It was only a 13-minute segment of the 13th episode of the Netflix series “13 Reasons Why,” but for the school counseling profession it was a painfully long gasp of, “Why must Hollywood portray a member of our profession as so inept?” The portrayal of Mr. Porter, a school counselor in the last episode of “13 Reasons Why” showed a school counselor, albeit a fictitious one, who was uninformed about his unequivocal ethical imperative to notify the parents of a child who is suicidal and his legal requirements to notify administration when students are victims of dating violence.

The episode started with the main character, Hannah, declaring she was “giving life one last try.” Her last “try” at life was seeking help from her school counselor, who, unfortunately, didn’t recognize or raise the alarm that Hannah was in imminent danger of suicide.

We cannot shrug this off as Hollywood taking creative license as the segment has merit in the reality of court cases. Sadly, one of the most tragic and avoidable was the 2013 court case Rogers v. Christina School District, et. al. Roger Ellerbe Jr. took his life hours after speaking for four hours with Margette Finney, a “counselor” at his high school, about his suicidal thoughts. Finney was not a certified school counselor, nor did she have a master’s degree in counseling, although documents from the Delaware Supreme Court referred to her throughout as a school counselor. Ellerbe wrote to Finney that while at school the day before he wanted to hurt himself and others and that he was feeling alone and unloved. Ellerbe admitted to Finney that he had actually attempted suicide two days earlier.

In “13 Reasons Why,” fictitious Hannah’s suicidal ideation was painted almost as vividly to Mr. Porter when 56 seconds into the counseling session she described herself as lost, empty and unable to care about anything. Four minutes into the counseling session, Hannah declared she needed “everything to stop … people … life,” giving Mr. Porter all the information he needed to draw the conclusion that Hannah was in danger of suicide.

Suicide reporting, as in the case of child abuse, does not hinge on whether
or not the school counselor is absolutely positive that a student or someone else is danger. It’s not a matter of using one’s discretion. Reporting is imperative. The only knowledge the school counselor needs to meaningfully act is an expressed, implied, veiled or rumored suicide. The consequence of the risk, death of a child, is too great. We must err of the side of caution. In both Hannah’s case and the Ellerbe case their suicidal risk was plainly expressed, and unequivocally this knowledge should have been conveyed to the parents/guardians. Porter and Finney did not make an error in judgment; rather, they moved far outside the standard of care for the school counseling profession.

School counselors should never rely on a student’s denial of suicide intent. Students who are bent on self-harm will escape our scrutiny by telling us what they think we want to hear. Hannah said, “Oh, I am sorry I didn’t mean that, I guess.” The fact that the fictitious and real school counselor felt a need to ask Hannah and Ellerbe about suicide was precipitated by prior events or knowledge. The asking of the question of suicide should trigger a call home. Court documents show that instead of calling home, Finney sent Ellerbe back to class and wrote an e-mail to his teachers, the assistant principal and school counselors that she had met with Ellerbe and did not believe he was a threat to himself - this after speaking with him for four hours is shocking. Ellerbe ended his life that day.

In-school suicide assessments are dangerous if relied on for conclusive answers. If a school district performs suicide assessments, these assessments should only be used as a segue to convey to parents the urgency to monitor their child’s safety and to get them professional mental health care to evaluate and, if necessary, treat the suicide risk. The standard of care for school counselors when informally assessing students like Hannah or Ellerbe, who are identified as a potential suicide risk, is to employ these assessments with extreme caution, with a follow-up assessment completed by a mental health professional who has been trained to assess the risk. School counselors who rely on an in-school suicide assessment for definitive answers are not only negligent but wanton and reckless in their evaluation.

The standard of care for the profession is that Finney and Porter had to confer with the appropriate school officials to make certain Ellerbe and Hannah remain in protective custody and are not dismissed to take whatever means they normally take to get home. Never should they have been sent back to class. Parents/guardians needed to be summoned to the school immediately with appropriate recommendations, which in both cases could have legitimately included a recommendation for hospitalization. With full knowledge that Hannah said she needed life to stop and Ellerbe said he had already tried to kill himself, parents can seek clues with open eyes to see what they may have missed and to be given the chance to intervene on behalf of their child. Parents need to be told in clear terms, using the word “suicide.”

The 13-minute segment of “13 Reasons Why” spiraled further downward into illegal activity when Porter failed to report Hannah was raped. Dating violence is a form of sexual harassment and discrimination under Title IX of the Education Amendments of 1972. In April 2011, the Office of Civil Rights (OCR), an arm of the U.S. Department of Education governing Title IX, wrote specific requirements related to sexual violence. Sexual violence is the term OCR uses to refer to “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol … [or] due to an intellectual or other disability.” Sexual violence does not necessarily mean rape but can also be sexual assault, sexual battery and/or sexual coercion.

Legal liability ends when parents are notified (or when child protective services are notified if the parents aren’t seeking help for their child), but ethically we want to take additional steps.
Porter stepped far outside the standard of care for the profession when he set himself up as the investigator and declared to Hannah that she must provide him information about the perpetrator, press charges and confront the perpetrator – or just move on. Porter had all the information he needed to report to administration a Title IX violation when Hannah said she didn’t consent. Porter asked, “Maybe you consented then changed your mind?” Hannah responded adamantly, “No, it is not like that.” Porter pushed forward with, “Maybe you made a decision.” Hannah vehemently responded, “No, God, no! That’s what you assume? Look, I didn’t make a decision.” Porter even admitted he believed she was abused and said, “Look, something happened, Hannah. I believe you. But if you won’t press charges and you won’t confront him, you need to consider the possibility of moving beyond this.” Porter had all he needed to report to administration under the federal requirement in Title IX; instead he acted as if he needed to be the investigator and an inept one at that.

The onus is on school districts and individual school counselors to understand the standard of care with regard to reporting dating violence. A 2012 survey conducted by Khubchandani, Price, Thompson, Dake, Wiblishauser and Telljohann revealed that 81.3 percent of school counselors reported having no protocol to respond to dating violence, and 70 percent of respondents reported having never received training. Sixty percent of these respondents reported assisting a victim of dating violence in the prior two years.

According to OCR, a hostile school environment is created when “conduct is sufficiently serious that it interferes with or limits a student’s ability to participate in or benefit from the school’s program.” Porter purported to Hannah that there was little that could be done. Nothing could be further from reality. The OCR’s Dear Colleague Letter specifies the roles and duties schools have regarding sexual violence. If Porter had followed the OCR requirements, Hannah would have been protected before, during and after the investigation. Pending the investigation, Bryce, the perpetrator, may have had his schedule or even his school changed. Bryce would have been afforded a grievance procedure allowing him an equal opportunity to present witnesses and evidences in the case, but the immediate response for Hannah would have been protection from Bryce. The school district is not a court of law, but it can make a ruling based on the preponderance of evidence. Beyond a shadow of a doubt is not the standard, but preponderance of evidence would likely have made the determination that Bryce would have at the least been transferred to another school.

Even though the assault occurred off campus, the school must take the sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student from retaliation. Under Title IX a law enforcement investigation does not relieve school officials of their obligation to investigate. Even if Hannah had not come forward, if the school reasonably should know about possible harassment (e.g. the school counselor heard rumors), the school must take action. Hannah’s parents would have had to give consent for a school to conduct an investigation since Hannah was under 18.

A 2011 survey by the American Association of University Women reminds us that sexual harassment is part of everyday life in middle and high schools. Almost half (48 percent) of the 1,965 students responding reported some form of sexual harassment, with 87 percent saying it had a negative effect on them. School counseling professionals as advocates, understand and apply the standard of care expected of them both legally and ethically with suicidal students and dating violence.

ASCA has a wealth of resources for dealing with the fallout from “13 Reasons Why,” which are available at www.schoolcounselor.org/13reasons.

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