seeking on their campuses through the Transform Your Campus program. The goal of the Transform Your Campus: Leave of Absence campaign is to simplify and strengthen policies at institutions of higher education across the country so that students with mental health issues can take the time they need without fear of retribution or discrimination. Learn more at [activeminds.org](http://activeminds.org).

## References

- <sup>1</sup>NAMI (n.d.). Mental Health by the Numbers. <http://www.nami.org/Learn-More/Mental-Health-By-the-Numbers>.
- <sup>2</sup>Kessler, R. C., Berglund, P., Demler, O., Jin, R., Merikangas, K. R., & Walters, E. E. (2005). Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication. *Archives of General Psychiatry*, 62(6), 593-602.
- <sup>3</sup>The Healthy Minds Network. (2013). An Economic Case for Mental Health Services in Higher Education. Research Brief. [http://www.healthymindsnetwork.org/system/resources/W1siZiIsIjIwMTQvMDgvMDEvMTJfMTJfMDNfNDUzX0hNTl9SQl8xLnBkZiJdXQ/HMN\\_RB\\_1.pdf](http://www.healthymindsnetwork.org/system/resources/W1siZiIsIjIwMTQvMDgvMDEvMTJfMTJfMDNfNDUzX0hNTl9SQl8xLnBkZiJdXQ/HMN_RB_1.pdf)
- <sup>4</sup>Eisenberg, D., Golberstein, E., & Hunt, J. (2009). Mental Health and Academic Success in College. *B. E. Journal of Economic Analysis and Policy*. 1-40.
- <sup>5</sup>Eisenberg, D., & Lipson, S. K. (2016). The Healthy Minds Study: 2015-2016 Data Report. [http://healthymindsnetwork.org/system/resources/W1siZiIsIjIwMTYvMTEvMjE1MDhMThfMzJfMTI5X0hNU1U1uYXRpb25hbC5wZGYiXV0/HMS\\_national.pdf](http://healthymindsnetwork.org/system/resources/W1siZiIsIjIwMTYvMTEvMjE1MDhMThfMzJfMTI5X0hNU1U1uYXRpb25hbC5wZGYiXV0/HMS_national.pdf)
- <sup>6</sup>Rehabilitation Act, 34 C.F.R. Part 104 § 504 (1973).
- <sup>7</sup>The direct threat standard of Section 504, which should be utilized in such situations, states: “A significant risk constitutes a high probability of substantial harm and not just a slightly increased speculative or remote risk. In a direct threat situation, a University needs to make an individualized and objective assessment of the student’s ability to safely participate in the University’s program, based on a reasonable medical judgment relying on the most current medical knowledge and/or the best available objective evidence. The assessment must determine the nature, duration and severity of the risk; the probability that the potentially threatening injury will actually occur; and whether reasonable modifications of policies, practices or procedures will sufficiently mitigate the risk. The student must not be subject to adverse action on the basis of unfounded fear, prejudice and stereotypes.”

<sup>8</sup>U.S. Department of Education, Office of Civil Rights, OCR # 03-04-2041 (2005).

<sup>9</sup>U.S. Department of Education, Office of Civil Rights, OCR # 15-04-2042 (2004).

<sup>10</sup>U.S. Department of Education, Office of Civil Rights, OCR # 09-00-2079 (2001).

<sup>11</sup>Americans with Disabilities Act, Pub. L. No. 101-336, §§ 12101-12213 (1990).

<sup>12</sup>Bazon Institute (2007). Supporting students: A model policy for colleges and universities. White paper of Judge David L. Bazon Center for Mental Health Law. Version 1.0, 5/15/07.

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