

GUEST VIEWPOINT

UO needs to take action to restore students' trust

By JENNIFER FREYD
For The Register-Guard

Trust is the foundation of all human relations. Without it, nations would meet only at heavily fortified borders, our economy could not use credit or even money, and families would fall apart.

When trust is broken, systems collapse. This is happening now at universities nationwide as students lose faith that they will be protected from sexual assault. And it is happening when students who are raped or otherwise assaulted are afraid to seek counseling from their universities.

On Dec. 8, 2014, the University of Oregon's Office of the General Counsel requested that the University Counseling and Testing Center transfer to its office a student client's complete therapy records. The director of the UCTC complied — but without telling the student or her therapist.

A month later the student client, known as Jane Doe, filed a lawsuit complaining that the records were transferred without her permission and against her wishes, among other charges. The treating therapist subsequently co-authored a letter confirming that “the client's clinical records were accessed without the client's permission or consent and without proper authorization prior to any litigation occurring.”

Since then the transfer of the records has become national news, and professional alarm has grown nationwide. University students and staff are confused about what happened and anxious about whether it might happen again. Many students have told me they are no longer willing to seek help from the UCTC. Many faculty have told me they are no longer willing to refer students to the UCTC.

This is a crisis for the UO in part because there are not sufficient alternative mental health resources for our students. A number of faculty members have repeatedly asked that the administration address this crisis; those requests have largely gone unanswered. Most recently the University Senate unanimously passed a resolution titled “Return Therapy Records and Clarify and Strengthen Privacy and Confidentiality Guarantees for Clients of all Mental Health Clinics at the University.”

Last week the controversy grew as U.S. Rep. Susan Bonamici and U.S. Sen. Ron Wyden wrote to Education Secretary Arne Duncan requesting clarification of relevant laws, particularly the Family Educational Rights and Privacy Act. Wyden noted that on-campus mental health services play a “critical role” for students, particularly victims of sexual assault.

The lawmakers' focus on FERPA resonates with the focus of the national press on the UO case. Clearly FERPA needs to be fixed and university counseling centers need to be under privacy restrictions like those guaranteed by law to medical patients.

But what happened at the UO is not the fault of loopholes in FERPA. For one thing, other laws are likely to apply — including state licensing laws that make preserving confidentiality an obligation for mental health workers. A striking thing in this case is that the UCTC privacy policy already promises confidentiality.

The policy begins: “The UCTC provides confidential psychological services to students, consistent with the parameters of state and federal laws. No information about your therapeutic work, or the fact that you have sought services, is released to anyone without your written permission (except as noted below under exceptions). This includes your parents, roommate, spouse/partner, and university personnel.”

None of the exceptions matches the events that occurred on this campus in December. It's no mystery why UO students and professionals around the country are alarmed. Trust has been fundamentally shattered.

Most people understand the need for the highest level of privacy and trust in mental health treatment, particularly for survivors of sexual violence. However, some lawyers understand these issues when it comes to client-attorney privilege but not when students are involved. And some administrators seem to have a blind spot as well.

A university has a fundamental commitment to its students' welfare. Students are not our enemies — not even when they sue the university. We are trusted with their education and care, and they are entitled to trust us.

What happened with the therapy records at the UO and what needs to happen next is an uncomplicated matter of about right and wrong. Excuses and platitudes will simply erode trust further. UO administrators must take prompt corrective and restorative actions. They must return the records that some employees obtained without the student's permission, they must admit those employees made a mistake, and they must show through action, including new policies, that they will not allow it to happen again.

It is time for this university's administrators to stop ignoring the piercing alarms all around them and do the right thing.

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