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Christy Perry, Superintendent

To: Members of the Senate Committee on Education

From: John Van Dreal, Director
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Re: SB 414, State Wide Threat Assessment System Frequently Asked Questions

Dear Chair Roblan and Members of the Senate Committee on Education:

The following questions and answers address the assessment of threats of aggression and suicide risk within the proposed threat assessment system. FAQs that address the assessment of sexual misconduct and juvenile fire misuse are forthcoming.

What is a student threat assessment system?

A student threat assessment system is a set of assessment and safety-planning procedures overseen and administered by a unique collaborative community team comprised of schools, law enforcement, public mental-health, and juvenile justice services. The primary goal of the system is to prevent and defuse threats to the physical and emotional safety of students and adults in our schools and community. Furthermore, the system also reduces the over-reaching responses of school zero-tolerance policies that often result in an inflated number of students identified as potentially dangerous and thus lead to an over reliance upon expulsion to resolve school safety concerns.

Threats are defined as situations that are at-risk for outcome of aggression. The team examines those situations for factors that increase the likelihood of aggression. Once identified, those risk factors are reduced through the development of a management plan that directly addresses each factor through increasing protective factors, increasing supervision, and the introduction of intervention to decrease aggravating elements within the school, home, and community. This directly decreases fear-related distractions within the academic setting and thus improves the education environment for everyone.

How does a student threat assessment system operate?

The student threat assessment process gathers the different perspectives of a school site-based multi-disciplinary team to complete a Level 1 Threat Assessment with intervention strategies that are appropriate to the risk level. If further assessment is needed the case is referred to the community-based multi-agency team to complete a Level 2 Assessment and consult on community resources. Thus, the two-level process efficiently maximizes school and community resources by determining the level of supervision and the intensity of intervention required to decrease the risk and ensure needed support.

The team-based investigation process is based upon assessment that determines the level of risk posed by a situation involving one or more students as opposed to other threat assessment instruments that profile students who appear to have characteristics that may predict future violence. The team-based decision making and supervision planning is based upon the assessment's indications of risk, the escalation of that risk, and the protective supports and strategies needed to decrease that risk.

Has this system been implemented in Oregon?

The system began operation within the Salem-Keizer School District in the fall of 2000. The project was led by Salem-Keizer with the collaboration of a team of youth serving agencies consisting of Marion County Sheriff's Department, Salem Police Department, Keizer Police Department, Marion County Children's Mental Health Dept. Polk County Children's Mental Health Dept., Marion County Juvenile Dept., Polk County Juvenile Dept., and Marion County Department of Human Services. One year later, the Willamette Education Service District joined the team and began implementing the system throughout the rural school districts in Marion and Polk counties.

The system in place today includes the Adult Threat Advisory Team and the Student Threat Assessment Team. Both teams operate through assessment protocols, supervision and management consultation, and the access to available community resources. The system is now operated through a collaboration of the public agencies that serve youth and adults in our community. Members of this collaboration are trained to the highest standards available and are available to schools for assessment, consultation, and resource development.

Since the initial implementation in Salem-Keizer, members of the Mid-Valley Student Threat Assessment Team and Marion County Adult Threat Advisory Team have trained school districts and community partners throughout the Northwest in establishing and organizing a student threat assessment system based on this model. Many school districts throughout the region are implementing a version of this model, though at various states of functioning.

What are the benefits of a well-functioning threat assessment system?

1. It shares ownership, responsibility, and liability. With a multi-agency membership and the support from the guidelines of the Safe Schools Initiative (Fein R., et. al, 2002) and the FBI (O'Toole, 2000), agencies are offered the confidence of knowing that they are in good company and that no one person or agency shoulders the weight of decisions.
2. It is multi-discipline and multi-agency. Such a process allows many different professional perspectives and disciplines.
3. It is expeditious but methodical. The response time can be within the day allowing efficient safety planning, supervision, and necessary intervention. Considering the information time-frame of past school shootings, an assessment model that supports an efficient and expeditious process will be far more effective than one that requires a complex or timely process.
4. It is maintained by community collaboration and ownership. This decreases the pressure and worry within the schools and also lowers the potential conflict between schools and parents. It takes the focus or blame from being solely on the part of the schools and brings community into the equation, allowing for a more united stand.
5. It identifies risk in clear terms. Clarity of language is more easily communicated to parents, teachers, and students. **Furthermore, the system is valuable in identifying situations involving students who have**

used threatening language but do not pose an actual threat (i.e. they make a threat as a reaction or to impress others but have no intention of acting out the threat). By assessing a situation as benign, the results address potential overreaction of other students, parents, and staff. The results also establish the school's response as appropriate and remove the potential label from the student.

6. Interventions and supervision strategies are fitting to the situation and accurately address risk. Thus, knee-jerk over-reactions are avoided and those involved can have an accurate and realistic understanding of the problem and needed solutions.
7. It safely keeps many students in school who would otherwise be removed through expulsion or by other means. Approximately 9 out of 10 MVSTAT assessments conclude with a supervision plan that is implemented at an education site.
8. It Increases both the physical safety and the psychological safety of a school. A sense of safety is essential to a successful learning and teaching climate for students and staff.
9. It is derived from several significant research sets. (See References and Additional Readings.)
10. This type of system is recommended by the US Departments of Education and Justice, NAAG, IACLEA, NASPA, MHEC, and others.

Who does the work of implementing and coordinating the program?

Listed in the proposal are regional coordinators who would be responsible for oversight of the system, including providing leadership on the Level 2 process, consultation with school and community-based teams, and ongoing training. If the proposal is not funded, school districts will be responsible for identifying school staff who can take a lead role in coordinating the system. Experience has shown that unless FTE is dedicated to these programs, they are likely to be unsustainable over time.

How do you maintain confidentiality of student records in compliance with FERPA and Oregon regulations?

FERPA is a Federal law that protects the privacy of education records or any records that contain information directly relating to a student and that are maintained by the educational institution, agency, or a person acting for the agency or institution. FERPA permits disclosure of personally identifiable information without consent in certain circumstances, including:

- To school officials with legitimate educational interests as established by ... criteria listed in the annual notification of rights under FERPA and published annually by individual schools or school districts.
- To appropriate officials in health and safety emergencies... so long as the information is necessary for the receiving party to deal with the emergency nature of the situation and... made to protect the health or safety of the student or others. This provision is limited to specific situations that present imminent danger to a student or other students, members of the school community... or to a situation that requires the immediate need for information from education records in order to avert or diffuse a serious threat to the safety or health of a student or other individuals.
- To comply with a lawfully issued judicial order or subpoena.

Information from education records may be shared with police, social services, or other community representatives who are serving on a school's established threat assessment committee, if they are school officials with legitimate educational interests in accordance with the school's established criteria. Such individuals may not use that information for any purpose other than consideration on that committee, nor may they take the information back to their agencies or share it with anyone else except under the provisions of FERPA.

FERPA does not protect the confidentiality of information, in general. It protects information from education records. Therefore, if students or staff witness or hear of a student's behavior, communication, or ideas and then

orally share that information with members of the threat assessment committee, the information is not protected by FERPA since it was not provided through an education record.

In 2009, FERPA was reconsidered and adapted. The new regulations impose a “rational basis” test on a school’s decisions to disclose information in emergency situations. “The Department [of Education] will not substitute its judgment for that of the agency or institution if, based on the information available at the time ... there is a rational basis for the agency's or institution's determination that a health or safety emergency exists.”

And finally, most State systems as well as the Federal Dept. of Education (Fein, et al. 2002) encourage information sharing where public safety is concerned. The following are Oregon laws and administrative rules that allow the sharing of information under health and safety situations, intervention prior to a youth’s adjudication and during a youth’s adjudication:

- ORS 336.187 A and B allow discussion and protective reporting. This applies to Student Threat Assessment Teams, especially with an MOU (Memorandum of Understanding, see Appendix 2 K) stating confidentiality rules and procedures. Conversations can take place between education, law enforcement, and child protective agencies.
- ORS 339.312 suggests a safe schools alliance between schools, the Juvenile Department, and law enforcement.
- OAR 581-021-0380 outlines health and safety emergencies that obligate discussion and reporting between education and other agencies.

How does the proposal instruct on the maintenance of threat assessment data?

- **How secure are the records?** The records are as secure as the district’s electronic security will allow. The hard copy records maintained within the cumulative file are as secure as a district’s student records security policy allows.
- **Who stores the records?** The school district maintains the records, both electronic and hard copy, just as it does with any other district record or student record. Threat response records are held within the district in two ways: 1. As a Law Enforcement Unit Record, outside of the student record and within a security department, and 2. As a Confidential Record within the cumulative student file. As such, there is a difference of opinion among legal counsel regarding whether the Confidential Record is a student record. Salem-Keizer Public Schools houses the Confidential Record within the student cumulative file to assure that the safety information and intervention strategies can be seen by administrators and counselors; however, the district considers the Confidential Record to be a health and safety record, and as such, district property (see next question response) and not a student record. Most districts have moved to this practice; however, there are some districts (WESD districts, for example) that consider the Confidential Record to be a student record. The difference between the two practices comes down to the permanence of the record. For example, if the threat assessment record is considered a student record, it can be purged or potentially modified, which can compromise the safety of both the student and the school.
- **Is the record school property?** Yes, as noted above, we consider the records to be health and safety records, owned by the district and not the student. This practice is to insure follow-up, intervention, and the appropriate supervision. A short version of the argument in favor of this practice is as follows: The assessments are focused on situations that contain a student or students and are not focused on specifically the student, as a person isolated from the context of the threat or situation. In this way, the assessments differ considerably from academic, psychoeducational, or discipline assessments because they are examinations of safety conditions, not people. Thus, we do not profile or predict, nor do the assessments define a person as “dangerous” or “not dangerous.” The assessments define a situation as having risk factors that increase the danger and does not place labels on the person. In other words, a student making threats is examined as a person within a threatening situation, not as a threatening or

dangerous person. With this as our scope, we consider the records to be district property related to, and necessary to, maintaining a healthy and safe environment (situation).

- **What happens to the record after completion of the threat assessment process?** Some districts use guidelines based upon the maintenance of discipline records, special education records, or academic records, depending upon whether the threat assessment was triggered by or related to one of those issues. We discourage this because a threat assessment is a stand-alone examination of a situation, not a student (as noted above). As such, it is not a discipline record, special education record or academic record. While a threat assessment can inform discipline and the special education process, a threat assessment does not drive either of those processes. At this time, we do not have a set time frame for the duration of threat assessment maintenance.
- **Are threat assessment records subject to open records law?** We do not view them as subject to open records law; however, they are subject to subpoena.

Has any data been gathered on success at reducing violence, or satisfaction of community stakeholders?

As true of any prevention program, we have difficulty measuring what doesn't happen; however, we are certain that positive intervention in students' lives have steered youth in a positive direction.

In response to a survey administered in 2005 by the University of Oregon Institute on Violence and Destructive Behavior, more than 94% of school administrators and counselors responding from the mid-Willamette Valley stated that:

1. STAS effectively identified potentially dangerous students and situations.
2. STAS had positive effects on school safety.
3. STAS provided important information necessary for support, discipline, and placement decisions.
4. STAS fulfills a valuable role in schools.

In the same survey, 90% of administrators reported that STAS increased efficient coordination with law enforcement and mental health. The survey indicated that school administrators and counselors strongly endorse the system and believe it plays an important role in maintaining safety in their schools and supporting referred students. Nearly all the respondents stated that the procedures were respectful of the student and his or her family. Finally, 95% stated that the system provided timely information essential for support and service decisions.

The anecdotal information from respondents reported high satisfaction with "the collaboration between school and agency specialists" as well as the improved access to community resources, networking, and a variety of ideas and perspectives for available potential help and services.

When are suicide risk assessments initiated?

Suicide risk assessment are initiated when a student is communicating intention to commit suicide, considering suicide as a possibility, or otherwise behaving in a manner that suggest that he/she is considering suicide.

How will the proposal define the difference between self-harm and suicide?

Self-harm can be both suicidal behavior and non-suicidal actions like cutting or even reckless behavior that has a high likelihood of injury. For example, planning and preparing for suicide or attempting suicide are examples of self-harmful behavior, while cutting on one's arms as a coping strategy or taking risks, like playing chicken with a train, may not be suicidal behavior at all. This kind of language-blend can be confusing to the public and thus, should be clarified within the proposal. Perhaps we should simply refer to our focus as one that examines suicidal behavior. Obviously, if a student is cutting on their arms, we will move forward with intervention, and in the process, may well do a suicide assessment if there are other risk factors.