

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Threat Assessment Procedures

NUMBER: 1:28

1. Purpose of Regulations

The educational, research and service missions of the institutions controlled by the Board are more easily achieved when institutional employees, students, and visitors enjoy a safe and secure environment. Violence in any form is unacceptable within the institution. In keeping with recommendations issued by federal and state law enforcement authorities, the Board requires that each institution adopt the following procedures to provide for the routine threat assessment review when a student, employee or visitor exhibits forms of disturbing behavior that suggest that the individual is planning or preparing a violent attack involving the institution or persons associated with it.

2. Scope of Regulations

The procedures required under this policy apply to reports that students, faculty, staff, volunteers or visitors have exhibited disturbing behavior as defined in this policy.

- A. Reports of disturbing behavior will be treated as serious threats until determined to be otherwise and will be investigated thoroughly and promptly.
- B. Every report of disturbing behavior will be referred to the institutional law enforcement unit for investigation, no matter how trivial the matter may appear.

3. Definitions

- A. “Disturbing behavior” includes, but is not limited to, actions and communications which cause concern among other students, faculty, staff, or members of the community that the actor may be planning or preparing to carry out an attack or act of violence that places others at risk of serious harm. Warning signs of impending violence may include verbal threats, written threats, suicidal behavior, disturbing writings, self-produced videos or internet communications. Behaviors that should raise concern about potential violence include: ideas or plans about injuring himself or attacking an institution or persons at an institution; communications or writings that suggest that the person has an unusual or worrisome interest in school attacks; comments that express or imply the person is considering mounting an attack at an institution; recent weapon-seeking behavior, especially if weapon-seeking is linked to ideas about attack or expressions about

interest in attack; communications or writings suggesting the person condones or is considering violence to redress a grievance or solve a problem; and rehearsals of attacks or ambushes.

B. “Law enforcement unit” means any individual, office, department, division, or other component of an institution that is officially authorized or designated by the institution to:

1. Enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the institution itself; or
2. Maintain the physical security and safety of the institution.

A component of an educational agency or institution does not lose its status as a law enforcement unit if it also performs other, non-law enforcement functions for the institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against a student.

C. “Law enforcement records,” including for purposes of the Family Educational Rights and Privacy Act of 1974 (FERPA), means those records, files, documents, and other materials that are:

1. Created by a law enforcement unit;
2. Created for a law enforcement purpose; and
3. Maintained by the law enforcement unit.
4. For purposes of FERPA, law enforcement records do not include:
 - a. Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the institution other than the law enforcement unit; or
 - b. Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.
 - c. Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to FERPA while in the possession of the law enforcement unit.

5. Reports of disturbing behavior received pursuant to this policy by the institutional law enforcement unit and held for review under federally promulgated threat assessment standards shall be deemed to be law
 - a. Pending completion of the law enforcement review required under this policy, all information, whatever its source or however originally recorded or acquired, used to justify making the report or to substantiate the report shall be held by the law enforcement unit and treated as a law enforcement record.
- D. “The institutional threat assessment review team” is the multi-disciplinary team convened by the law enforcement unit to review reports of disturbing behavior and to make an initial determination whether the report suggests that an individual appears to be planning or preparing to engage in acts intended to harm others.

4. Reports of Disturbing Behavior

- A. All reports of disturbing behavior will be forwarded to the institutional law enforcement unit for review and investigation to determine whether the actor is planning or preparing an attack against others.
 1. Any faculty member, administrator or other employee who encounters disturbing behavior shall report the circumstances to the institutional law enforcement unit.
 2. Students and visitors who encounter disturbing behavior shall be encouraged to report the circumstances to the institutional law enforcement unit.
 3. Provision shall be made for submission of anonymous reports by each institution, and such reports shall be reviewed and investigated. Students, faculty, staff and visitors shall be provided with information regarding how reports of disturbing behavior can be made anonymously.
- B. Persons who report disturbing behavior and persons who assist in the investigation and disposition of such reports shall not be subject to harassment, interference, intimidation, or retaliation.

5. Institutional Law Enforcement Units

Each institution shall establish at least one law enforcement unit that is charged with responsibility for conducting threat assessments.

- A. The law enforcement unit may have dual responsibilities, so long as a portion of those responsibilities involve assuring compliance with local, federal or state law or maintaining the physical security and safety of the campus.

- B. The designated law enforcement unit shall convene a multidisciplinary team to review reports of disturbing behavior.

6. Memoranda of Understanding with Local Law Enforcement Agencies

Each institution shall enter into a memorandum of understanding with the local law enforcement agency and states attorney having jurisdiction over the place where the institutional campus is located.

- A. The memorandum of understanding will provide for such assistance as may be required to assure that reports of disturbing behavior are promptly and thoroughly investigated, that the investigatory findings are reviewed pursuant to then current standards for threat assessment and that conclusions are forwarded to responsible public safety officials where it is determined that state intervention is required.

7. Threat Assessment Administration

- A. Each institution shall designate a person in the institutional law enforcement unit to receive and to review all reports of disturbing behavior, and each institution shall establish an institutional threat assessment review team to assist the law enforcement unit in evaluating reports that may have substance.

- 1. The task for those who review reports of disturbing behavior is to attempt to differentiate, using threat assessment recognized by federal law enforcement authorities, between truly troubled individuals who pose threats to the institution or to themselves and individuals who simply display unconventional or neurotic behavior.

- B. The institutional law enforcement unit shall assemble reports of disturbing behavior; review the reports and supporting information to determine whether the reports should be referred immediately to certified law enforcement authorities for further investigation or whether the matter should be referred to the institutional threat assessment review team for further preliminary evaluation.

- C. The institutional threat assessment review team shall include:

- 1. a respected member of the institutional faculty or administration;
- 2. a certified law enforcement officer trained in the techniques of threat assessment;
- 3. a mental health professional, such as a forensic psychologist, a clinical psychologist, or a school psychologist; and
- 4. other professionals, such as guidance counselors, teachers, coaches, and others, who may be able to contribute to the threat assessment process.

Institutions that do not have appropriately trained certified law enforcement officers on staff shall arrange for the assignment of such officers to the threat assessment review team pursuant to the memorandum of understanding required under § 6 above. Institutions that do not have appropriately trained mental health professionals on staff shall contract for such assistance, and shall require that any mental health professional so retained abide by restrictions governing the re-disclosure of information drawn from student education records, to the extent that such student education records may be disclosed to the institutional threat assessment review team

- D. The institutional threat assessment review team shall have authority to review law enforcement documents and, if necessary, student education records; to interview persons who may have knowledge relevant to the assessment; and to interview the person about whom reports have been made.
 - 1. Where essential persons refuse to cooperate with the institutional threat assessment review team and thereby prevent the team from completing its review, the matter shall be referred to the local law enforcement agency for a formal threat assessment investigation as provided in subsection E below.
- E. If the institutional threat assessment review team determines that an individual appears to be planning or preparing to engage in acts intended to harm others, or if information collected during the threat assessment inquiry suggests that there is insufficient information to be reasonably certain that the individual does not pose a threat, the matter, and the information assembled by the review team, shall be referred to the local law enforcement agency, pursuant to the memorandum of understanding required under § 6 of this policy, for additional investigation and action.
- F. If information gathered in a threat assessment inquiry suggests that it is likely that a violation of law has occurred, the law enforcement unit will forward that information to the local law enforcement agency.
- G. Copies of any reports created by the law enforcement unit for law enforcement purposes shall be forwarded to the institutional vice president having general charge or supervision over the person. The vice president shall be responsible for determining whether to refer the individual for counseling, if available, or whether the report otherwise suggests the need for intervention for formative or disciplinary purposes. The law enforcement unit will maintain the original record.
 - 1. For purposes of this paragraph, the institutional chief student affairs officer has general charge and supervision of students, and the institutional chief financial officer has general charge and supervision of visitors.
- H. In the event that an investigation necessitates institutional administrative action to condition or to terminate an individual's continued enrollment, residence, employment or other participation in university affairs, such actions will be

undertaken pursuant those policies that are appropriate for such purposes in light of the individual's student, employment or visitor status.

8. Education and Training

- A. Institutions shall provide students, faculty, staff and community members with information regarding what kind of actions or communications should prompt the reporting of such behavior to the institutional law enforcement unit as well as how reports can be made.
- B. Institutions shall provide training to administrators, faculty and staff regarding what should be done when an individual exhibits disturbing behavior. Training shall be offered regarding what information to gather and how the information shall be gathered and evaluated.

Source: BOR December 2007