


**CONDUCT MEETS COUNSELING:
CONUNDRUM, CONFLICT OR COOPERATION?** 

This presentation explores the complexities of mental health and conduct processes while also providing practical solutions for counselors and conduct officers involved in this process.

Center for Collegiate Mental Health (CCMH) Annual Report 2017

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YOUR FACULTY 




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TODAY'S AGENDA 

AGENDA


- I. Introduction of Student Conduct
- II. Introduction of BITs
- III. Review of College Mental Health
- IV. Intersection of Mental Health, BIT, and Conduct
- V. Role of the Counselor

LEARNING OUTCOMES

- I. Learn an overview of the conduct process including aspects of student code of conduct, due process, outcomes, and sanctioning.
- II. Understand the role of the mental health professional in assisting colleges in conduct and in BIT.

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How would you rate your knowledge of the conduct process?



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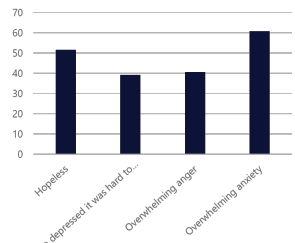
When is it appropriate to use conduct to address behaviors that may be mental health?

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COLLEGE MENTAL HEALTH NaBITA

In the last 12mos, diagnosed or treated for....	Percentage of students reporting
Eating Disorder	2.7
Anxiety	21.6
Bipolar Disorder	1.8
Depression	17.8
Obsessive Compulsive Disorder	3.2
Panic attacks	10.7
Substance abuse or addiction	1.9
Schizophrenia	.4

Anytime in the last 12 months felt...



Executive Summary Highlights of the ACHA-NCHA Spring 2017 Report

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COLLEGE MENTAL HEALTH



- The lifetime prevalence *rates of "threat-to-self"* characteristics (non-suicidal self-injury, serious suicidal ideation, and suicide attempts) *increased for the seventh year in a row* among students seeking treatment.
- *Anxiety and depression* are the *most common* presenting concerns (as assessed by clinicians) and are the only presenting concerns that have *demonstrated a clear growth trend over the last 4 years*.

Center for Collegiate Mental Health (CCMH) Annual Report 2017

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COLLEGE MENTAL HEALTH



What this data means...

- As more students enroll in college with mental health concerns, behavioral issues may arise with these students that may or may not stem from these mental health concerns.
- Colleges may feel compelled to lower academic and/or behavioral standards because the student is experiencing mental health difficulties. When this happens, the behaviors are ignored and often continue, becoming increasingly difficult to management.
- Other times, colleges react to strongly, or in a punitive way to signs of mental health concerns instead of through accommodations and/or support.

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IDENTIFICATION



- We are concerned with addressing behavior, not targeting those with mental illness.
- We are concerned with aggression, threats, intimidation, hoarding of weapons and isolation that lead to an act of violence.
- Those with mental illness are more likely to be the victims of violence, not perpetrators. (Choe, Tepin, Abrams; 2008).

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COLLEGE MENTAL HEALTH



- Who are the students you are concerned about on your campus?
- What types of behaviors or issues tend to be problematic on your campus?



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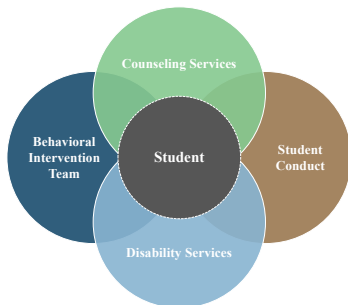
THAT'S RIGHT.... THESE PLUS OTHERS




- Students who may attempt suicide
- Students who threaten to harm other students
- Domestic violence situations
- Students with weapons on campus
- Students who concern faculty
 - Disruptive behavior in classroom
 - Threat to professor
 - Aggressive to other students or unexplained aggression
 - Projects or papers that contain violent or threatening content which is not part of a class assignment


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SUPPORTS AND PROCESSES



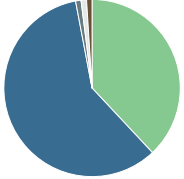
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BIT DATA 

 **2018 NaBITA Survey Summary of Findings**

97 PERCENT
Of respondents indicated their school has a team that meets regularly to discuss individuals of concern

48%
Of teams monitor faculty and staff concerns in addition to student concerns.



- Two Year K12
- Four Year Non-School
- For Profit


13 Schieman, M., and Van Brunt, B. (2018) NaBITA Member Survey. www.nabita.org © 2018 National Behavioral Intervention Team Association. All rights reserved.


DEFINING A BIT 



Behavioral Intervention Teams are *small groups* of school officials who *meet regularly* to *collect and review concerning information* about at-risk community members and *develop plans* to assist them.

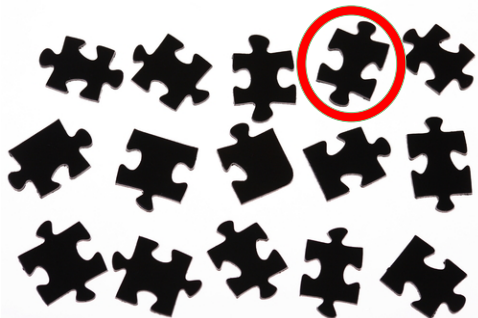
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DEFINING A BIT 



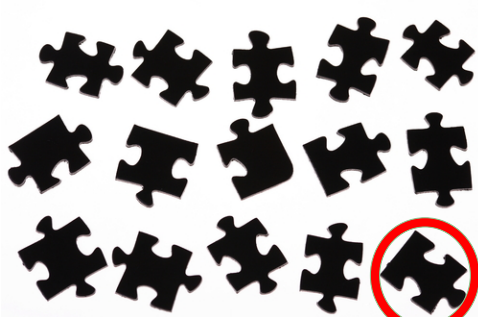
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DEFINING A BIT NaBITA



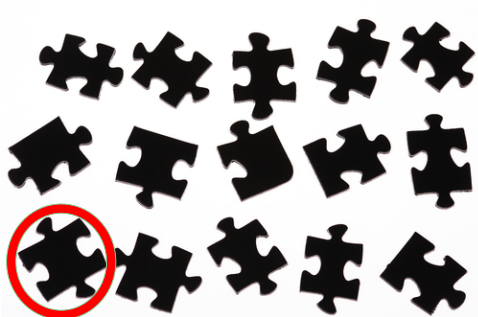
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DEFINING A BIT NaBITA



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DEFINING A BIT NaBITA



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DEFINING A BIT NaBITA

- We are concerned with supporting students, addressing behavior, and creating a safe community, not targeting those with mental illness.
- We are concerned with students in distress, students experiencing life stressors, concerning behavior, aggression, threats, intimidation, etc.
- Those with mental illness are more likely to be the victims of violence, not perpetrators.

Choe, Topik, Abrams (2008)

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REFERRALS TO THE BIT NaBITA

Academic Referral

- ▶ Argumentative, angry, disrespectful, or non-compliant
- ▶ Frequent and continued cross-talk and/or technology misuse
- ▶ Social isolation or odd behavior, and/or poor boundaries
- ▶ A sudden or unexpected change in classroom or research performance
- ▶ Decline in enthusiasm for class
- ▶ Poor focus or attention in class that is unusual for the student

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REFERRALS TO THE BIT NaBITA

Academic Referrals

- ▶ Threatening (direct or indirect) behavior or speech
- ▶ Strange or bizarre writing (e.g. writing is off topic to prompt)
- ▶ Disruptive, hardened or unusual participation in class
- ▶ Fixation or focus on an individual, place, or system
- ▶ Hardened or inflexible thoughts or speech
- ▶ Frequent and continued cross-talk and/or technology misuse

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REFERRALS TO THE BIT

NaBITA

Emotional and Behavioral Referrals

- ▶ Frequent arguments with others
- ▶ Excessive alcohol or drug use
- ▶ Sexually harassing or aggressive behavior
- ▶ Hardened or objectified language
- ▶ Argumentative with authority
- ▶ Explosive or impulsive behavior

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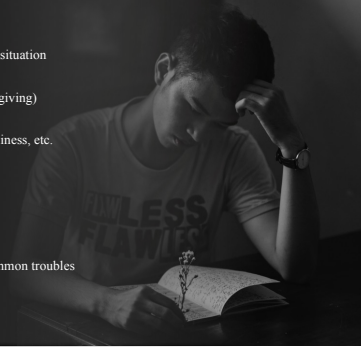
REFERRALS TO THE BIT

NaBITA

Emotional and Behavioral Referrals

- ▶ Emotions that are extreme for the situation
- ▶ Teasing or bullying (receiving or giving)
- ▶ Social withdrawal, isolation, loneliness, etc.
- ▶ Change in typical personality
- ▶ Repetitive or anxious behaviors
- ▶ Panic or worry over relatively common troubles

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REFERRALS TO THE BIT

NaBITA

Emotional and Behavioral Indicators

- ▶ Marked irritability, anger, hostility, etc.
- ▶ Talking to or seeing things that aren't there
- ▶ Delusional or paranoid speech or actions
- ▶ Difficulty connecting with others
- ▶ Expressions of hopelessness, worthlessness, etc.
- ▶ Direct or indirect threat of harm to self or others

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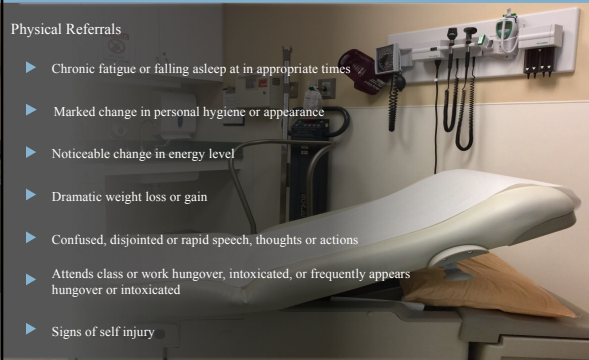


REFERRALS TO THE BIT

NaBITA

Physical Referrals

- ▶ Chronic fatigue or falling asleep at in appropriate times
- ▶ Marked change in personal hygiene or appearance
- ▶ Noticeable change in energy level
- ▶ Dramatic weight loss or gain
- ▶ Confused, disjointed or rapid speech, thoughts or actions
- ▶ Attends class or work hungover, intoxicated, or frequently appears hungover or intoxicated
- ▶ Signs of self injury



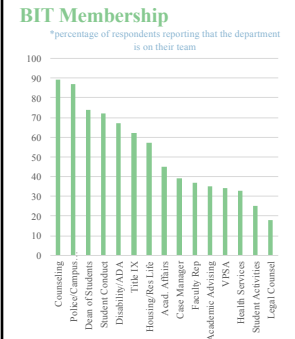
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BIT MEMBERSHIP

NaBITA

BIT Membership

*percentage of respondents reporting that the department is on their team



Department	Percentage
Counseling	90
Police/Campus	88
Dean of Students	75
Student Conduct	72
Disability/ADA	68
Title IX	65
Housing/Res. Life	60
Acad. Affairs	45
Case Manager	40
Faculty Rep.	38
Academic Advising	35
VPSA	32
Health Services	30
Student Activities	25
Legal Counsel	20

Average BIT Size

8 persons

BIT Leadership

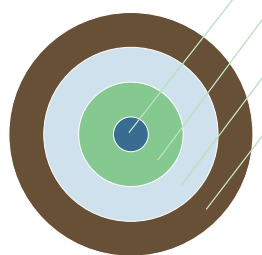
- 46%** Dean of Students
- 15%** VPSA
- 10%** Conduct
- 7%** Case Manager

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BIT MEMBERSHIP

NaBITA

BITs are comprised of four types of members each of which varies in their level of communication, access to database, and attendance at meetings.



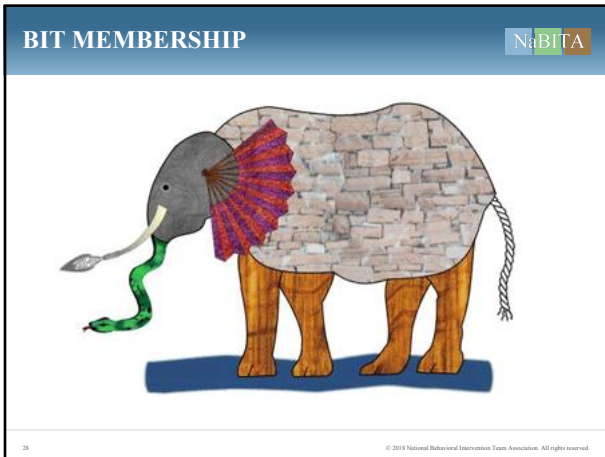
Core

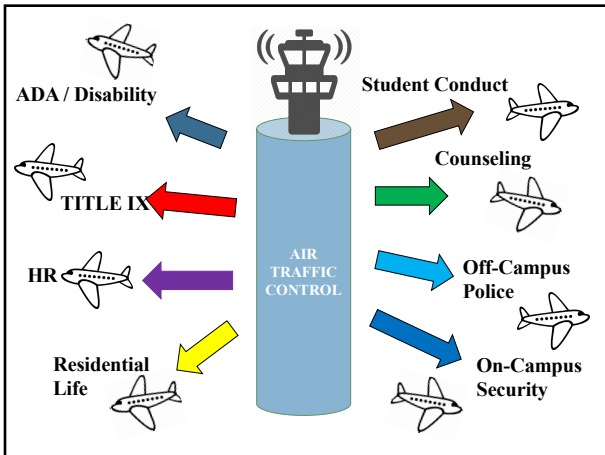
Inner

Middle

Outer

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ROLE OF THE COUNSELOR NaBITA

Useful guidelines for BIT/CARE team when working with counseling staff. Use of information by conduct (and others) is provided by NaBITA's new Whitepaper: *The Role of the Counselor on the BIT*

Counseling centers provide a critical role as core members of BIT/TAT teams. Nationally close to 75% of cases discussed involve a psychological aspect.

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ROLE OF THE COUNSELOR NaBITA

It's important to note:

- *Counselors do not jeopardize confidentiality simply* by having membership on a team or sitting in on a team meeting.
- Clearly, confidentiality is the bedrock of the counseling profession and is the most complex issue pertaining to their role on BIT/TAT teams.

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ROLE OF THE COUNSELOR NaBITA

Role of the Counselor on the BIT

- 1 Disconnected and Silent
- 2 Consulting Counselor
- 3 Sharing Helper
- 4 Out on the Limb
- 5 Unconditionally Open

The 2018 NaBITA Whitepaper

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ROLE OF THE COUNSELOR NaBITA

1 “Disconnected and Silent”: The counselor will not attend the BIT meeting, consult on cases or be involved in any way. As a result of the limits of confidentiality, the counselor is not allowed to offer any information and therefore does not need to attend. They prefer to work in the confidential counseling center and view BIT work as outside their scope or role as a school employee. Alternatively, the counselor attends the BIT meeting but refuses to participate actively. They acquiesce to attendance as it is a job requirement, but share nothing and take nothing away from the meeting. Needless to say, this is not the most enlightened approach.

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ROLE OF THE COUNSELOR



2 “Consulting Counselor”: The counselor attends the meeting and speaks only in hypotheticals. They consult on cases and share information about general mental health topics (e.g., the risk of a suicidal student after an inpatient hospitalization, the best treatment approaches for eating disorders or how Autism Spectrum Disorder responds to medication). They do not talk about active or past clients with the BIT or make diagnoses of students being evaluated by the BIT.

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ROLE OF THE COUNSELOR



3 “Sharing Helper”: The counselor makes use of an Expanded Informed Consent (EIC) that students can choose to sign allowing counselors to have a wider latitude to share information with the BIT when the counselor determines it would be in the best interests of the client. Sometimes the counselor will inform the client of the decision to share before doing so. The counselor shares information as outlined in the informed consent to support the work of the BIT and keep the community safe while also valuing the confidential nature of the relationship with clients. The counselor may go so far as to offer the team hypothetical hypotheses around concerning behaviors related to mental health or share informal assessments about student subjects of the BIT who are not clients.

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ROLE OF THE COUNSELOR



4 “Out on the Limb”: The counselor may or may not use the EIC, knowing that they may risk censure but probably not loss of licensure. If they use the EIC, they use it more expansively and share information with the team that is not just in the best interest of the client, but also for protection of the community. This professional speaks in hypotheticals that are obviously not hypothetical, uses the “cannot confirm or deny” code, backchannels information, and is often willing to share contact confidentiality information about whether someone is known to the counseling center and is attentive to their treatment program. ...cont’d


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ROLE OF THE COUNSELOR 


4 “Out on the Limb” Cont’d: They may hear a roadmap for an intervention by the team about a client and simply signal assent or objection without offering much more, or may help to frame a roadmap for a student without letting the team know the student is a client. They mean well in trying to strike a balance between ensuring their client is safe and also sharing with the BIT in a way that reaches beyond what the client would typically be comfortable with (regardless of the presences of an EIC).

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ROLE OF THE COUNSELOR 

5 “Unconditionally Open”: Some counselors may not give their client a choice about an EIC, or don’t create an EIC with the client, or act in violation of the terms of an informed consent. The counselor shares everything they know about a client with the BIT, usually without the knowledge of their client, without any deference to their license or state laws. They see job security as paramount and comply with whatever is required by the BIT, or they imaginatively view the BIT as a “treatment team” within the bounds of their confidentiality.
...cont’d

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ROLE OF THE COUNSELOR 

5 “Unconditionally Open” Cont’d: This counselor may earnestly believe that ethical rules were framed for private practitioners, not those in a campus context, where overzealous protection of information can get people killed. Or the counselor may have convinced themselves that their administrative role, governed by FERPA, supersedes their ethical duties as a therapist. Sometimes a clinical director who serves on the team uses the rationalization that they do not have a treating role, but shares information known to their supervisee counselors.

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STUDENT CONDUCT





Student Conduct Office

- The department which has oversight of the conduct process and the student code of conduct.



Conduct Process

- A process to determine if a student has violated the code of conduct and if so, what the consequences should be.




Code of Conduct

- Written policies that outline the rights and responsibilities of students.
- Sets forth behavioral expectations of all students.


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PURPOSE OF STUDENT CONDUCT




Educational and Developmental

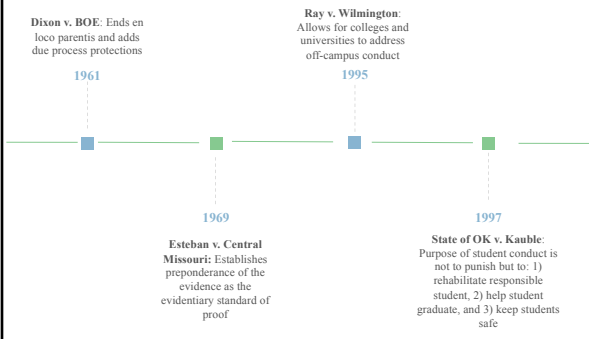
- The purpose of student conduct is not punishment, but rather:
 - The growth of the student
 - Preservation of the educational environment
 - Safety of the student and the community



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HISTORY OF STUDENT CONDUCT





1961: Dixon v. BOE: Ends loco parents and adds due process protections


1969: Esteban v. Central Missouri: Establishes preponderance of the evidence as the evidentiary standard of proof

1995: Ray v. Wilmington: Allows for colleges and universities to address off-campus conduct

1997: State of OK v. Kauble: Purpose of student conduct is not to punish but to: 1) rehabilitate responsible student, 2) help student graduate, and 3) keep students safe

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DUE PROCESS NaBITA



- Broadly speaking, due process entitles students to:
 - Being informed of the charges against them
 - A fair opportunity to refute these charges
 - That the institution not be arbitrary in its decisions
 - An opportunity for an appeal

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DUE PROCESS: BEING INFORMED NaBITA



- Schools typically inform students of the charges against them in a charge letter which is sent to the student outlining the portions of the code of conduct they allegedly violated.

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DUE PROCESS: OPPORTUNITY TO REFUTE NaBITA



- There are typically two options of how a student can refute the charges:
 - Informal Hearing/Administrative meeting: Typically reserved for lower level conduct violations.
 - Formal Hearing: This is a "hearing" in front of a panel often made up of conduct officers, faculty, and in some cases students. Typically reserved for more serious violations, or ones that could result in suspension or expulsion.

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DUE PROCESS: DECISIONS CANNOT BE ARBITRARY



- The process must be fundamentally fair, rooted in sound policy and process, and based on the appropriate standard of proof.
- Arbitrary or capricious means that an institutional decision must not be:
 - Lacking a rational basis
 - Motivated by bad faith
 - Or based on ill will

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DUE PROCESS: OPPORTUNITY FOR APPEAL



- Students must be able to appeal the decision of the either the informal or formal hearing.
- Typically the appeal must be based on:
 - New evidence not available at the time of the hearing
 - A violation of or deviation from the process or a procedural error that caused harm or prejudice
 - Sanctions which are disproportionate to the violation

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STANDARD OF PROOF



Preponderance of the Evidence



- 1 Greater weight of the evidence
- 2 The more convincing evidence
- 3 50% plus a feather
- 4 More likely than not

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FORMS OF EVIDENCE

NaBITA

Direct or Testimonial	Circumstantial	Documentary
Physical	Hearsay	Past Record*

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How do you see the counseling center, or clinicians, intersecting with the BIT and Conduct Processes?

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ROLE OF THE COUNSELOR

NaBITA



Support	Education	Collaboration	Assessment
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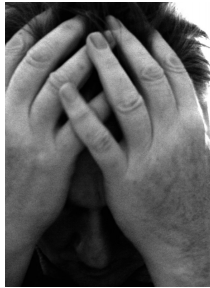
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ROLE OF THE COUNSELOR



Support

- Students may seek counseling or other support services as result of the stress/distress experienced during the conduct process.
- Empathy and forming a relationship can go along way in helping the student feel connected.
- Balance empathizing w/condoning the behavior



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ROLE OF THE COUNSELOR



Education

- As the authority on mental health issues on campus, you have a responsibility to each others about the topic.
- Provide education sessions on gatekeeper training, identifying red flags, how mental health impacts behavior, strategies for addressing mental health related behavior, etc.



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ROLE OF THE COUNSELOR



Collaboration

- The counseling center should take an active role in collaborating with both the BIT and conduct.
- Clinicians do not jeopardize confidentiality simply by having BIT membership or working with the conduct office on cases.



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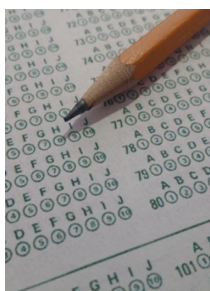
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ROLE OF THE COUNSELOR



Assessment

- BITs conduct threat and violence risk assessment as part of their overall approach to prevention and intervention.
- Student conduct investigates, adjudicates, determines responsibility, and issues sanctions for threats made to members of the community.
- Clinicians can perform assessments as mandated by BIT or sanctioned by conduct.



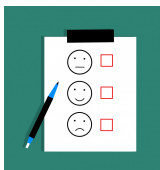
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PSYCH, THREAT AND VIOLENCE RISK ASSESSMENTS



Assessment: Short term (1-2 meetings) to determine the risk and share these results back to the referral source.



Treatment: Longer term (at least 5-6 meetings) to change behaviors of concern.

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PSYCH, THREAT AND VIOLENCE RISK ASSESSMENTS



Psychological Assessment: Focus on diagnosis of a mental health problem and suggestions for treatment. May be related to level of care (hospitalization).




Diagnosis



Threat and Violence Risk Assessment: Focus on determining dangerousness/lethality of an individual to harm/kill or destroy a person, system or location.


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PSYCH, THREAT AND VIOLENCE RISK ASSESSMENTS 

<p>When</p> <ul style="list-style-type: none"> • When the individual has crossed the elevated threshold on the rubric. • When the student has been found responsible for violating the code of conduct. • When you need more information related to the individual's likelihood of engaging in violence or other concerning behavior 	<p>Who</p> <ul style="list-style-type: none"> • Anyone on the BIT with adequate training and knowledge. • Someone with the ability to gather information and build rapport. • Case managers, clinicians, conduct, etc., tend to be good at it. • On vs. Off Campus
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ON CAMPUS ASSESSMENTS 

Resistance from on-campus providers


- There are some counselors and psychologists who aren't comfortable with "mandated" anything it comes to their clients.
- The common arguments against this is typically based on two ideas:
 - Client autonomy; that all clients must choose to enter treatment or assessment willingly.

Nearly every community practitioner and even college counseling centers utilize some form of mandated assessment: anger management, AOD, etc.

- That there is a conflict of interest as it is unclear if therapist is working for the client or for the school.

College campus practitioners are not like private practitioners, you do serve both entities and you do have the greater good of the community needs to take into account.

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IMPLEMENTING MANDATED ASSESSMENTS 

Tips for Establishing a Process

- BITS/Conduct should share information with the assessor beforehand so that they know what led to the assessment and the behaviors that are concerning:
 - BIT referrals, incident reports, witness statements, etc.
 - Past relevant conduct history
 - Academic transcripts, GPA, current schedule
 - Housing records
 - Follow up contact numbers for relevant and involved individuals

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IMPLEMENTING MANDATED ASSESSMENTS



Tips for Establishing a Process

- BITs/Conduct should be clear about the intent of the mandated assessment and what they are looking for as a result
 - Psychological assessment? Connection to counseling?
 - Assessment of harm/risk?
- What documentation do they need at the completion of the assessment?
 - Standardized form?
 - Letter from the assessor? What should it include?

IMPLEMENTING MANDATED ASSESSMENTS



Tips for Establishing a Process

- Creating a detailed informed consent is key to ensuring a solid process.
- Develop a clearly worded informed consent which outlines for the student what will happen and how the results will be shared and used.
- The well defined and clearly outlined informed consent must be done prior to the assessment.



IMPLEMENTING MANDATED ASSESSMENTS



Components of an Informed Consent


- The scope of your assessment.
- The tests, costs, and time involved in completing.
- Limit access to raw test data to qualified individuals with client written consent.
- Outline who receives the results.
- List information that will be collected (past therapy, past inpatient, past court involvement, arrests, felonies, etc.)
- Clearly spell out what happens if the student no-shows the appointment, and what happens if the assessment returns high risk, or failed clearance results.



MANAGING NaBITA

Counseling

When working with someone who is trying your patience, being hostile or being unmotivated:




Your goal should be to assist the person to move towards a higher stage of change, maintain positive momentum or gain a better understanding of their current situation and their decision to make a change.

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MANAGING NaBITA

Conduct

- Courts view conduct codes and honor codes as “essential functions” of the university and are not subject to accommodation.
- Be sensitive to what led to the conduct (possibly a mental health issue), but be firm with the expectations related to appropriate conduct.
- Never discipline a student for a mental health issue – always focus on the behavior or conduct.




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MANAGING NaBITA

Conduct

- Failure to comply with conduct expectations may result in disciplinary action.
- Keep your Counseling Director informed of any behavior or conduct situations you believe may be related to a mental health issue, even if the Counseling Director can't share information with you.



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NaBITA

QUESTIONS??

Thank you!!!

Makenzie and Dave

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