

### **1. Are faculty members mandated reporters by virtue of being faculty?**

No. Being a faculty member does not make you a mandated reporter for suicide. However, as you noted, it is possible for some faculty members to be mandated reporters by virtue of their professional codes; lawyers, for example, are mandated child abuse reporters at all times. So, if they are a mandated reporter in their profession (nursing, teaching, etc.) that stays with them as faculty. If they are not (perhaps an English or Philosophy professor, for example) then they do not become reporters just because they are faculty members.

### **2. What individual/institutional liability exists for a student suicide that was disclosed to a faculty member?**

Leaving aside the mandated reporter question, liability is a largely fact-specific determination, so it's difficult to offer a blanket answer. However, it is unlikely that, in the scenario of a student just telling a professor "I'm going to kill myself," the professor would then become liable if the student did follow through on that threat. That doesn't mean that the family would not sue the individual or university, but it doesn't necessarily create liability. The likelihood of a family bringing a claim may increase in instances in which the student made multiple threats, spoke in such detail that the professor could reasonably believe the student was going to harm him/herself but didn't report, or the University did not take action (perhaps multiple reports, student attempting to seek help, no one reporting, services not offered, etc.). A lot of facts would need to align in a specific way to create the possibility of liability, and it cannot be determined with certainty in a vacuum.

One very important point: a faculty member who received that information from a student while working as a faculty member would likely be covered under the University's liability insurance for the suit (again, the fact-specific nature of the question makes it impossible for me to speak definitively).

### **3. What rights do students have to privacy when they are talking about or threatening severe self-harm or suicide with a faculty member?**

The short answer is that students have no right to privacy at all when speaking to a faculty member. Faculty members are not counselors: there is no guarantee of absolute confidentiality in any conversation, as perhaps might exist in the instance of a counselor, or potentially a spiritual director. It is important that faculty members understand this, and ensure that their students understand it as well.

The faculty-student bond is undeniably important, unique, and significant. However, it is important that faculty members not back themselves into a corner by promising absolute confidentiality when they cannot—and in fact, should not—guarantee it. I am glad you use the word privacy rather than confidentiality: privacy means that information may be shared, but is not shared widely and is generally only shared on a “need to know” basis. Confidentiality gives the impression that nothing said will ever be repeated, which is an unrealistic standard, and one that faculty members should not limit themselves to when there is always the potential it will be breached.

Even if a faculty member promised confidentiality, he or she could—and should—break that promise if a student were in potential danger. It is simply better not to make the promise at all, but instead have a conversation with the student about the nature of the faculty/student relationship and the desire to be an advisor/mentor, but also the responsibility of the faculty member to help students be safe and successful.

I cannot stress enough that **this inquiry would be best directed towards protecting our students rather than legal concerns.** If a student goes to a professor and says that he or she is going to kill him/herself, the professor should absolutely report it. A professor should always report a threat of this nature to someone who can help the student work through the issues, or consult with someone (ex. Health Center) about how best to handle the situation.

**A couple final notes:**

1. The information above applies only to non-minor students. The situation changes—and there likely is a heightened risk of liability—when the student involved is a minor.

2. The situation also changes if there are any Title IX-related issues, such as sexual assault or other forms of interpersonal violence. If Title IX is implicated, a court could very possibly find an affirmative duty to act.
3. There is also a heightened risk of liability if the student threat at all implicates a risk of harm to others.

**Bottom Line: A professor should always report a student threat of harm to the Health Center, or to Public Safety if the threat of harm is immediate or after hours.**