

Policy on Duty to Warn Obligation for New Jersey Licensed Health Providers at Stevens
Policy Number 70.9

Approval Authority: Cabinet
Responsible Officers: Vice President for Enrollment Management and Student Affairs;
Chief of Police
Responsible Offices: Counseling and Psychological Services; Student Health Services;
Stevens Campus Police Department
Effective Date: May 10, 2022

I. Purpose of this Policy

The Trustees of the Stevens Institute of Technology (“Stevens”) is committed to the physical and mental health and wellbeing of its students. Accordingly, Stevens provides certain medical and counseling services to its students via Counseling and Psychological Services, Student Health Services and the Sports Medicine Office.

By virtue of their positions in one of these three offices, certain Stevens employees have the legal responsibility to take certain actions if they are aware that an individual poses a threat to themselves or another individual. This policy sets forth the obligations of these employees under New Jersey’s “duty to warn and protect” statute, N.J. Stat. Ann. 2A:62A-16 (the “Statute”).

II. The Duty to Warn and Protect

A. Covered Employees

Pursuant to the Statute, the duty to warn and protect applies to practitioners of psychology, psychiatry, medicine, nursing, clinical social work and marriage counseling who are licensed by the State of New Jersey. At Stevens, covered employees include licensed clinical staff in Counseling and Psychological Services, Student Health Services and the Sports Medicine Office (each, a “Covered Employee”).

B. Conditions that Generate a Duty to Warn and Protect

Pursuant to the Statute, Covered Employees must execute their duty to warn and protect in the following circumstances:

- (1) An individual has communicated to a Covered Employee a threat of imminent, serious physical violence against a readily identifiable individual or against themselves and the circumstances are such that a reasonable professional in the practitioner’s area of expertise would believe the individual intended to carry out the threat; or
- (2) The circumstances of which a Covered Employee is aware are such that a reasonable professional in the practitioner’s area of expertise would believe an individual intended to carry out an act of imminent,

serious physical violence against a readily identifiable individual or against themselves.¹

C. Acceptable Means of Satisfying the Duty to Warn and Protect

Pursuant to the Statute, after evaluating the circumstances and determining whether a duty to warn and protect has arisen, a Covered Employee must satisfy their duty by taking one or more of the following actions:

- (1) Arranging for the individual to be admitted voluntarily to a psychiatric facility;
- (2) Initiating procedures for involuntary commitment of the individual to a psychiatric facility;
- (3) Advising appropriate law enforcement authorities of the individual's threat and the identity of the intended victim;
- (4) Warning the intended victim of the threat or, in the case of an intended victim who is under the age of 18, warning the parent or guardian of the intended victim; or
- (5) If the individual is under the age of 18 and threatens to commit suicide or bodily injury upon themselves, warning the parent or guardian of the individual.²

If a Covered Employee has questions concerning what action(s) to take when a duty to warn and protect arises, the Covered Employee may contact their supervisor, Stevens Campus Police or the Office of General Counsel.

Covered Employees must also take steps to maintain compliance with the Family Educational Rights and Privacy Act ("FERPA") by ensuring that a student's education records are not shared with third-parties without proper authorization unless such disclosure is expressly permitted under FERPA and Stevens' [Policy on Student Privacy Rights](#) ("FERPA Policy").³ Under FERPA and the FERPA Policy, a student's name, address, telephone number, email and photograph (among other items) constitute "directory information" and, accordingly, may be made available to the general public. Disciplinary records, health and counseling center records, student employment records, academic records and records kept by Stevens Campus Police for law enforcement purposes are "education records" and may only be disclosed without the student's consent when Stevens determines, for example, there is a health or safety emergency warranting disclosure or when ordered to do so by a judicial order or subpoena.

¹ N.J. Stat. Ann. 2A:62A-16.

² N.J. Stat. Ann. 2A:62A-16.

³ https://www.stevens.edu/sites/stevens_edu/files/Student_Privacy_Rights_%28FERPA%29_Policy_10.10.2018.pdf

After a Covered Employee takes action to satisfy their duty to warn and protect by taking one or more of the actions described above, the Covered Employee must take the following actions by the end of the day:

- (a) inform their immediate supervisor of the circumstances and the actions taken;
- (b) inform Stevens Campus Police of the circumstances and the actions taken;
- (c) document the circumstances and the actions taken; and
- (d) if the actions taken under this Section II.C. did not include notification of law enforcement, notify the chief law enforcement officer of the municipality in which the individual resides (or the Superintendent of State Police (or equivalent) if the individual resides in a municipality that does not have a full-time police department) that the Covered Employee has taken action to satisfy a duty to warn and protect with respect to the individual and provide to the chief law enforcement officer or superintendent, as appropriate, the individual's name and other non-clinical identifying information.

The Covered Employee's supervisor must also document the circumstances and the actions taken in their records.