



Dismissed for Depression.(college students).Eric Hoover. *The Chronicle of Higher Education* 52.29 (March 24, 2006)(1618 words) From *General Reference Center Gold*.

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Byline: ERIC HOOVER

On October 27, 2004, Jordan Nott lay awake in his dorm room at George Washington University. He was thinking about his close friend Hasan Hussain, a fellow student who had committed suicide the previous April.

The two friends had laughed at the same jokes, enjoyed the same movies, and shared a fondness for Frisbee games. But Mr. Nott says he had not known Mr. Hussain was troubled before he leaped from his fourth-floor dorm room and died.

Six months later, Mr. Nott felt himself slipping into depression. He was receiving counseling at the university and was taking Zoloft, an antidepressant. Then one night, he says, he became distraught. His thoughts began to frighten him. "I didn't want to end up the way Hasan did," Mr. Nott says.

So he woke his roommate and a friend and asked them to accompany him to the university's hospital.

What happened after that changed Mr. Nott's life, left him looking for a new college, and prompted him to sue George Washington last fall. The first-of-its-kind case challenges the legality of George Washington's mandatory-leave policy, which allows administrators to suspend students whom they determine require intensive treatment for mental or physical problems.

A growing number of colleges are using similar strategies to deal with suicidal students. Critics, including legal experts and psychiatric counselors, describe the policies as dangerous and inhumane. Some college administrators, however, say that when properly applied, mandatory-leave policies ensure troubled students get the help they need.

How colleges should deal with troubled students has long been one of academe's most difficult questions, and student-affairs officials say Mr. Nott's lawsuit has further complicated the issue.

"People are circling the wagons," said Gwendolyn Jordan Dungy, executive director of the National Association of Student Personnel Administrators. "They're trying to figure out what we can do to support our students while protecting our universities."

#### 'Endangering Behavior'

About 12 hours after Mr. Nott was admitted to George Washington's hospital, he received a letter from an administrator informing him that, under the university's policy on "psychological distress," he could not return to his dorm.

The following day, Mr. Nott received a letter from the university stating that he had violated the student conduct code by engaging in "endangering behavior." The letter said that George Washington had temporarily suspended Mr. Nott, and that he would face disciplinary charges unless he withdrew from the university and received medical treatment. The letter also told Mr. Nott that he was barred from the campus.

"I was totally speechless," Mr. Nott says. "I thought it took a lot of courage to say I need help, I need to talk to someone, I want to be healthy, I want to be happy. But this was something that made me feel even worse."

The student contends in his complaint that he was not "actively suicidal" the night he went to the hospital -- or at any time -- and that he never made a suicide "threat, gesture, or attempt."

Mr. Nott, now a student at the University of Maryland at College Park, claims that by sharing confidential information about his psychiatric treatment and by punishing him for seeking help, university officials violated federal laws protecting Americans with disabilities, including mental-health problems.

In documents filed this month in the Superior Court of the District of Columbia, the university defended its actions, rebuffed the argument that Mr. Nott had a disability, and sought the dismissal of charges against the administrators and counselors named in Mr. Nott's lawsuit.

Tracy Schario, a spokeswoman for George Washington, said in a written statement that of the 50 or so students with suicidal thoughts or behaviors who seek counseling on the campus each year, "a few students rise to the level of risk that requires time away from campus and/or classes for more intensive treatment and family support."

"When a student in our community presents a serious threat of suicide," Ms. Schario said, "our ultimate goal is to find support and treatment to get through the crisis point. While some may see the ultimate goal as to stay in school, the university's foremost concern is for the student's life."

Yet Karen Bower, a lawyer for Mr. Nott, says policies like George Washington's "send a message that students have failed" if they seek treatment for depression. "It isolates them and segregates them at a time when they're most vulnerable," Ms. Bower said. "It sends a message that they could get in trouble if they seek help."

#### Liability Fears

Gary Pavela, director of judicial programs at the University of Maryland at College Park, says more college officials have been considering mandatory-leave policies amid growing concerns about liability in student-suicide cases. Although colleges and their employees generally have not been held liable for student suicides, two recent decisions indicate that the legal responsibilities of colleges in such cases could expand, at least in some circumstances.

Last summer a Massachusetts Superior Court judge ruled that the parents of Elizabeth H. Shin, a student at the Massachusetts Institute of Technology who committed suicide on that university's campus in 2000, can proceed with their claims against MIT administrators and staff members for failing to prevent her

death (The Chronicle, August 12, 2005). The judge ruled that the plaintiffs had presented sufficient evidence to seek damages from two administrators and four medical employees for negligence in Ms. Shin's death, concluding that the officials had a "special relationship" with Ms. Shin, allowing them to "reasonably foresee" that she would harm herself unless they intervened.

The judge based her conclusion on *Schieszler v. Ferrum College*, a 2002 student-suicide case. In that decision, a federal court in Virginia found that Ferrum officials had had a legal duty to ensure the safety of the deceased student, Michael Frentzel, because they knew of the "imminent probability" that he would try to harm himself.

"The fear of liability is palpable," said Mr. Pavela, who is also the author of the forthcoming book *Questions and Answers on College Student Suicide: A Law and Policy Perspective* (College Administration Publications). "After the Shin ruling, you could see a major uptick in references to, and the development of, mandatory-leave policies. But these liability fears have driven a dangerous reaction and, I think, an ethically questionable, educationally questionable reaction."

Mr. Pavela warns that by routinely dismissing troubled students, a college may put those students at an even greater risk of harming themselves. Furthermore, he notes that such dismissals may increase the risk of lawsuits, like Mr. Nott's, under federal disability laws.

Among colleges that approach threats of suicide as a disciplinary matter, Mr. Pavela said, the challenge is to use discipline "as a lever to get them the help they need -- but not using discipline as a hammer."

#### 'A Last Resort'

Officials at Western Carolina University designed their year-old mandatory-leave policy after struggling to help students with eating disorders who had refused to seek appropriate treatment. So far administrators have not had to remove a student, but Bill Haggard, the university's associate vice chancellor for student affairs, says the policy gives administrators "leverage to encourage students to get help."

"Separating a student from the institution would be a last resort," Mr. Haggard said. "Our first mission would be to do all we could to help the student."

Some colleges are finding that removing a student under mandatory-leave policies can lead to conflicts. Recently the U.S. Education Department's Office for Civil Rights has issued several rulings on complaints filed by students who were dismissed from their colleges because of psychological problems.

In a 2005 letter to Lee F. Snyder, president of Bluffton University, in Ohio, for instance, the civil-rights office wrote that the institution had erred by immediately suspending a student who had attempted suicide in 2004, not offering her an opportunity to appeal the decision, and refusing to reconsider the suspension after learning that she had bipolar disorder.

The letter states that federal disability laws do not prevent colleges "from addressing the dangers posed by an individual who represents a 'direct threat' to the health and safety of self and others," even if that person has a disability.

However, the letter says, "to rise to the level of a direct threat, there must be a

high probability of substantial harm and not just a slightly increased, speculative, or remote risk. ... Due process requires a college to adhere to procedures to ensure that students with disabilities are not subject to adverse action on the basis of unfounded fear, prejudice, or stereotypes."

Bluffton has subsequently agreed to resolve the complaint as directed by the civil-rights office. Among other things, the university has agreed to develop a written policy on "emergency removal and return conditions" for students, as well as grievance procedures for resolving allegations of disability discrimination.

Mr. Pavela said that in examining their policies for dealing with depressed or suicidal students, colleges should not overreact to recent lawsuits. "Some college administrators are really taking stock of their fears and are not aware that there are contrary holdings" to recent decisions in the cases at MIT and Ferrum, he said.

In December, for instance, a Pennsylvania court ruled that two deans at Allegheny College had no "duty of care" to prevent the suicide of Charles Mahoney because they had lacked specific knowledge of whether the student was at immediate risk of suicide.

Mr. Nott, the former George Washington student, hopes his lawsuit leads colleges to create more "compassionate" policies. "I don't want people to be afraid of going to get help," Mr. Nott says.

But he has some advice for students with depression. "I would tell them, absolutely go get the help you need, but be careful about getting help. I'd suggest going off campus."

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